

# AGENDA

**Thursday, December 17, 2015 - 6:00 PM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2015-133

**CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

**I. HOUSING AUTHORITY CONSENT AGENDA**

1. In the Matter of Writing off Uncollectible Accounts for the Second Quarter of Fiscal Year 2016

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

1. Presentation of the Clackamas County Government Channel 2015 Awards (Garrett Teague, Cable Communication Division)

**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 meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

**IV. READING AND ADOPTION OF PREVIOUSLY APPROVED LAND USE ORDINANCE**

*(No public testimony on this item)*

1. Adoption of Previously Approved Zoning and Development Ordinance Amendments ZDO-254 – Marijuana Land Use Regulations (Nate Boderman, 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 department or 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.)*

1. Second Reading of Ordinance No. 09-2015 Repealing the Moratorium on Medical Marijuana Dispensaries, Chapter 6.12 of the County Code and Repealing Medical Marijuana Facility Regulations, Chapter 8.09 of the Clackamas County Code and Declaring an Emergency (Nate Boderman, County Counsel)
2. First Reading and Adoption of Ordinance No. \_\_\_\_\_ Amending Chapter 9.01, Uniform Code for the Abatement of Dangerous Buildings of the Clackamas County Code and Declaring an Emergency (Scott Caufield, Building Division, Scott Ciecko, County Counsel)

**VI. BOARD DISCUSSION ITEMS** *(The following items will be individually discussed by the Board only, followed by Board action.)*

**WATER ENVIRONMENT SERVICES**

*(Service District No. 1, Tri-City Service District & Surface Water Management Agency of Clackamas County)*

1. Authorization for Clackamas County Service District No. 1 to Enter into Phase I of an Agreement for Professional Engineering Services with MWH Americans, Inc. for the Tri-City Water Pollution Control Plant Solids Handling Improvements Project (Greg Geist, Water Environment Services)
2. Authorization for Tri-City Service District to Enter into Phase I of an Agreement for Professional Engineering Services with MWH Americans, Inc. for the Tri-City Water Pollution Control Plant Solids Handling Improvements Project (Greg Geist, Water Environment Services)

**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 Work Sessions. 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**

1. Approval of Revenue Agreement with Oregon Department of Education for Medicaid Reimbursement – *Children, Youth & Families*
2. Approval of Professional Services Agreement with Estacada School District, for the School Based Health Centers (SBHC) Building Mental Health Capacity – *Public Health*
3. Approval of Amendment 33 to the Services Contract with Health Share of Oregon to Expand the Healthy Homes Intervention Home Visit Program - *Public Health*
4. Approval of a Construction Agreement Change Order between the Department of Health, Housing and Human Service and Par-Tech Construction for the West Linn Senior Center Expansion Project – *Housing & Community Development*

**B. Department of Transportation & Development**

1. Approval of Amendment No. 1 to an Intergovernmental Agreement (TGM Grant Agreement No. 30687) with Oregon Department of Transportation to Develop the Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan

**C. Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*

**D. Department of Communications (C-Com)**

1. Approval of an Amendment to the Intergovernmental Agreement with Washington County Consolidated Communications Agency (WCCCA) and the City of Lake Oswego Communications Agency (LOCOM) for the Computer Aided Dispatch Partnership

**E. Public and Government Affairs**

1. Board Order No. \_\_\_\_\_ in the Matter of an Extension of the Cable Television Franchise with Canby Telephone Association (dba Canby Telcom)

**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. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. [www.clackamas.us/bcc/business.html](http://www.clackamas.us/bcc/business.html)**

December 17, 2015

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

In the Matter of Writing off Uncollectible Accounts for the  
Second Quarter of Fiscal Year 2016

<b>Purpose/Outcomes</b>	Approval to write off uncollectible rents, late charges and maintenance expenses for the second quarter of fiscal year 2016.
<b>Dollar Amount and Fiscal Impact</b>	\$21,455.16 in total collection losses.
<b>Funding Source</b>	N/A
<b>Safety Impact</b>	N/A
<b>Duration</b>	(October 1, 2015 – December 31, 2015)
<b>Previous Board Action</b>	First quarter collection losses were approved by the Housing Authority Board of Commissioners.
<b>Contact Person</b>	Chuck Robbins, Executive Director, Housing Authority 503-650-5666
<b>Contract No.</b>	N/A

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests the approval to write off uncollectible rents, late charges and maintenance expenses for the second quarter of fiscal year 2016 (October 1, 2015 – December 31, 2015). The uncollectible amounts are detailed on the attached worksheets.

Uncollectible amounts for the second quarter of fiscal year 2016 will be \$13,265.52 for Low Rent Public Housing and \$5,598.61 for Local Project Fund and \$2,591.03 for Clackamas Apts. Of the total second quarter write offs, \$4,008.00 was for uncollected rents and \$17,447.16 was for maintenance repairs charged to tenants for repairs required to units before HACC could lease them to a new tenant.

As a business practice, the HACC writes off debts after 90 days of collection efforts. Former residents in Public Housing that have debts that are written off continue to be tracked and are reported to a Federal Government database that prohibits their participation in any other Public Housing program nationally until such debt is paid.

The total amount proposed for transfer from Accounts Receivable to Collection Loss for the first and second quarters of fiscal year 2016 will be \$27,323.87.



**RECOMMENDATION:**

HACC recommends the approval to write off uncollectible rents, late charges and maintenance expenses and for the Executive Director to be authorized to approve the transfer of these accounts from Accounts Receivable to Collection Loss.

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

LRPH

Collection Loss for the period of

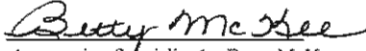
10/1/2015


to

12/31/2015

Second Quarter of Fiscal Year 2016

Unit #	SS #	Name	Rent	Sundry	Total
3034-2	xxx-xx-5501	Estate of Linda Reese	78.45	185.00	\$ 263.45
3068-3	xxx-xx-8800	Christine Connel	119.88	551.29	\$ 671.17
3070-3	xxx-xx-1873	Ronald Clements	(46.70)	1,992.56	\$ 1,945.86
3092-7	xxx-xx-8577	Melissa Griffin	183.47	1,505.04	\$ 1,688.51
4011-5	xxx-xx-5779	Chiquitina Greely	448.27	252.45	\$ 700.72
4012-5	xxx-xx-1555	Ashley Bolling	-	1,314.89	\$ 1,314.89
4022-8	xxx-xx-1627	Ila Serianne	765.00	693.33	\$ 1,458.33
4033-7	xxx-xx-0729	Sandra Durrett	-	1,255.37	\$ 1,255.37
4071-2	xxx-xx-H507	Maribel Gonzalez	2.92	672.78	\$ 675.70
5510-4	xxx-xx-4483	Sherry McDaniel	179.52	1,943.00	\$ 2,122.52
7009-2	xxx-xx-4260	Debbie MacDonald	-	1,151.60	\$ 1,151.60
10018-5	xxx-xx-1431	Dianna Sanchez	-	17.40	\$ 17.40
					\$ -
<b>Total Write-off</b>			<b>1,730.81</b>	<b>11,534.71</b>	<b>13,265.52</b>

  
Accounting Specialist 1 - Betty McKee

Finance Manager - David Hoiland  
  
Executive Director - Chuck Robbins



LPF

Collection Loss for the period of

10/1/2015

to

12/31/2015

Second Quarter of Fiscal Year 2016

Unit #	SS #	Name	Rent	Sundry	Total
303013-5	xxx-xx-8479	Aaron Hunt	2,169.03	3,429.58	\$ 5,598.61
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
<b>Total Write-off</b>			<b>2,169.03</b>	<b>3,429.58</b>	<b>5,598.61</b>

*Betty McKee*  
Accounting Specialist 1 - Betty McKee

Finance Manager - David Hoiland  
*Chuck Robbins*  
Executive Director - Chuck Robbins



Dec. 17, 2015

Board of County Commissioners  
Clackamas County

Members of the Board:

Presentation of Clackamas County Government Channel  
2015 Cable Awards

<b>Purpose/Outcome</b>	The Cable Communications Division of Public and Government Affairs has been honored with several recent programming awards for Clackamas County Government Channel productions from numerous national organizations.
<b>Fiscal Impact</b>	None
<b>Funding Source</b>	N/A
<b>Duration</b>	N/A
<b>Previous Action</b>	None
<b>Strategic Plan Alliance</b>	Build public trust through good government
<b>Contact Person</b>	Garrett Teague, Video Communications Specialist – PGA 503-742-5904

## BACKGROUND

Over the past year, the Clackamas County Government Channel (CCGC) has been honored with 10 programming awards from the National Association of Telecommunications Officers (NATOA) and Advisors, two Telly Awards, two AVA Digital Awards and a Best of the Northwest Awards from the Alliance for Community Media.

These programming competitions are highly competitive, with entries accepted from throughout the United States and overseas. Since its inception CCGC has won 259 awards for its programming.

In all, Clackamas County received the following honors from NATOA:

- A First Place and Second Place for the video “1964 Christmas Flood.”
- Two Second Place awards for the “Community Impact Award Series” and for the individual video profiling Teri Gant and The Father’s Heart Street Ministry.
- Three Third Place Awards for “The Oregon Military Museum”, the Apr. 2, 2015 the Board of County Commissioners Meeting” and the “2015 State of the County”
- Honorable Mentions for overall programming excellence and for videos titled “Clackamas County Government Channel Promotion” and “The Canby Ferry-Across the River, Across the Years”

The Cable Division also received:

- A bronze Telly for “Inside Clackamas County: Hops to Tap” and “Community Impact Awards- Teri Gant.”
- An Award of Excellence in the Best of the Northwest competition for the “Clackamas County Government Channel Promotion.”
- A Gold Award from the AVA Digital Awards for “Inside Clackamas County: Hops to Tap” and Honorable Mention for the “1964 Christmas Flood”.

You will be shown a video clip highlighting these achievements.

**RECOMMENDATION**

Staff recommends the Board receive this presentation on programming excellence honoring the Cable Communications Division of Public and Government Affairs.

Respectfully submitted,

Gary Schmidt, Director  
Public and Government Affairs

Attachments: N/A



December 17, 2015

Board of County Commissioners  
Clackamas County

Members of the Board:

Adoption of Previously Approved Zoning and Development  
Ordinance Amendments ZDO-254 – Marijuana Land Use Regulations

**Stephen L. Madkour**  
County Counsel

**Kathleen Rastetter**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Amanda Keller**

**Nathan K. Boderman**  
**Christina Thacker**  
Assistants

<b>Purpose/Outcomes</b>	Amend the Zoning and Development Ordinance (ZDO).
<b>Dollar Amount and Fiscal Impact</b>	Unknown. Please refer to staff materials dated November 24, 2015 titled <i>Marijuana Land Use Regulations: Estimated Future Revenue and Expenditures</i> .
<b>Funding Source</b>	State-authorized sales tax.
<b>Duration</b>	Indefinitely
<b>Previous Board Action</b>	The Board of County Commissioners (BCC or Board) held a study session on November 10, 2015, and public hearings on November 23 and December 2, 2015. At the December 2 hearing, the BCC voted (4-1) to approve ZDO-254.
<b>Strategic Plan Alignment</b>	1. N/A 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Nate Boderman, Assistant County Counsel – 503-655-8364
<b>Contract No.</b>	N/A

**BACKGROUND:**

On November 4, 2014 voters approved Measure 91, which legalizes the consumption and sale of recreational marijuana in Oregon.

In 2015, the State Legislature passed five bills related to the regulation and taxation of recreational and medical marijuana. The most significant of these five bills is House Bill 3400, which revised a number of the key elements of Measure 91 and clarified provisions related to local regulation of marijuana businesses.

In July, the Board directed staff to proceed with drafting new and amended land use regulations for recreational and medical marijuana facilities and form a stakeholder task force to advise the BCC, Planning Commission and staff on policy issues related to the development of the land use regulations.

The 12-member task force, made up of representatives from industry, prevention, the Planning Commission and law enforcement met on August 12, 19, and 26. After the conclusion of the task force meetings, County Staff created an initial draft of the legislative text amendment to the ZDO to define four types of marijuana-related land uses and to specify whether those uses are

primary, limited, conditional, or prohibited in 49 residential, natural resource, commercial and industrial zones in unincorporated Clackamas County, and where permitted, whether these uses would be subject to standards specific to the use. This legislative text amendment was thereafter identified as ZDO-254.

The Planning Commission held the initial public hearing on ZDO-254 on October 26 which was attended by approximately 400 people. 52 people out of nearly 100 who signed up to testify that evening were able to address the Planning Commission. The hearing was continued to November 2 to allow those to testify who had signed up to speak on November 26<sup>th</sup>, but did not have an opportunity to do so. Approximately 45 people attended the November 2<sup>nd</sup> meeting and 8 provided testimony. At that hearing, testimony was concluded, the hearing was closed and the Planning Commission began deliberations. The Planning Commission completed its deliberations at the second continuation of the hearing on November 9, and voted 6-1 to adopt staff's recommendation, subject to certain amendments.

The BCC held a study session on November 10. At that time, the Planning Commission's list of recommendations was presented to the Board. The BCC then held a public hearing on ZDO-254 on November 23 at which time oral and written testimony was received. The hearing was continued to December 2 for deliberation and decision only. At that hearing, the BCC voted 4-1 to adopt staff's recommendation, which included minor changes to the Planning Commission's recommendation, subject to the following amendments:

- To limit marijuana-related uses to 20,000 square feet of building area on a lot of record in the RI, GI, LI and BP zoning districts.
- To eliminate extract and concentrate processing in Commercial zoning districts
- To allow recreational marijuana retailing as a primary use in the RC and RTC zoning districts inside unincorporated communities.
- To limit marijuana wholesaling to 4,000 square feet of building area on a lot of record in the RC and RTC zoning districts.
- To prohibit processing in the RRFF-5 and FF-10 zoning districts.
- To eliminate extract and concentrate processing in the EFU and AG/F zoning districts.
- To add a "dark sky" requirement for exterior light fixtures that are not grow lights.
- To require that an applicant must submit a noise study that generators used in the production and processing of marijuana will not produce noise that exceeds 50db(A) at the lot line.
- To clarify language where if security cameras are used, they may be directed to public rights-of-way, as applicable.
- To remove the building square foot limitation for processing in the RRFF-5 and FF-10 zoning districts to be consistent with the decision by the BCC to eliminate all processing in the RRFF-5 and FF-10 zoning districts.
- To restrict the hours that recreational marijuana retailers and medical marijuana dispensaries may sell marijuana items to consumers on site to only those hours between 10AM and 9PM.
- To adjust the minimum separation distance between recreational marijuana retailers and medical marijuana dispensaries and other sensitive uses as follows:
  1. 2000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking



lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;

2. 1500 feet from a public park, public playground, government-owned recreational use, public library, licensed treatment center, light rail transit station, or a multifamily dwelling owned by a public housing authority;
3. 500 feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool;
4. 100 feet from a residentially zoned property; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial, as identified on Comprehensive Plan Map 5-4a, Road Functional Classification Urban.

Staff has amended the text of ZDO-254 to conform to those amendments approved by the BCC at the December 2, 2015 meeting. Exhibit 1 to this staff report includes a summary of text edits to the staff recommendation following the 12/2/15 BCC land use hearing. Exhibit A of the attached ordinance includes the amendments to the ZDO which will become effective on January 4, 2016 and will regulate recreational production, processing, wholesaling and retailing and medical retailing and will adopt other miscellaneous provisions for consistency and clarity. Exhibit B of the attached ordinance includes the amendments to the ZDO which will become effective on March 1, 2016 and will regulate medical production and processing. As noted previously by staff, the separate effective dates are consistent with the separate effective dates provided for in HB 3400. All amendments have been reviewed and approved by County Counsel.

**RECOMMENDATION:**

Staff recommends the Board approve the attached Ordinance.

Respectfully submitted,

Nate Boderman  
Assistant County Counsel

**Attachments:**

Exhibit 1: Summary of Text Edits to Staff Recommendation Following the 12/2/15 BCC Hearing Proposed Ordinance

**ORDINANCE NO. ZDO-254**

**An Ordinance amending sections 106, 202, 315, 316, 317, 401, 406, 407, 510, 511, 512, 513, 601, 602, 604, 822 and 1307, and repealing section 801 of the Clackamas County Zoning and Development Ordinance, and adding a new section 841 to the Clackamas County Zoning and Development Ordinance**

WHEREAS, on November 4, 2014, voters approved Measure 91, which legalizes the consumption and sale of recreational marijuana in Oregon; and

WHEREAS, in 2015, the State Legislature passed five bills related to the regulation and taxation of recreational and medical marijuana, the most significant of which is House Bill 3400, which revised a number of the key elements of Measure 91 and clarified provisions related to local regulation of marijuana businesses; and

WHEREAS in July, the Board directed staff to proceed with drafting new and amended land use regulations for recreational and medical marijuana facilities and form a stakeholder task force to advise the BCC, Planning Commission and staff on policy issues related to the development of the land use regulations; and

WHEREAS, the 12-member task force, made up of representatives from industry, prevention, the Planning Commission and law enforcement met on August 12, 19, and 26; and

WHEREAS, after the conclusion of the task force meetings, County Staff created an initial draft of the legislative text amendment to the ZDO to define four types of marijuana-related land uses and to specify whether those uses are primary, limited, conditional, or prohibited in 49 residential, natural resource, commercial and industrial zones in unincorporated Clackamas County, and where permitted, whether these uses would be subject to standards specific to the use; and

WHEREAS, after proper notice had been provided, the Planning Commission held the initial public hearing and received testimony on the proposed text amendment on October 26, which was then continued to November 2 to allow those to testify who had signed up to speak on November 26<sup>th</sup>, but did not have an opportunity to do so; and

WHEREAS, the Planning Commission completed its deliberations at the second continuation of the hearing on November 9, and voted 6-1 to adopt staff's recommendation, subject to certain amendments; and

WHEREAS, after proper notice had been provided, the Board held a public hearing on the legislative text amendment on November 23 at which time oral and written testimony was received; and

WHEREAS, the hearing was continued to December 2 for deliberation and decision only at which time the Board voted 4-1 to adopt staff's recommendation, subject to the following amendments:

- To limit marijuana-related uses to 20,000 square feet of building area on a lot of record in the RI, GI, LI and BP zoning districts.

- To eliminate extract and concentrate processing in Commercial zoning districts
- To allow recreational marijuana retailing as a primary use in the RC and RTC zoning districts inside unincorporated communities.
- To limit marijuana wholesaling to 4,000 square feet of building area on a lot of record in the RC and RTC zoning districts.
- To prohibit processing in the RRFF-5 and FF-10 zoning districts.
- To eliminate extract and concentrate processing in the EFU and AG/F zoning districts.
- To add a “dark sky” requirement for exterior light fixtures that are not grow lights.
- To require that an applicant must submit a noise study that generators used in the production and processing of marijuana will not produce noise that exceeds 50db(A) at the lot line.
- To clarify language where if security cameras are used, they may be directed to public rights-of-way, as applicable.
- To remove the building square foot limitation for processing in the RRFF-5 and FF-10 zoning districts to be consistent with the decision by the BCC to eliminate all processing in the RRFF-5 and FF-10 zoning districts.
- To restrict the hours that recreational marijuana retailers and medical marijuana dispensaries may sell marijuana items to consumers on site to only those hours between 10AM and 9PM.
- To adjust the minimum separation distance between recreational marijuana retailers and medical marijuana dispensaries and other sensitive uses as follows:
  1. 2000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
  2. 1500 feet from a public park, public playground, government-owned recreational use, public library, licensed treatment center, light rail transit station, or a multifamily dwelling owned by a public housing authority;
  3. 500 feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool;
  4. 100 feet from a residentially zoned property; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial, as identified on Comprehensive Plan Map 5-4a, Road Functional Classification Urban.

WHEREAS, staff did amend the text of the proposal per the Board of County Commissioners’ direction; and

WHEREAS, the proposed amendments are consistent with the Clackamas County Comprehensive Plan and the Statewide Planning Goals and Guidelines; now therefore

The Board of Commissioners of Clackamas County ordains as follows:

- Section 1:** Sections 106, 202, 315, 316, 317, 401, 406, 407, 510, 511, 512, 513, 601, 602, 604, 822 and 1307 of the Clackamas County Zoning and Development Ordinance are hereby amended as shown in Exhibit A, hereto attached.
- Section 2:** Section 801 of the Clackamas County Zoning and Development Ordinance is hereby repealed as shown in Exhibit A, hereto attached.
- Section 3:** Section 841 of the Clackamas County Zoning and Development Ordinance is hereby added as shown in Exhibit A, hereto attached.
- Section 4:** The amendments contained in Exhibit A, hereto attached, shall be effective on January 4, 2016.
- Section 5:** Effective March 1, 2016, Sections 202 and 841 of the Clackamas County Zoning and Development Ordinance shall be further amended as shown in Exhibit B, hereto attached.

ADOPTED this 17<sup>th</sup> day of December, 2015

BOARD OF COUNTY COMMISSIONERS

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Chair

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Recording Secretary

**Ordinance ZDO-254**  
**Zoning and Development Ordinance Amendments**

Text to be added is underlined. Text to be deleted is ~~strikethrough~~.

**106 AUTHORIZATION OF SIMILAR USES**

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106.01 APPLICABILITY

The sections of this Ordinance that regulate individual zoning districts identify the uses permitted in those districts. In addition:

- A. In the following zoning districts, uses similar to one or more of the listed uses for that zoning district may be authorized: PMD, NC, C-2, RCC, RTL, CC, C-3, PMU, SCMU, OA, OC, RCO, VCS, VO, RTC, RC, CI, BP, LI, GI, and RI Districts;
- B. In the following zoning districts, uses similar to one or more of the listed limited uses for that zoning district may be authorized as a limited use: HDR, SHD, RCHDR, and MRR Districts;
- C. Tables 315-1, *Permitted Uses in the Urban Residential Zoning Districts*, 316-1, *Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts*, and 317-1, *Permitted Uses in the MRR and HR Districts*, identify instances where uses similar to a listed conditional use may be authorized as a conditional use; and
- D. Conditional uses similar to one or more of the listed conditional uses for the Historic Landmark, Historic District, and Historic Corridor overlay zoning district may be authorized.

106.02 PROCESS AND STANDARDS

Authorization of a similar use shall be subject to the following:

- A. Authorization of a similar use is a type of interpretation application processed pursuant to Section 1308, *Interpretation*.
- B. A use may not be authorized as a similar use if it is specifically listed as prohibited in the applicable zoning district. "Specifically listed" does not include general references to prohibited uses, such as "uses of structures and land not specifically allowed."
- C. A use may not be authorized as a similar use if it is specifically listed as a special use in Section 800, *Special Use Requirements*.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

- DC. Similarity to a “preexisting” use may not serve as the basis for authorization of a similar use, even in zoning districts where “preexisting” uses are specifically listed as a primary, accessory, limited, or conditional use.
- ED. If a use is found to be similar to a primary, accessory, limited, or conditional use, it shall be subject to the same approval criteria, review process, dimensional standards, and development standards as the use to which it is found to be most similar.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

[Adopted by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15]





**202 DEFINITIONS**

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

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

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

**ACTIVE RECREATIONAL AREA:** An area such as a park, sports field, or golf course, where turf 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 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 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 25 percent of showtime for presenting material (either live, closed circuit, or prerecorded) for 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 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 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.

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

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

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

ALLEY: A travel way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

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

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

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

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

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

BED AND BREAKFAST 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 two guest rooms for occasional bed and breakfast guests, not exceeding five 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.

CANNABINOID: Any of the chemical compounds that are the active constituents of marijuana.

CANNABINOID CONCENTRATE: A substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

CANNABINOID EDIBLE: Food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

CANNABINOID EXTRACT: A substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

CANNABINOID PRODUCT: A cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

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

COGENERATION FACILITY: A facility that produces, through the sequential use of energy, electric energy and useful thermal energy including but not limited to heat or steam, used for industrial, commercial, heating, or cooling purposes; and is more than 50 percent owned by a person who is not an electric utility, an electric holding company, an affiliated interest, or any combination thereof.



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

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

COMMUNITY GARDEN: A site where any kind of plant, except marijuana, is grown, and several individuals or households cultivate the site. The site may be divided into individual allotments, or gardeners may work together to cultivate the entire property. The land may be publicly or privately owned. The plants are grown for personal use by the gardeners, or for donation, and sales are prohibited.

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

COMPOSTING FACILITY: A site or facility, excluding home composting 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 for composting, or two (2) acres, whichever is less subject to the provisions of Subsection 834.03 and 834.04.

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".

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

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

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

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

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

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

DRIP 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.

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

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

FAMILY DAYCARE PROVIDER: A daycare provider who regularly provides daycare to 16 or fewer 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 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 shall constitute the operation of a "daycare facility" and shall be subject to the requirements of this Ordinance for daycare facilities.

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

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

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.

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.

GOVERNMENT CAMP: The unincorporated community of Government Camp, as identified on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan, Land Use Plan & Boundary*.

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

GREEN FEEDSTOCKS: 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 or more people. A facility that is operated for the purpose of providing care beyond that of room and board is not a "hotel".

**HOUSEKEEPING UNIT:** A living arrangement within a dwelling unit in which the kitchen, living and dining rooms, and other general living areas of the dwelling unit are shared in common, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement. Such a living arrangement also may include the provision of food, shelter, personal services, care, and when appropriate, a planned treatment or training program of counseling, therapy, or other rehabilitative social service, for persons of similar or compatible

conditions or circumstances who are members of the resident family.

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

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

**INDIRECT ILLUMINATION:** A nonelectric sign illuminated by an indirect or separate light source.

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

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

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

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

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

**KITCHEN, ACCESSORY:** A kitchen that complies with all of the following standards:

- It shall be incidental to a primary dwelling.
- It shall be located in a room that is approved for residential occupancy and used for a purpose in addition to that of a kitchen (e.g., a recreation room, a bedroom).

- It shall not be located in a detached accessory building.
- Any of the following features shall be located within a contiguous area that is no more than 30 inches deep and 10 feet long: cooking appliances, sinks, refrigerators, dishwashers, counters, and cabinets.

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

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

LIVESTOCK: One or more domesticated animals raised 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.

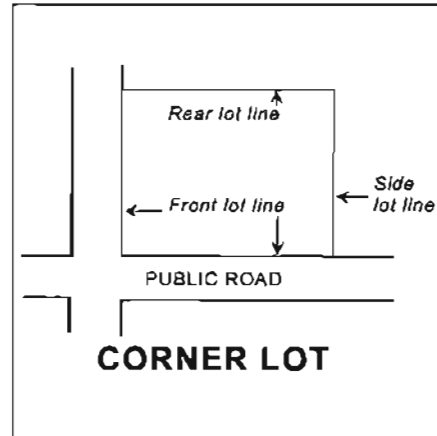
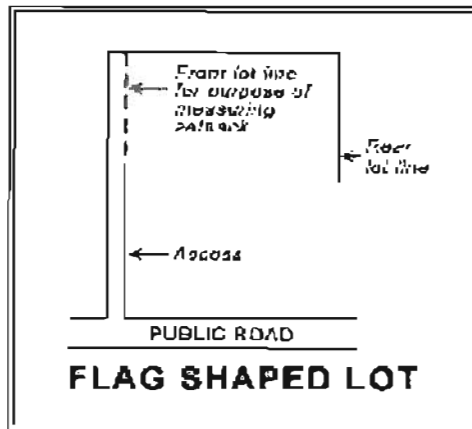
LOT, CORNER: A lot with street frontage on two streets intersecting at a corner of the lot. A lot within the radius curve of a single street is not a corner lot. A lot with access limited to, and frontage on, a state, County, public or private road and also with frontage on an intersecting private road or access drive is not a corner lot for the purpose of determining setbacks provided that the lot does not take access onto the 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 STOP: A transit center, major bus stop, or light rail stop, as identified on Comprehensive Plan Map 5-8a, *Transit, Urban*.

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

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

MANUFACTURED 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.

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

MARIJUANA ITEMS: Marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.



MARIJUANA PROCESSING: The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission.

MARIJUANA PRODUCTION: The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission.

MARIJUANA RETAILING: The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

MARIJUANA WHOLESALING: The purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

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

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



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

**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.

**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 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 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. "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.

PLAT, FINAL: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a partition or subdivision and recorded as required by Oregon Revised Statutes Chapter 92.

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

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

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

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

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

PRODUCE STAND: A table, bench (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 marijuana or processed foods such as jams or jellies, that are produced on the same site at which the produce stand is located.

PROFESSIONAL SERVICES: Activities such as those offered by a physician,

surgeon, dentist, lawyer, architect, engineer, accountant, artist, teacher, real estate agent, and insurance agent.

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

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

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

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

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

RECREATIONAL VEHICLE: A vehicle licensed by the 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.

REPLAT: The act of platting the lots, parcels, tracts, or easements in a final plat to achieve a reconfiguration of the existing final plat or to increase or decrease the number of lots or parcels.

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

RESIDENTIAL TRAILER: A structure constructed 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.

RHODODENDRON: The unincorporated community of Rhododendron, as identified on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

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

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

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

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

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

and access to abutting properties.

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

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

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

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

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

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

SIGN, INTEGRAL ROOF: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part

of the sign is separated from the rest of the roof by a space of more than six inches.

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

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

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

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

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

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

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

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

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

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

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

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

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



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

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

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

**SMALL POWER PRODUCTION FACILITY:** A facility that produces energy primarily by use of biomass, waste, solar energy, wind power, water power, geothermal energy, or any combination thereof; is more than 50 percent owned by a person who is not an electric utility, an electric utility holding company, an affiliated interest, or any combination thereof; and has a power production capacity that, together with any other small power production facility located at the same site and owned by the same person, is not greater than 80 megawatts.

**SNOW SLIDE AREA:** The area around a building that may be subject to snow buildup as a result of snow sliding from the sloped roof of the building.

**SOIL MOISTURE 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:

- 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.

**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 1002.05(B). The intent of the stream corridor area shall be to preserve natural environmental qualities and the function of land to purify water before it reaches the stream but not to prohibit timber management activities pursuant to the State Forest Practices Act.

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

STREET: See "ROAD".

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

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

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

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

SUBDIVISION, MAJOR: A division of property creating 11 or more lots in the same calendar year.

SUBDIVISION, MINOR: A division of property creating four to 10 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 of record under the same ownership. Notwithstanding the preceding definition, as used in Sections 706, *Habitat Conservation Area District*, 709, *Water Quality Resource Area District*, 1013, *Planned Unit Developments*, and 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*, a tract is a unit of land (other than a lot or parcel) created by a subdivision, partition, or replat.

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

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

TRANSIT STOP: Any posted bus or light rail stop.

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.

WEMME/WELCHES: The unincorporated community of Wemme/Welches, as identified on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

WETLANDS: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do

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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.

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; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]

**315 URBAN LOW DENSITY RESIDENTIAL (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, AND R-30), VILLAGE STANDARD LOT RESIDENTIAL (VR-5/7), VILLAGE SMALL LOT RESIDENTIAL (VR-4/5), VILLAGE TOWNHOUSE (VTH), PLANNED MEDIUM DENSITY RESIDENTIAL (PMD), MEDIUM DENSITY RESIDENTIAL (MR-1), MEDIUM HIGH DENSITY RESIDENTIAL (MR-2), HIGH DENSITY RESIDENTIAL (HDR), VILLAGE APARTMENT (VA), SPECIAL HIGH DENSITY RESIDENTIAL (SHD), AND REGIONAL CENTER HIGH DENSITY RESIDENTIAL (RCHDR) DISTRICTS**

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315.01 PURPOSE

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

315.02 APPLICABILITY

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

315.03 USES PERMITTED

A. Uses permitted in each urban residential zoning district are listed in Table 315-1, *Permitted Uses in the Urban Residential Zoning Districts*. Uses not listed are prohibited, except:

1. In the PMD District, uses similar to one or more of the listed uses for the PMD District may be authorized pursuant to Section 106, *Authorization of Similar Uses*; and
2. In the HDR, SHD, and RCHDR Districts, uses similar to one or more of the listed limited uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorization of Similar Uses*.

B. As used in Table 315-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.

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3. "L" means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
  4. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
  5. "X" means the use is prohibited.
  6. Numbers in superscript correspond to the notes that follow Table 315-1.
- C. Permitted uses are subject to the applicable provisions of Subsection 315.04, *Dimensional Standards*; Subsection 315.05, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.



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

Use	R-5 - R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Accessory Dwelling Units</b> , subject to Section 839	A	A	A	A	X	X	X	X	X	X	X
<b>Accessory Kitchens</b>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	X	A <sup>1</sup>	A <sup>1</sup>	X	X	X	X
<b>Accessory Buildings and Uses, Customarily Permitted</b> , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family daycare providers, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and	A	A	A	A	A	A	A	A	A	A	A

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Use	R-5 - R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
utility service equipment											
<b>Bed and Breakfast Inns</b> , subject to Section 832	C	X	C	X	X	P	P	P	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Bed and Breakfast Residences</b> , subject to Section 832	C	X	C	P	X	P	P	P	P	X	X
<b>Bus Shelters</b> , subject to Section 823	A	A	A	A	P	A	A	A	A	A	X
<b>Cemeteries</b> , subject to Section 808	C	X	C	X	X	X	X	X	X	X	X
<b>Civic and Cultural Facilities</b> , including art galleries, libraries, museums, and visitor centers	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Churches</b> , subject to Section 804	C	C	C	X	X	C <sup>7</sup>	C <sup>7</sup>	C	X	C	C
<b>Congregate Housing Facilities</b>	X	X	X	P	P	P	P	P	P	P	P
<b>Daycare Facilities</b> , subject to Section 807	C	C	C	C	C	C	C	L <sup>3</sup> ,C	C	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Daycare Services, Adult</b>	C	C	C	C	C	C	C	L <sup>3</sup> ,C	C	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Dwellings, Attached Single-Family</b> , subject to Section 838	P <sup>8,9</sup>	P <sup>8,10</sup> ,C <sup>8,11</sup>	P	P	X	P	P	X	X	X	X
<b>Dwellings, Clustered Single-Family</b>	X	X	X	X	P	X	X	X	X	X	X
<b>Dwellings, Detached Single-Family</b>	P <sup>8</sup>	P <sup>8</sup>	X	X	X	X	X	X	X	X	X
<b>Dwellings, Multifamily</b>	X	X	X	P <sup>12</sup>	P	P	P	P	P	P	P
<b>Dwellings, Three-Family</b>	C <sup>13</sup>	C <sup>13</sup>	X	P	P	P	P	P	P	X	X
<b>Dwellings, Two-Family</b>	C <sup>13</sup>	C <sup>13</sup>	X	P	P	P	P	P	P	X	X

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Use	R-5 – R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Entertainment Facilities</b> , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	X	X	X	X	X	X	X	X	X	C <sup>4</sup>	X
<b>Farmers' Markets, subject to Section 840</b>	A	A	A	A	A	A	A	A	A	A	A
<b>Fences and Retaining Walls</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Financial Institutions</b> , including banks, brokerages, credit unions, loan companies, and savings and loan associations	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	X	X	X	X	X	X	X	L <sup>5</sup> ,C	X	L <sup>3,14</sup> , C	L <sup>2</sup> ,C
<b>Fraternal Organization Lodges</b>	C <sup>15</sup>	X	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>
<b>Government Uses</b> , unless such a use is specifically listed as a primary, accessory, limited, conditional, or prohibited use in the applicable zoning district	C <sup>15</sup>	X	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>
<b>Guest Houses or Studios</b> , subject to Section 833	A	X	A	X	X	X	X	X	X	X	X
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>16</sup>	A	A	A	A	A	A	A	A	A	A	A
<b>Horticulture, Nurseries, Hydroponics, and Similar Uses that Exceed an Accessory Use</b>	C	X	X	X	X	X	X	X	X	X	X

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Use	R-5 – R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C	X	C	X	X	C	C	C	X	C	X
Hotels and Associated Convention Facilities	X	X	X	X	X	X	X	X	X	C <sup>17</sup>	L <sup>2</sup> ,C
Hydroelectric Facilities, subject to Section 829	C	X	C	X	X	C	C	C	X	C	X
Livestock, subject to Section 821	A	A	A	X	X	X	X	X	X	X	X
Manufactured Home Parks, subject to Sections 824 and 825	C	X	C	X	C	P	X	X	X	X	X
Manufactured Homes, subject to Section 824	P <sup>8</sup>	P <sup>8</sup>	X	X	X	X	X	X	X	X	X
<u>Marijuana Processing</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana Production</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana Retailing</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana Wholesaling</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Multi-Use Developments, subject to Section 1016	C	X	X	X	X	C	X	C	X	C	X
Nursing Homes, subject to Section 810	C	C	C	P	P	P	P	P	P	P	P

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Use	R-5 - R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Offices</b> , including accounting services, administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Offices and Outpatient Clinics</b> —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Parking Structures</b>	X	X	X	X	X	A	A	A	X	A	A
<b>Pedestrian Amenities</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Produce Stands</b> , subject to Section 815	A	A	A	X	X	X	X	X	X	X	X
<b>Public Utility Facilities</b> <sup>18</sup>	C <sup>15</sup>	X	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>
<b>Radio and Television Studios</b> , excluding transmission towers	X	X	X	X	X	X	X	X	X	L <sup>3</sup> ,C <sup>4</sup>	X

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Use	R-5 – R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b> <sup>19</sup>	C <sup>15</sup>	X	C <sup>15</sup>	X	X	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>
<b>Recreational Vehicle Camping Facilities,</b> subject to Section 813	X	X	X	X	X	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	X	X	X
<b>Recreational Uses, Government-Owned,</b> including parks, amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; tables and seating; and similar recreational uses <sup>20</sup>	P <sup>21</sup>	P <sup>21</sup>	P <sup>21</sup>	P <sup>22</sup>	P <sup>22</sup>	P <sup>22</sup>	P <sup>22</sup>	P <sup>22</sup>	P <sup>22</sup>	P <sup>22</sup>	P <sup>22</sup>
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>20</sup>	P <sup>21</sup>	X	P <sup>21</sup>	X	C <sup>15</sup>	P <sup>22</sup>	P <sup>22</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>
<b>Recreational Uses,</b> including boat moorages, country clubs, equine facilities, gymnastics facilities, golf courses, parks, and swimming pools <sup>20</sup>	C <sup>15</sup>	X	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>

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Use	R-5 - R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Schools</b> , subject to Section 805	C	C	C	X	X	C	C	L <sup>5,23,24</sup> C <sup>6,23,24</sup>	X	L <sup>3,23,24</sup> C <sup>4,23,24</sup>	L <sup>2,23,24</sup>
<b>Services, Business</b> , including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>

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Use	R-5 - R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Services, Commercial—Construction and Maintenance</b> , including contractors engaged in construction and maintenance of electrical and plumbing systems	X	X	X	X	X	X	X	X	X	C <sup>4</sup>	X
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	X	X	X	X	X	X	X	X	X	C <sup>4</sup>	X
<b>Services, Commercial—Miscellaneous</b> , including food lockers, interior decorating, locksmith, upholstering, and veterinary	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Services, Commercial—Personal and Convenience</b> , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>



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Use	R-5 - R-30	VR-4/5 & VR- 5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Signs</b> , subject to Section 1010	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>	A <sup>25</sup>
<b>Telephone Exchanges</b>	C <sup>15</sup>	X	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A	A	A	A	A	A
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A	A	A	A	A	A	A	A	A	A	A
<b>Transit Park-and-Rides</b>	X	X	X	X	X	X	X	X	X	X	A
<b>Utility Carrier Cabinets</b> , subject to Section 830	P	P	P	P	P	P	P	P	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsections 835.04(B) and (C) and 835.05(A)(2) and (3), subject to Section 835	P	P	P	P	P	P	P	P	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsection 835.06(A), subject to Section 835	C	C	C	C	C	C	C	C	C	C	C

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<sup>1</sup> An accessory kitchen is permitted only in an attached single-family dwelling, a detached single-family dwelling, or a manufactured home, to the extent that these dwelling types are permitted in the applicable zoning district. Only one accessory kitchen is permitted in each single-family dwelling or manufactured home.

<sup>2</sup> The limited use is permitted subject to the following criteria:

- a. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
- b. No outdoor storage of materials or display of merchandise associated with the use shall be allowed.

<sup>3</sup> The limited use is permitted subject to the following criteria:

- a. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
- b. The total building floor area occupied by all limited uses shall not exceed 15 percent of the total building floor area occupied by primary uses.
- c. No outdoor storage of materials associated with the use shall be allowed.
- d. The use shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat, or vibration which are detectable outside of the premises and are incompatible with primary uses.

<sup>4</sup> The use shall be developed in conjunction with a primary use on the same site, which is developed at the maximum allowed density for the site area.

<sup>5</sup> The limited use is permitted subject to the following criteria:

- a. The use shall be part of a development within a Design Plan area.
- b. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
- c. The total building floor area occupied by all limited uses shall not exceed 10 percent of the total building floor area occupied by primary uses. No single limited commercial use shall occupy more than 1,500 square feet of building floor area.
- d. Allowing the use will not adversely impact the livability, value, and appropriate development of the site and abutting properties considering the location, size, design, and operating characteristics of the use.

- e. No outdoor storage of materials associated with the use shall be allowed.
  - f. The use shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat, or vibration which are detectable outside of the premises and are incompatible with primary uses.
- <sup>6</sup> The use shall be developed in conjunction with a primary use on the same site, which is developed at the maximum allowed density for the site area. The total building floor area occupied by all limited uses, and by all conditional uses that are subject to Note 6 to Table 315-1, shall not exceed 10 percent of the total building floor area occupied by primary uses.
- <sup>7</sup> This use is limited to alteration or expansion of a church lawfully established prior to July 14, 1980. The use shall not extend beyond the property that was under the ownership of, or occupied by, the preexisting church and associated facilities prior to July 14, 1980.
- <sup>8</sup> Except as limited by Subsection 902.02, each lot of record may be developed with only one of the following: attached single-family dwelling—if permitted by Note 9 or 10 to Table 315-1—detached single-family dwelling, or manufactured home.
- <sup>9</sup> Attached single-family dwellings are permitted on 100 percent of the lots in a planned unit development and 20 percent of the lots in a subdivision that is not a planned unit development.
- <sup>10</sup> As a primary use, only two attached single-family dwellings may be attached in succession except in the VR-4/5 District when transferring density from a Resource Protection Area—as shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*—in which case this limit does not apply.
- <sup>11</sup> Attached single-family dwellings that do not comply with Note 10 to Table 315-1 are a conditional use.
- <sup>12</sup> Multifamily dwellings are limited to those containing four dwelling units.
- <sup>13</sup> Two- and three-family dwellings are subject to Section 802, *Two- and Three-Family Dwellings*.
- <sup>14</sup> Only indoor facilities are permitted.
- <sup>15</sup> Uses similar to this use may be authorized pursuant to Section 106.
- <sup>16</sup> A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 315-1.

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- 17 Hotels in the SHD District are limited to a maximum of 80 units per gross acre.
- 18 Public utility facilities shall not include shops, garages, or general administrative offices.
- 19 The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- 20 This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- 21 Any principal building, swimming pool, or use shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- 22 Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.
- 23 Only commercial schools are permitted.
- 24 Schools are not subject to Section 805, *Schools*.
- 25 Temporary signs regulated under Subsection 1010.13(A) are a primary use.

## 315.04 DIMENSIONAL STANDARDS

- A. General: Dimensional standards applicable in the urban residential zoning districts are listed in Tables 315-2, *Dimensional Standards in the Urban Low Density Residential Zoning Districts*; 315-3, *Minimum Side and Rear Yard Depths for Certain Accessory Buildings in the Urban Low Density Residential Districts*; 315-4, *Dimensional Standards in the VR-4/5, VR-5/7, and VTH Districts*; and 315-5, *Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts*; and in Subsections 315.04(C) and (D). As used in Tables 315-2 through 315-5, numbers in superscript correspond to the notes that follow each table.
- B. Modifications: The standards in Tables 315-2 through 315-5 may be modified pursuant to Sections 800, *Special Use Requirements*; 902, *Lot Size Exceptions*; 1013, *Planned Unit Developments*; 1014, *Design Standards for Land Divisions*; 1107, *Property Line Adjustments*; and 1205, *Variances*. Except in the HDR, SHD, and RCHDR Districts, the standards in these tables also may be modified pursuant to Sections 903, *Setback Exceptions*; and 904, *Other Exceptions*.
- C. Exceptions in the Urban Low Density Residential Districts: In the Urban Low Density Residential Districts, exceptions apply to the dimensional standards of Table 315-2 as follows:
1. Maximum lot coverage does not apply to swimming pools.
  2. Maximum lot coverage is 50 percent for a lot of record that is 6,000 square feet or less in area, was created prior to the application of an Urban Low Density Residential District to the subject lot of record, and is developed with a detached single-family dwelling.
  3. For a detached single-family dwelling, minimum rear yard depth is 10 feet and there is no minimum side yard depth from one side lot line if:
    - a. The dwelling is developed on a lot of record that is 6,000 square feet or less in area and was created prior to the application of an Urban Low Density Residential District to the subject lot of record; and
    - b. The portion of the dwelling sited within the minimum yard depth area ordinarily required by Table 315-2 does not block solar access to an existing window or solar energy system located on the adjacent properties.
  4. The minimum front yard depth for an accessory swimming pool shall be 10 feet. The minimum side and rear yard depths for an accessory swimming pool shall be three feet.
  5. The minimum yard depths shown in Table 315-3 apply to accessory buildings that comply with the following criteria:

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- a. The accessory building shall be located behind the building line of the main building; and
  - b. The accessory building shall be detached from any other building.
6. An accessory building that is larger than 500 square feet in area—and does not share a common wall with the primary dwelling—shall be subject to the following standards:
- a. The maximum building height shall be 20 feet or the height of the primary dwelling, whichever is greater.
  - b. The square footage shall not exceed that of the ground floor of the primary dwelling and any non-residential space that shares a common wall with the primary dwelling (e.g., an attached garage).
- D. Exceptions in the MR-1 District: In the MR-1 District, the following exceptions apply to the dimensional standards of Table 315-5:
1. Maximum lot coverage does not apply to swimming pools.
  2. The minimum front yard depth for an accessory swimming pool shall be 10 feet. The minimum side and rear yard depths for an accessory swimming pool shall be five feet, unless the side or rear lot line abuts a VR-4/5, VR-5/7, or Urban Low Density Residential District, in which case the minimum yard depth shall be 15 feet from the abutting lot line.
  3. The minimum yard depths shown in Table 315-3 apply, where indicated by Note 1 to Table 315-3, to accessory buildings that comply with the following criteria:
    - a. The accessory building shall be located behind the building line of the main building, if the side or rear yard depth is less than three feet; and
    - b. The accessory building shall be detached from any other building.

**Table 315-2: Dimensional Standards in the Urban Low Density Residential Zoning Districts<sup>1</sup>**

Standard	R-2.5	R-5	R-7	R-8.5	R-10	R-15	R-20	R-30
Minimum Lot Size <sup>2</sup>	2,500 square feet	5,000 square feet	7,000 square feet	8,500 square feet	10,000 square feet	15,000 square feet	20,000 square feet	30,000 square feet
Maximum Lot Coverage	40 percent							
Maximum Building Height	35 feet							
Minimum Front Yard Depth	15 feet, except 20 feet to garage and carport motor vehicle entries							
Minimum Rear Yard Depth	20 feet							
Minimum Side Yard Depth	5 feet							

<sup>1</sup> Refer to Subsections 315.04(B) and (C) and Table 315-3 for modifications and exceptions.

<sup>2</sup> The minimum lot size standards, as modified pursuant to Sections 800, *Special Use Requirements*; 902, *Lot Size Exceptions*; 1013, *Planned Unit Developments*; 1014, *Design Standards for Land Divisions*; 1107, *Property Line Adjustments*; and 1205, *Variances*, apply to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except as limited by minimum lot size standards of Section 800 and Subsection 902.02.

**Table 315-3: Minimum Side and Rear Yard Depths for Certain Accessory Buildings in the Urban Low Density Residential Districts**

Building Area	Building Height			
	≤ 8 feet	> 8 feet and ≤ 10 feet	> 10 feet and ≤ 15 feet	> 15 feet
≤ 100 square feet	None <sup>1</sup>	3 feet side and rear <sup>1</sup>	5 feet side and rear	5 feet side, 10 feet rear
> 100 square feet and ≤ 200 square feet	3 feet side and rear <sup>1</sup>	3 feet side and rear <sup>1</sup>	5 feet side and rear	5 feet side, 10 feet rear
> 200 square feet and ≤ to 500 square feet	5 feet side and rear <sup>2</sup>	5 feet side and rear <sup>2</sup>	5 feet side and rear <sup>2</sup>	5 feet side, 10 feet rear
> 500 square feet	5 feet side; 10 feet rear	5 feet side; 10 feet rear	5 feet side, 10 feet rear	5 feet side, 10 feet rear

<sup>1</sup> This standard applies in the MR-1 District also.

<sup>2</sup> The accessory building shall be separated from other buildings by a minimum of three feet.



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

<b>Standard</b>	<b>VR-5/7</b>	<b>VR-4/5</b>	<b>VTH</b>
<b>General Standards</b>			
Minimum Lot Size <sup>1</sup>	5,000 square feet	4,000 square feet	2,000 square feet <sup>2,3</sup>
Maximum Lot Size <sup>1</sup>	7,000 square feet	5,000 square feet	3,000 square feet <sup>2,4</sup>
Maximum Lot Coverage	50 percent	50 percent	65 percent
Maximum Building Height for Primary Dwellings	35 feet		
Maximum Height for Fences and Sight-Obscuring Plantings	6 feet at or behind the building line of the main building; 4 feet forward of the building line of the main building		
Minimum Front Yard Depth for Primary Dwellings <sup>5</sup>	10 feet for a dwelling with a recessed garage; 19½ feet to the garage door for a dwelling with a non-recessed garage <sup>6</sup>	10 feet <sup>7,8,9,10</sup>	
Maximum Front Yard Depth for Primary Dwellings <sup>5</sup>	18 feet for a dwelling with a recessed garage; 20½ feet to the garage door for a dwelling with a non-recessed garage <sup>11,12,13</sup>	18 feet <sup>7,8</sup>	
Minimum Rear Yard Depth for Primary Dwellings <sup>5</sup>	15 feet		
Minimum Side Yard Depth for Primary Dwellings <sup>5</sup>	0 on one side; 5 feet on all other sides		5 feet <sup>7,14</sup>
<b>Standard</b>	<b>VR-5/7</b>	<b>VR-4/5</b>	<b>VTH</b>
<b>Accessory Building Standards</b>			
Maximum Number of Accessory Buildings	Two		
Minimum Separation Distance Between an Accessory Building and any other Building	3 feet		
Maximum Building Height <sup>15</sup>	25 feet or the building height of the primary dwelling, whichever is less		

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Standard	VR-5/7	VR-4/5	VTH
<b>Accessory Building Standards</b>			
Maximum Building Area	Only one accessory building may exceed 100 square feet, and it shall have a maximum ground floor area of 600 square feet, or the square footage of the ground floor of the primary dwelling, whichever is less.		Only one accessory building may exceed 100 square feet, and it shall have a maximum ground floor area of 500 square feet, or the square footage of the ground floor of the primary dwelling, whichever is less.
Minimum Front Yard Depth <sup>5</sup>	Greater than or equal to the front yard depth of the front facade of the primary dwelling (not including porches, bays, garages, and architectural features) <sup>16</sup>		
<b>Accessory Building Minimum Rear and Side Yard Depth Standards in the VR-4/5, VR-5/7, and VTH Districts<sup>5</sup></b>			
<b>Building Height</b>			
<b>Building Area</b>	$\leq 8$ feet	$> 8$ feet and $\leq 20$ feet	$> 20$ feet
$\leq 100$ square feet	None	No minimum on one side, 3 feet on all other sides; 3 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley <sup>17</sup>	No minimum on one side, 5 feet on all other sides; 5 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley <sup>17</sup>
$> 100$ square feet	No minimum on one side, 3 feet on all other sides; 3 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley <sup>17</sup>		No minimum on one side, 5 feet on all other sides; 5 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley <sup>17,18</sup>

The minimum and maximum lot size standards, as modified pursuant to Sections 800, *Special Use Requirements*; 902, *Lot Size Exceptions*; 1013, *Planned Unit Developments*; 1014, *Design Standards for Land Divisions*; 1107, *Property Line Adjustments*; and 1205, *Variations*, apply to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum and maximum lot size standards, a lot of record may be developed subject to other applicable standards of this Ordinance, except as limited by minimum lot size standards of Section 800 and Subsection 902.02.

- 2 The minimum and maximum lot size standards apply only to lots developed with attached single-family dwellings.
- 3 The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use shall be 3,000 square feet.
- 4 The maximum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use shall be 5,000 square feet.
- 5 In the VR-4/5 and VR-5/7 Districts, the minimum yard depth standards do not apply in a Resource Protection Area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*.
- 6 A porch may extend a maximum of four feet into the minimum front yard depth.
- 7 The yard depth standards of the VR-4/5 District shall apply to detached single-family dwellings that are nonconforming uses, as well as to buildings that are accessory to such dwellings.
- 8 For the purposes of the minimum and maximum front yard depth standards, frontage on a designated accessway shall be considered a front lot line.
- 9 On a corner lot, the minimum depth of one front yard shall be eight feet, provided that the yard abuts a road with a functional classification of local or connector.
- 10 Awnings, porches, bays, and overhangs may extend a maximum of four feet into the minimum front yard depth.
- 11 If a public utility easement precludes compliance with the maximum front yard depth standard, the maximum shall be as close to the front lot line as possible.
- 12 Dwellings located on lots with less than 35 feet of street frontage shall be exempt from the maximum front yard depth standard.
- 13 If a lot has more than one front lot line, compliance with the maximum front yard depth standard is required from only two intersecting front lot lines.
- 14 For the purposes of the minimum side yard depth standard, frontage on a pedestrian connection shall be considered a side lot line.
- 15 The maximum building height standard applies only to accessory buildings larger than 100 square feet.
- 16 Except as modified by Subsection 315.05(N), garages in the VR-4/5, VR-5-7, and VTH Districts shall comply with Subsection 315.05(K), 315.05(L), or 1005.12(B), respectively.
- 17 If a rear or side lot line abuts a pedestrian pathway, sidewalk, or accessway, the minimum yard depth shall be five feet.
- 18 If the rear lot line abuts an alley, a second-story accessory dwelling unit may cantilever a maximum of four feet into the rear yard.

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**Table 315-5: Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts**

Standard	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
District Land Area for Calculating Density Pursuant to Section 1012	3,630 square feet	3,630 square feet	2,420 square feet	1,742 square feet	1,500 square feet	726 square feet	Not Applicable
Minimum Dwelling Units per Net Acre	See Section 1012	See Section 1012	See Section 1012	See Section 1012	See Section 1012	See Section 1012	30 <sup>1</sup>
Minimum Site Area	Not Applicable	Not Applicable	Not Applicable	1 acre <sup>2,3,4</sup>	Not Applicable	3 acres <sup>2,3,5</sup>	3 acres <sup>2,3,5</sup>
Minimum Lot Size	None	None <sup>6</sup>	None <sup>7</sup>	None <sup>8,9</sup>	None	None <sup>10,11</sup>	None <sup>10,11</sup>
Minimum Front Yard Depth	25 feet	20 feet <sup>12</sup>	20 feet <sup>12</sup>	15 feet <sup>12</sup>	10 feet <sup>13,14</sup>	15 feet <sup>12</sup>	5 feet <sup>12,15</sup>
Maximum Front Yard Depth	None	None	None	None	18 feet <sup>13</sup>	None	20 feet <sup>12,15,16</sup>
Minimum Rear Yard Depth	30 feet <sup>17</sup>	20 feet <sup>12</sup>	20 feet <sup>12</sup>	See Subsection 1018.12 <sup>12</sup>	None <sup>13,14</sup>	See Subsection 1018.12 <sup>12</sup>	See Subsection 1018.12 <sup>12,18</sup>
Minimum Side Yard Depth	30 feet <sup>17</sup>	One story: five feet; two stories: seven feet; three stories: 15 feet. For each story higher than three, an additional five feet of yard depth shall be required. <sup>12,19</sup>		See Subsection 1018.12 <sup>12</sup>	None	See Subsection 1018.12 <sup>12</sup>	See Subsection 1018.12 <sup>12,20</sup>
Maximum Lot Coverage	None	50 percent <sup>21</sup>	50 percent	50 percent	50 percent	None	None
Maximum Building Height	None	None	None	None	45 feet <sup>22</sup>	None	None
Minimum Building Separation	10 feet	None	None	See Subsection 1018.12	20 feet between multifamily dwellings	See Subsection 1018.12	See Subsection 1018.12

<sup>1</sup> Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).

- <sup>2</sup> Minimum site area means minimum gross site area, including land dedicated for roadway purposes. Site area means one of the following:
- A single tax lot, or two or more contiguous tax lots under the same ownership; or
  - Two or more contiguous tax lots under separate ownership, provided that:
    - All individual property owners are members of a group formed for the purpose of developing the properties as a single planned development; and
    - All individual tax lot ownerships are converted into development shares prior to any building permit being issued for the project; or the group shall record, in the office of the County Clerk, a contract and associated deed restrictions, in which all members agree to subject the use and development of individual tax lots or ownerships to the development plan for the site area as approved by the County. No permit shall be issued on any separate tax lot or ownership for any structure or use not indicated on the County-approved development plan for the site area.
- <sup>3</sup> Primary and accessory uses may be established on site areas smaller than the minimum site area standard, if the site area is physically separated from all other undeveloped or underdeveloped properties in the subject zoning district.
- <sup>4</sup> The minimum site area standard applies to high density developments.
- <sup>5</sup> The minimum site area standard applies to developments combining primary, accessory, and limited uses.
- <sup>6</sup> The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use shall be 3,630 square feet.
- <sup>7</sup> The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use shall be 3,000 square feet.
- <sup>8</sup> If a lot is created for a detached single-family dwelling classified as a nonconforming use, the minimum lot size for the other lot(s) created by the land division shall be one acre.
- <sup>9</sup> If a lot less than one acre in size results from a property line adjustment, it may not be developed unless combined with other property as provided under Note 2 to Table 315-5.
- <sup>10</sup> If a lot is created for a detached single-family dwelling classified as a nonconforming use, the minimum lot size for the other lot(s) created by the land division shall be three acres.
- <sup>11</sup> If a lot less than three acres in size results from a property line adjustment, it may not be developed unless combined with other property as provided under Note 2 to Table 315-5.

- <sup>12</sup> The minimum yard depth standards of Table 315-2, *Dimensional Standards in the Urban Low Density Residential Districts*, as modified by Subsection 315.04(C), apply to detached single-family dwellings that are nonconforming uses, as well as to structures that are accessory to such dwellings.
- <sup>13</sup> If the front or rear lot line abuts Sunnyside Road, the minimum yard depth shall be 65 feet from the centerline of Sunnyside Road, and the maximum yard depth shall be 75 feet from the centerline of Sunnyside Road.
- <sup>14</sup> Awnings, porches, and bays may extend a maximum of six feet into the minimum yard depth.
- <sup>15</sup> For buildings used exclusively for residential purposes, the minimum front yard depth shall be 15 feet, and there shall be no maximum yard depth.
- <sup>16</sup> The maximum yard depth may be exceeded to accommodate plazas identified on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*.
- <sup>17</sup> The minimum yard depth standard applies only from lot lines that are on the perimeter of the project.
- <sup>18</sup> If the rear yard abuts an OSM District or a residential zoning district other than HDR, SHD, or RCHDR, the minimum rear yard depth shall be 20 feet.
- <sup>19</sup> If the side yard abuts an Urban Low Density Residential, VR-5/7, or VR-4/5 District, the minimum side yard depth for a two-story building shall be 10 feet.
- <sup>20</sup> If the side yard abuts an OSM District or a residential zoning district other than HDR, SHD, or RCHDR, the minimum side yard depth shall be 15 feet.
- <sup>21</sup> Maximum lot coverage does not apply to swimming pools.
- <sup>22</sup> The maximum height of tower elements shall be 60 feet, provided that such elements do not have a footprint exceeding 400 square feet.

## 315.05 DEVELOPMENT STANDARDS

The following development standards apply:

- A. Condominiums: Except in the VR-5/7 and VR-4/5 Districts, any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record.
- B. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use is subject to Subsection 825.03.
- C. Structure and Façade Design in the Urban Low Density Residential Districts: In the Urban Low Density Residential Districts, single-family dwellings and manufactured homes, except temporary dwellings approved pursuant to Section 1204, shall include at least three of the following features visible to the road. If the single-family dwelling or manufactured home is located on a corner lot, the features shall be visible from the road from which the dwelling takes access.
  - 1. A covered porch at least two feet deep;
  - 2. An entry area recessed at least two feet from the exterior wall to the door;
  - 3. A bay or bow window (not flush with the siding);
  - 4. An offset on the building face of at least 16 inches from one exterior wall surface to the other;
  - 5. A dormer;
  - 6. A gable;
  - 7. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls;
  - 8. A roofline offset of at least 16 inches from the top surface of one roof to the top surface of the other;
  - 9. An attached garage;
  - 10. Orientation of the long axis and front door to the street;
  - 11. A cupola;
  - 12. A tile, shake, or composition roof; and
  - 13. Horizontal lap siding.

- D. Shipping Containers: Freight shipping containers used as accessory buildings shall be located behind the building line of the main building, and the exterior shall be painted similar in color to that of the main building.
- E. Metal Accessory Buildings in the Urban Low Density Residential Districts: In the Urban Low Density Residential Districts, metal accessory buildings greater than 500 square feet in area shall include roof overhangs, gutters, and downspouts, and the exterior shall be painted similar in color to that of the dwelling.
- F. Recreational Facilities in the SHD and RCHDR Districts: In the SHD and RCHDR Districts, a residential development shall provide a least one of the following recreational facilities for the first 60 dwelling units, or portion thereof, and at least one additional facility for every additional 120 dwelling units, or portion thereof.
1. An 800-square-foot or larger heated swimming pool;
  2. A minimum 1,000-square-foot exercise room with exercise equipment and mats;
  3. Two handball/racquetball courts;
  4. Whirlpool and sauna or steam bath rooms;
  5. Minimum 1,200-square-foot game room with pool and ping pong tables, folding tables and chairs, and kitchenette;
  6. An 800-square-foot shop equipped with hand tools, work benches, storage shelves, lockers, and ventilation;
  7. A 400-square-foot greenhouse with all-season solar exposure, equipped with benches, water, ventilation, summer shading materials, and storage areas for pots, tools, potting soil, fertilizers, etc;
  8. 3,000 square feet of hard-surface play area, such as a tennis court, basketball court, or roller-skating area;
  9. 4,200 square feet of soft surface play area with equipment provided for lawn games such as volleyball, badminton, croquet, and horseshoes; and
  10. Any other similar facility, as determined by the Planning Director.
- G. Parks in the VR-4/5 and VR-5/7 Districts: Streets, public paths, or open space shall abut the entire perimeter of all parks. In no case shall the rear of a building face a park. Street alignments and lot design shall ensure that building fronts or sides face parks, with building sides acceptable along not more than one-third of a park's perimeter.



- H. Resource Protection Areas in the VR 4/5 and VR 5/7 Districts: On lots recorded after November 29, 1995, development of primary dwellings and accessory structures within a Resource Protection Area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan, Land Use Plan Map*, shall be subject to design review, pursuant to Section 1102, and the following criteria:
1. Disturbance of natural features, including slopes in excess of 20 percent, trees and treed areas, wetlands, and stream corridors, shall be minimized.
  2. Compliance with Subsections 1002.02 and 1002.04 shall be demonstrated.
  3. The maximum disturbed area shall be 5,000 square feet. All buildings and yard areas shall be contained within this area. Driveways and required trails and utility construction shall be excluded from calculation of the disturbed area.
  4. Shared driveways are encouraged and shall be designed to be as narrow as possible, consistent with the requirements of the fire district.
- I. Single-Family Dwellings in the VR-4/5 and VR-5/7 Districts: In the VR-4/5 and VR-5/7 Districts, the following standards apply to attached single-family dwellings and detached single-family dwellings:
1. Front facades shall be designed with balconies and/or bays. Facades facing a street right-of-way shall not consist of a blank wall.
  2. Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill.
  3. Hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited.
  4. The following standards shall apply in all subdivisions that receive final plat approval after November 29, 1995.
    - a. If a lot has frontage on a local or connector street or a private street which meets local or connector street design standards, then the primary entry shall be accessed directly from and visible from one of those streets.
    - b. A minimum of 50 percent of the single-family dwellings shall have porches. A covered porch or patio shall be placed immediately adjacent to the primary entry. The porch shall have a minimum net depth of six feet and a minimum net width of 10 feet.
- J. Driveways in the VR-4/5 and VR-5/7 Districts: The following standards apply in the VR-4/5 and VR-5/7 Districts:

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1. Driveways shall not exceed a width of 16 feet at the front lot line, unless the subject property is developed with a garage that has at least three side-by-side (as opposed to tandem) garage bays, in which case the maximum driveway width shall be 24 feet at the front lot line.
  2. For subdivisions that receive final plat approval after November 29, 1995, a minimum of 50 percent of lots developed on alleys shall have alley access only.
- K. Garages in the VR-4/5 District: In the VR-4/5 District, all garages shall have a front yard depth to the garage door that is a minimum of five feet greater than the front yard depth to the front façade of the primary dwelling (not including porches, bays, and architectural features).
- L. Garages in the VR 5/7 District: In the VR-5/7 District, a minimum of 50 percent of the primary dwellings in a development shall have a garage with a front yard depth to the garage door that is a minimum of five feet greater than the front yard depth to the front façade of the primary dwelling (not including porches, bays, and architectural features). The remaining 50 percent of the primary dwellings in a development may have a garage with a front yard depth to the garage door that is a maximum of five feet less than the front yard depth to the front facade of the primary dwelling (not including porches, bays, and architectural features).
- M. Accessory Structures in the VR-4/5, VR-5/7, and VTH Districts: In the VR-4/5, VR-5/7, and VTH Districts, accessory buildings greater than 100 square feet in area shall be constructed with similar exterior building materials to those of the primary dwelling.
- N. Exemptions in the VR-4/5 and VR-5/7 Districts:
1. Neither the dimensional standards for primary dwellings in the VR-4/5 and VR-5/7 Districts listed in Table 315-4, nor the requirements of Subsections 315.05(G) through (M), apply to new homes developed in subdivisions which have received final plat approval prior to August 26, 1993, if there are homes developed or under construction on existing lots within the subdivision.
  2. In the VR-4/5 District, new homes developed within subdivisions which have received preliminary plat approval prior to August 26, 1993, may comply with Subsection 315.05(L) in lieu of Subsection 315.05(K).

[Added by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]

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

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316.01 PURPOSE

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

316.02 APPLICABILITY

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

316.03 USES PERMITTED

- A. Uses permitted in each rural residential and future urban residential zoning district are listed in Table 316-1, *Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts*. Uses not listed are prohibited.
- B. As used in Table 316-1:
  - 1. “P” means the use is a primary use.
  - 2. “A” means the use is an accessory use.
  - 3. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
  - 4. “X” means the use is prohibited.
  - 5. Numbers in superscript correspond to the notes that follow Table 316-1.
- C. Permitted uses are subject to the applicable provisions of Subsection 316.04, *Dimensional Standards*; Subsection 316.05, *Development Standard*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

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

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Accessory Buildings and Uses, Customarily Permitted</b> , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family daycare providers, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A
<b>Accessory Kitchens</b>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>
<b>Aircraft Land Uses</b>	X	X	X	C	C	C
<b>Aircraft Landing Areas</b>	X	C	C <sup>2</sup>	X	X	X
<b>Bed and Breakfast Inns</b> , subject to Section 832	C	C	C	C	C	X
<b>Bed and Breakfast Residences</b> , subject to Section 832	C	C	C	C	C	C

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Bus Shelters</b> , subject to Section 823	P	P	P	P	P	P
<b>Campgrounds</b>	C	C	C	C	C	C
<b>Cemeteries</b> , subject to Section 808	C	C	X	C	C	C
<b>Churches</b> , subject to Section 804	C	C	C	C	C	C <sup>3</sup>
<b>Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses<sup>4</sup></b>	X	X	X	C	C	X
<b>Composting Facilities</b> , subject to Section 834	X	X	X	C	C	X
<b>Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources</b>	P	P	P	P	P	P
<b>Crematories</b> , subject to Section 808	C	C	X	X	X	X
<b>Daycare Facilities</b> , subject to Section 807	C	C	C	C	C	C <sup>42</sup>
<b>Daycare Services, Adult</b>	C	C	C	C	C	C <sup>56</sup>
<b>Dwellings, Detached Single-Family</b>	p <sup>62</sup>	p <sup>62</sup>	p <sup>62</sup>	p <sup>62</sup>	p <sup>62</sup>	p <sup>62</sup>
<b>Dwellings, Two-Family</b> , subject to Section 802	C <sup>62</sup>	X	X	X	X	X
<b>Energy Source Development</b>	X	X	C	X	X	X
<b>Farmers' Markets</b> , subject to Section 840	A	A	A	A	A	A
<b>Farm Uses, including<sup>4</sup>:</b>						
Raising, harvesting, and selling crops	P	P	p <sup>78</sup>	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X <sup>82</sup>	P	X <sup>82</sup>	P	P	P
Dairying and the sale of dairy products	X <sup>82</sup>	P	X <sup>82</sup>	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X <sup>82</sup>	P	X <sup>82</sup>	P	P	P

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use	P	P	p <sup>78</sup>	P	P	P
Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species that are under the jurisdiction of the Oregon Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission	X <sup>89</sup>	P	X <sup>89</sup>	P	P	P
Growing cultured Christmas trees	P	P	p <sup>78</sup>	P	P	P
<b>Fish or Wildlife Management Programs</b>	X	X	X	P	P	P
<b>Forest Practices</b> , including the following operations conducted on or pertaining to forestland: reforestation of forestland, road construction and maintenance, harvesting of forest tree species, application of chemicals, disposal of slash, and removal of woody biomass	p <sup>910</sup>	p <sup>910</sup>	P	p <sup>910</sup>	p <sup>910</sup>	p <sup>910</sup>
<b>Fraternal Organization Lodges</b>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>
<b>Government Uses</b> , unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>
<b>Guest Houses and Studios</b> , subject to Section 833	A	A	A	A	A	A
<b>Guest Ranches and Lodges</b>	X	X	C	X	X	X
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>1+2</sup>	A	A	A	A	A	A
<b>Home Occupations to Host Events</b> , subject to Section 806	C	C	C	C	C	C
<b>Hydroelectric Facilities</b> , subject to Section 829	C	C	C	C	C	C
<b>Kennels</b>	C <sup>123</sup>	C <sup>123</sup>	X	C <sup>123</sup>	C <sup>123</sup>	X
<b>Livestock</b> , subject to Section 821	P	X <sup>89</sup>	A	X <sup>89</sup>	X <sup>89</sup>	X <sup>89</sup>

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Manufactured Dwellings</b> , subject to Section 824	P <sup>67</sup>	P <sup>67</sup>	P <sup>67</sup>	P <sup>67</sup>	P <sup>67</sup>	P <sup>67</sup>
<b>Marijuana Processing</b>	X	X	X	X	X	X
<b>Marijuana Production</b> , subject to Section 841	X	X	X	P	P	X
<b>Marijuana Retailing</b>	X	X	X	X	X	X
<b>Marijuana Wholesaling</b>	X	X	X	X	X	X
<b>Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources</b>	X	X	X	C	C	X
<b>Produce Stands</b>	A <sup>134</sup>	A <sup>134</sup>	A <sup>134</sup>	A <sup>134</sup>	A <sup>134</sup>	A <sup>134,145</sup>
<b>Public Utility Facilities</b>	C <sup>101,156</sup>	C <sup>101,156</sup>	C <sup>101,156</sup>	C <sup>101,156</sup>	C <sup>101,156</sup>	C <sup>101,156</sup>
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	C <sup>101,167</sup>	C <sup>101,167</sup>	C <sup>101,167</sup>	C <sup>101,167</sup>	C <sup>101,167</sup>	C <sup>101,167</sup>
<b>Recreational Uses</b> , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails <sup>178</sup>	C <sup>101</sup>	C <sup>101,189</sup>	C <sup>101</sup>	C <sup>101,189</sup>	C <sup>101,189</sup>	C <sup>101,189</sup>

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Recreational Uses, Government-Owned</b> , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses <sup>178</sup>	P <sup>1920</sup>	P <sup>1920</sup>	P <sup>1920</sup>	P	P	P
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>178</sup>	P <sup>1920</sup>	P <sup>1920</sup>	P <sup>1920</sup>	P	P	P
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	X
<b>Sanitary Landfills and Debris Fills</b> , subject to Section 819	X	X	X	C	C	X
<b>Schools</b> , subject to Section 805	C <sup>201</sup>	C <sup>201</sup>	C	C <sup>201</sup>	C <sup>201</sup>	C <sup>212</sup>
<b>Signs</b> , subject to Section 1010	A <sup>223</sup>	A <sup>223</sup>	A <sup>223</sup>	A <sup>223</sup>	A <sup>223</sup>	A <sup>223</sup>
<b>Surface Mining</b> , subject to Section 818	X	X	X	C	C	X
<b>Telephone Exchanges</b>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>	C <sup>101</sup>
<b>Temporary Buildings for Uses Incidental to Construction Work</b> . Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A



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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A	A	A	A	A	A
<b>Transfer Stations</b> , subject to Section 819	X	X	C	X	X	C
<b>Utility Carrier Cabinets</b> , subject to Section 830	P	P	P	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsections 835.04 and 835.05(A)(2) and (3), subject to Section 835	P	P	P	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsection 835.06(A), subject to Section 835	C	C	C	C	C	C

- <sup>1</sup> An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.
- <sup>2</sup> Aircraft landing areas are permitted for use by emergency aircraft (fire, rescue, etc.) only.
- <sup>3</sup> This use is limited to alteration or expansion of a lawfully established church.
- <sup>4</sup> As used in Table 316-1, farm uses do not include marijuana production, marijuana processing, marijuana wholesaling, or marijuana retailing. See separate listings in Table 316-1 for these uses.
- <sup>45</sup> This use is limited to alteration or expansion of a lawfully established daycare facility.
- <sup>56</sup> This use is limited to alteration or expansion of a lawfully established adult daycare service.
- <sup>67</sup> Except as limited by Subsection 902.02, each lot of record may be developed with only one of the following: detached single-family dwelling, two-family dwelling (only if approved as a conditional use in the RA-1 District pursuant to Section 802), or manufactured dwelling.
- <sup>78</sup> This use is permitted only on lots larger than five acres.
- <sup>89</sup> Depending on the specific zoning district, livestock is either permitted as described under the use category of “farm uses” or is permitted as described under the use category of “livestock.”

- <sup>910</sup> For land inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs.
- <sup>101</sup> Uses similar to this may be authorized pursuant to Section 106, *Authorization of Similar Uses*.
- <sup>142</sup> A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 316-1.
- <sup>123</sup> The portion of the premises used shall be located a minimum of 200 feet from all property lines.
- <sup>134</sup> A produce stand shall be subject to the parking requirements of Section 1015, *Parking and Loading*.
- <sup>145</sup> In addition to selling produce grown on-site, a produce stand may sell agricultural products that are produced in the surrounding community in which the stand is located.
- <sup>156</sup> Public utility facilities shall not include shops, garages, or general administrative offices.
- <sup>167</sup> The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- <sup>178</sup> This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- <sup>189</sup> Equine facilities are a primary use, subject to the following standards and criteria:
- a. The number of horses shall be limited to no more than one horse per acre or five horses in total, whichever is less. Horses owned by the operator of the equine facility, or owned by a 501(c)(3) organization and being temporarily fostered by the operator of the equine facility, do not count toward the maximum number of horses. The one-horse-per-acre standard shall be calculated based on the area of the lot of record or tract on which the equine facility is located.
  - b. Services offered at the equine facility, such as riding lessons, training clinics, and schooling shows, shall be provided only to the family members and nonpaying guests of the operator of the equine facility, the owners of boarded horses, or the family members and nonpaying guests of the owners of boarded horses.
- <sup>1920</sup> Any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- <sup>201</sup> Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.
- <sup>242</sup> This use is limited to alteration or expansion of a lawfully established school.

<sup>223</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

316.04 DIMENSIONAL STANDARDS

- A. General: Dimensional standards applicable in the rural and future urban residential zoning districts are listed in Table 316-2, *Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts*. As used in Table 316-2, numbers in superscript correspond to the notes that follow the table.
- B. Modifications: The standards in Table 316-2 may be modified pursuant to Sections 800, *Special Use Requirements*; 902, *Lot Size Exceptions*; 903, *Setback Exceptions*; 904, *Other Exceptions*; 1013, *Planned Unit Developments*; 1014, *Design Standards for Land Divisions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

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

<b>Standard</b>	<b>RA-1</b>	<b>RA-2</b>	<b>RR</b>	<b>RRFF-5</b>	<b>FF-10</b>	<b>FU-10</b>
Minimum Lot Size <sup>1</sup>	1 acre <sup>2</sup>	2 acres <sup>2</sup>	2 acres	5 acres <sup>2,3</sup>	10 acres <sup>2,3</sup>	10 acres <sup>3</sup>
Minimum Front Yard Depth	30 feet	30 feet	15 feet, except 20 feet to garage and carport motor vehicle entries <sup>4</sup>	30 feet	30 feet	30 feet
Minimum Rear Yard Depth	30 feet <sup>5</sup>	30 feet <sup>6</sup>	15 feet	30 feet <sup>6</sup>	30 feet <sup>6</sup>	30 feet <sup>6</sup>
Minimum Side Yard Depth	10 feet <sup>7</sup>	10 feet	5 feet	10 feet	10 feet	10 feet
Maximum Lot Coverage	None	None	40 percent	None	None	None
Minimum Building Separation above 3,500 Square Feet in Elevation	None	None	20 feet between buildings with contiguous snow slide areas	None	None	None

<sup>1</sup> The minimum lot size standards, as modified pursuant to Sections 800, *Special Use Requirements*; 902, *Lot Size Exceptions*; 1013, *Planned Unit Developments*; 1014, *Design Standards for Land Divisions*; 1107, *Property Line Adjustments*; and 1205, *Variances*, apply to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except as limited by minimum lot size standards of Section 800 and Subsection 902.02.

- 2 The minimum lot size inside the Portland Metropolitan Urban Growth Boundary shall be 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.
- 3 For the purpose of complying with the minimum lot size standard, lots with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the road right-of-way.
- 4 For a corner lot located above 3,500 feet in elevation, the minimum depth of one of the front yards shall be 10 feet, except 20 feet to garage and carport motor vehicle entries.
- 5 The minimum rear yard depth for an accessory building shall be five feet.
- 6 The minimum rear yard depth for an accessory building shall be 10 feet.
- 7 The minimum side yard depth for an accessory building shall be five feet.

316.05 DEVELOPMENT STANDARD

Redevelopment of a manufactured dwelling park with a different use is subject to Subsection 825.03.

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]



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

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317.01 PURPOSE

Section 317 is adopted to implement the policies of the Comprehensive Plan for Mountain Recreation areas and Low Density Residential areas regulated by the Mount Hood Community Plan.

317.02 APPLICABILITY

Section 317 applies to land in the Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts.

317.03 USES PERMITTED

- A. Uses permitted in the MRR and HR Districts are listed in Table 317-1, *Permitted Uses in the MRR and HR Districts*. Uses not listed are prohibited, except that in the MRR District, uses similar to one or more of the listed limited uses may be authorized pursuant to Section 106, *Authorization of Similar Uses*.
- B. As used in Table 317-1:
  - 1. “P” means the use is a primary use.
  - 2. “A” means the use is an accessory use.
  - 3. “L” means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
  - 4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
  - 5. “X” means the use is prohibited.
  - 6. Numbers in superscript correspond to the notes that follow Table 317-1.
- C. Permitted uses are subject to the applicable provisions of Subsection 317.04, *Dimensional Standards*; Subsection 317.05, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

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

Use	MRR	HR
<b>Accessory Buildings and Uses, Customarily Permitted</b> , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family daycare providers, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children's play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A
<b>Accessory Dwelling Units</b> , subject to Section 839	X	A
<b>Accessory Kitchens</b>	A <sup>1</sup>	A <sup>1</sup>
<b>Airports, Personal-Use</b>	C	C
<b>Bed and Breakfast Inns</b> , subject to Section 832	P	C
<b>Bed and Breakfast Residences</b> , subject to Section 832	P	C
<b>Bus Shelters</b> , subject to Section 823	P	P
<b>Campgrounds</b>	C	C
<b>Churches</b> , subject to Section 804	C	C
<b>Civic and Cultural Facilities</b> , including art galleries, libraries, museums, and visitor centers	L <sup>2</sup>	X
<b>Congregate Housing Facilities</b>	P	X
<b>Daycare Facilities</b> , subject to Section 807	C	C
<b>Daycare Services, Adult</b>	C	C
<b>Dwellings, Attached Single-Family</b> , subject to Section 838	P <sup>3</sup>	P <sup>3,4</sup>
<b>Dwellings, Detached Single-Family</b>	P <sup>3</sup>	P <sup>3</sup>
<b>Dwellings, Multifamily</b>	P	X
<b>Dwellings, Three Family</b>	P	X
<b>Dwellings, Two-Family</b>	P	X
<b>Energy Source Development</b>	C	C
<b>Farmers' Markets</b> , subject to Section 840	A	A
<b>Fraternal Organization Lodges</b>	C <sup>5</sup>	C <sup>5</sup>
<b>Government Uses</b> , unless such a use is specifically listed as a primary, accessory, limited, conditional, or prohibited use in the applicable zoning district	C <sup>5</sup>	C <sup>5</sup>
<b>Guest Houses and Studios</b> , subject to Section 833	X	A
<b>Guest Ranches and Lodges</b>	X	C
<b>Helistops, Personal-Use</b>	C	C



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Use	MRR	HR
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>6</sup>	A	A
<b>Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events</b>	C	C
<b>Hotels</b> <sup>7</sup>	P <sup>8</sup>	X
<b>Hydroelectric Facilities</b> , subject to Section 829	C	C
<b>Livestock</b> , subject to Section 821	A	A
<b>Manufactured Homes</b> , subject to Section 824	P <sup>3</sup>	P <sup>3</sup>
<b>Manufactured Home Parks</b> , subject to Section 825	C	X
<b>Marijuana Processing</b>	X	X
<b>Marijuana Production</b>	X	X
<b>Marijuana Retailing</b>	X	X
<b>Marijuana Wholesaling</b>	X	X
<b>Mobile Vending Units</b> , subject to Section 837	L <sup>2,9</sup>	X
<b>Motels</b> <sup>7</sup>	P <sup>8</sup>	X
<b>Multi-Use Developments</b> , subject to Section 1016	C	C
<b>Nursing Homes</b> , subject to Section 810	P	C
<b>Parking Structures</b>	A	X
<b>Produce Stands</b> , subject to Section 815	A	A
<b>Public Utility Facilities</b>	C <sup>5</sup>	C <sup>5,10</sup>
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	C <sup>5,11</sup>	C <sup>5,11</sup>
<b>Recreational Uses</b> , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails <sup>12</sup>	C <sup>5</sup>	C <sup>5</sup>
<b>Recreational Uses, Government-Owned</b> , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses <sup>12</sup>	P <sup>13</sup>	P <sup>14</sup>
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>12</sup>	P <sup>13</sup>	P <sup>14</sup>
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	C <sup>5</sup>	C <sup>5</sup>
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, flowers, food, furniture, garden supplies, hardware, interior decorating materials, jewelry, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies,	L <sup>2</sup>	X

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Use	MRR	HR
optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos.		
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	L <sup>2</sup>	X
<b>Services, Commercial—Maintenance and Repair</b> , of any of the following: bicycles and sporting goods	L <sup>2</sup>	X
<b>Services, Commercial—Personal and Convenience</b> , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	L <sup>2</sup>	X
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	L <sup>2</sup>	X
<b>Schools</b> , subject to Section 805	C	C
<b>Signs</b> , subject to Section 1010	A <sup>15</sup>	A <sup>15</sup>
<b>Surface Mining</b> , subject to Section 818	X	X
<b>Telephone Exchanges</b>	C <sup>5</sup>	C <sup>5</sup>
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A	A
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
<b>Transit Park-and-Rides</b>	P	P
<b>Transfer Stations</b> , subject to Section 819	C	C
<b>Utility Carrier Cabinets</b> , subject to Section 830	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsections 835.04(B) and (C) and 835.05(A)(2) and (3), subject to Section 835	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsection 835.06(A), subject to Section 835	C	C

- <sup>1</sup> An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.
- <sup>2</sup> The limited use is permitted subject to the following criteria:
- a. The use shall be incidental to a primary use.
  - b. The use shall be provided for as an integral part of the general plan of the development.
  - c. The use shall not, by reason of its location, construction, manner or timing of operations, signs, lighting, parking arrangements, or other characteristics, have adverse effects on

residential uses within or adjoining the MRR District or create traffic congestion or hazards to vehicular or pedestrian traffic.

- 3 Except as limited by Subsection 902.02, each lot of record may be developed with only one of the following: attached single-family dwelling, detached single-family dwelling, or manufactured home.
- 4 Attached single-family dwellings are permitted on a maximum of 100 percent of the lots in a planned unit development and a maximum of 20 percent of the lots in a subdivision that is not a planned unit development.
- 5 Uses similar to this may be authorized pursuant to Section 106, *Authorization of Similar Uses*.
- 6 A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 317-1.
- 7 Also permitted are associated convention facilities.
- 8 A new hotel or motel in Rhododendron shall be limited to a maximum of 35 units. A new hotel or motel in Government Camp shall be limited to a maximum of 100 units.
- 9 Only level three and four mobile vending units are permitted.
- 10 Public utility facilities shall not include shops, garages, or general administrative offices.
- 11 The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- 12 This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- 13 Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.
- 14 Any principal building, swimming pool, or use shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- 15 Temporary signs regulated under Subsection 1010.13(A) are a primary use.

#### 317.04 DIMENSIONAL STANDARDS

- A. General: Dimensional standards applicable in the MRR and HR Districts are listed in Table 317-2, *Dimensional Standards in the MRR and HR Districts*. As used in Table 317-2, numbers in superscript correspond to the notes that follow the table.

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B. Modifications: The standards in Table 317-2 may be modified pursuant to Section 800, *Special Use Requirements*; Section 902, *Lot Size Exceptions*; Section 903, *Setback Exceptions*; Section 904, *Other Exceptions*; Section 1013, *Planned Unit Developments*; Section 1107, *Property Line Adjustments*; and Section 1205, *Variances*.

**Table 317-2: Dimensional Standards in the MRR and HR Districts**

Standard	MRR	HR
District Land Area for Calculating Density Pursuant to Section 1012, <i>Density</i>	See Section 1012	10,890 square feet
Minimum Front Yard Depth	15 feet, except 20 feet to garage and carport motor vehicle entries <sup>1</sup>	15 feet, except 20 feet to garage and carport motor vehicle entries <sup>2</sup>
Minimum Rear Yard Depth	10 feet <sup>3,4,5</sup>	15 feet <sup>4</sup>
Minimum Side Yard Depth	10 feet <sup>3,4,5</sup>	5 feet <sup>4</sup>
Maximum Lot Coverage	None	40 percent
Maximum Building Height	40 feet <sup>6,7</sup>	40 feet <sup>6</sup>
Minimum Building Separation above 3,500 Feet in Elevation	20 feet between buildings with contiguous snow slide areas	20 feet between buildings with contiguous snow slide areas
Maximum Building Floor Space per Commercial Use	4,000 square feet, except 8,000 square feet in Government Camp <sup>8</sup>	Not Applicable

<sup>1</sup> In Government Camp, the minimum front yard depth shall be 10 feet, except 20 feet to garage and carport motor vehicle entries.

<sup>2</sup> For a corner lot in Government Camp, the minimum depth of one of the front yards shall be 10 feet, except 20 feet to garage and carport motor vehicle entries.

<sup>3</sup> The minimum rear and side yard depth standards applicable in the HR District apply to detached single-family dwellings and manufactured homes, as well as to structures that are accessory to such detached single-family dwellings and manufactured homes.

<sup>4</sup> If the yard abuts a national forest, there shall be no minimum yard depth.

- <sup>5</sup> Except as established by Note 3 or 4 to Table 317-2, if a rear yard or a side yard abuts an HR District or abuts a lot in the MRR District developed with a single-family dwelling or a manufactured home, the applicable minimum yard depth standard for a building shall be based on the height of that building, as follows:

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

- <sup>6</sup> The maximum building height may be increased to 50 feet to accommodate understructure parking.
- <sup>7</sup> For a hotel in Government Camp, the maximum building height shall be 70 feet and may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.
- <sup>8</sup> No maximum applies to hotels and motels.

317.05 DEVELOPMENT STANDARDS

The following development standards apply:

- A. Condominiums: Any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record.
- B. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use is subject to Subsection 825.03.

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- C. Structure and Façade Design: Single-family dwellings and manufactured homes, except temporary dwellings approved pursuant to Section 1204, shall include at least three of the following features visible to the road. If the single-family dwelling or manufactured home is located on a corner lot, the features shall be visible from the road from which the single-family dwelling or manufactured home takes access.
1. A covered porch at least two feet deep;
  2. An entry area recessed at least two feet from the exterior wall to the door;
  3. A bay or bow window (not flush with the siding);
  4. An offset on the building face of at least 16 inches from one exterior wall surface to the other;
  5. A dormer;
  6. A gable;
  7. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls;
  8. A roofline offset of at least 16 inches from the top surface of one roof to the top surface of the other;
  9. An attached garage;
  10. Orientation of the long axis and front door to the street;
  11. A cupola;
  12. A tile, shake, or composition roof; and
  13. Horizontal lap siding.
- D. Restricted Areas: Generally residential development is prohibited in the Floodplain Management District regulated by Section 703, river and stream corridors, wetlands, mass movement hazard areas regulated by Section 1003, and on slopes greater than 25 percent. However, a single-family dwelling or manufactured home may be developed in a restricted area on a lot of record created prior to the adoption of this standard, subject to compliance with the applicable criteria in this Ordinance for such development. In the case of a land division, density accruing to restricted areas may be eligible for transfer to unrestricted areas as provided in Section 1012, *Density*.

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]



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

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## 401.01 PURPOSE

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

401.02 APPLICABILITY AREA OF APPLICATION

~~Section 401 applies to land in the Property may be zoned Exclusive Farm Use (EFU) District when the site has a Comprehensive Plan designation of Agriculture and the criteria in Section 1202 are satisfied.~~

## 401.03 DEFINITIONS

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

- A. Accessory Farm Dwelling: Includes all types of residential dwellings allowed by the applicable state building code and the number of dwelling units is determined by a land use decision.
- B. Agricultural Land: As defined in Oregon Administrative Rules (OAR) 660-33-0020.
- C. Commercial Farm: A farm unit with all of the following characteristics:
  - 1. The land is used for the primary purpose of obtaining a profit in money from farm use;
  - 2. The net income derived from farm products is significant; and
  - 3. Products from the farm unit contribute substantially to the agricultural economy, to agricultural processors, and to farm markets.
- D. Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.
- E. Dwelling: Unless otherwise provided in Section 401, a dwelling is a detached single-family dwelling or a manufactured dwelling.
- F. Farm Operator: A person who resides on and actively manages a "farm unit".

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- G. Farm Stand: A structure located on a part of the farm operation owned by the farm operator that is designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of the incidental items and fees from promotional activity do not make up more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings, or public entertainment.
- H. Farm Unit: The contiguous and noncontiguous tracts within the County or a contiguous county held in common ownership and used by the farm operator for farm use.
- I. Farm Use: As defined in Oregon Revised Statutes (ORS) 215.203.
- J. Fee-based Activity to Promote the Sale of Farm Crops or Livestock: A common farm-dependent accessory activity directly related to the sale of farm crops or livestock sold at the farm stand, such as, but not limited to, hay rides, corn mazes, and educational how-to-farm workshops, but not including activities with no direct relationship to the farm crops or livestock sold at the farm stand, such as, but not limited to, quilting classes, dance lessons, jewelry making, or crafts that are only intended to bring customers to the farm stand.
- K. Golf Course: As defined in OAR 660-033-0130(20).
- L. High Value Farmland: As defined in ORS 215.710 and OAR 660-033-0020(8).
- M. 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.
- N. 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.
- O. Low Value Farmland: All land not defined as High Value Farmland in ORS 215.710 and OAR 660-033-0020(8).
- P. 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.



- Q. 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.
- R. 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.
- S. 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.
- T. Relative: For purposes of a Temporary Dwelling for Care, relative means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin.
- U. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a county or public road, or contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.

401.04 USES PERMITTED

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

A. As used in Table 401-1:

- 1. "A" means the use is allowed.
- 2. "Type II" means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.
- 3. "C" means the use is a ~~c~~Conditional uUse, approval of which is subject to Section 1203, *Conditional Uses*.
- 4. The "Subject To" column identifies any specific provisions of Subsection 401.05 to which the use is subject.
- 5. "N" means not applicable.
- 6. "\*NA1" means the use is not allowed except as set forth in Subsection 401.05(J)(1).

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7. “\*NA2” means the use is not allowed except as set forth in Subsection 401.05(J)(1) or 401.05(J)(2) and (3).
8. “Type III” means the use requires review of a Type III application, pursuant to Section 1307.
9. “HV” means High Value Farmland.
10. “LV” means Low Value Farmland.
11. Numbers in superscript correspond to the notes that follow Table 401-1.

B. Permitted uses are subject to the applicable provisions of Subsection 401.07, *Dimensional Standards*; Subsection 401.08, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

**Table 401-1: Permitted Uses in the ~~EFU Exclusive Farm Use~~ District**

	HV	LV	Use	Subject To
<b>FARM AND FOREST USES</b>	A	A	Propagation or harvesting of a forest product.	
	A	A	Farm use as defined in ORS 215.203. <u>Marijuana production is subject to Section 841.</u>	
	A	A	Other buildings customarily provided in conjunction with farm use.	
	TYPE II	TYPE II	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141. <u>Marijuana processing is subject to Section 841.</u> <sup>1</sup>	401.05(B)(1)
	C	C	A facility for the primary processing of forest products.	401.05(B)(2)
<b>NATURAL RESOURCE USES</b>	HV	LV	Use	Subject To
	A	A	Creation of, restoration of, or enhancement of wetlands.	
	TYPE II	TYPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1)
<b>RESIDENTIAL USES</b>	HV	LV	Use	Subject To
	A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	A	Alteration, restoration, or replacement of a lawfully established dwelling, subject to OAR 660-033-0130(8).	401.05(A)(3) & (C)(1)
	TYPE II	TYPE II	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places. <sup>2</sup>	401.05(A)(3)
TI A LI	N	TYPE II	Lot of Record Dwelling on Low Value Farmland.	401.05(A)(2), (3), (4) & (C)(2)

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	TYPE II	N	Lot of Record Dwelling on Class III or IV High Value Farmland.	401.05(A)(2), (3), (4) & (C)(3)
	TYPE III	N	Lot of Record Dwelling on Class I or II High Value Farmland.	401.05(A)(2), (3), (4) & (C)(4)
	TYPE II	N	Dwelling customarily provided in conjunction with a farm use on High Value Farmland. <sup>2</sup>	401.05(A)(3) & (C)(5)
	N	TYPE II	Dwelling customarily provided in conjunction with a farm use on Low Value Farmland. <sup>2</sup>	401.05(A)(3) & (C)(6)
	TYPE II	TYPE II	Dwelling customarily provided in conjunction with a commercial dairy farm.	401.05(A)(3) & (C)(7)
	N	TYPE II	160 acre test for a dwelling. <sup>2</sup>	401.05(A)(3), (4) & (C)(8)
	N	TYPE II	Capability test for a dwelling. <sup>2</sup>	401.05(A)(3), (4) & (C)(9)
	TYPE II	TYPE II	A single-family dwelling not provided in conjunction with farm use; a nonfarm dwelling.	401.05(A)(3), (4) & (C)(10)
	TYPE II	TYPE II	Accessory farm dwelling for a relative. <sup>2</sup>	401.05(A)(3) & (C)(11)
	TYPE II	TYPE II	Accessory farm dwelling for year-round and seasonal farm workers. <sup>2</sup>	401.05(A)(3) & (C)(12)
	TYPE II	TYPE II	Temporary dwelling for care, subject to Subsection 1204.03.	401.05(A)(1), (3) & (C)(13)
	TYPE II	TYPE II	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	TYPE II	TYPE II	Residential home or facility as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>COMMERCIAL USES</b>	A	A	Family daycare provider.	
	A	A	Dog training classes.	401.05(D)(11)
	A	A	Dog testing trials.	401.05(D)(12)
	A	A	A winery license for the first six of 18-day agri-tourism and other commercial events, subject to ORS 215.237 and 215.452.	401.05(A)(1) & (D)(5)
	TYPE II	TYPE II	Farm stands, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o). <sup>3</sup>	
	TYPE II	TYPE II	Home occupations, subject to Section 822.	401.05(A)(1) & (D)(1)
	TYPE II	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
	TYPE II	TYPE II	Agri-tourism single event.	401.05(A)(1) & (D)(3)
	TYPE II	TYPE II	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (D)(4)
	TYPE II	TYPE II	A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but not a restaurant open more than 25 days per calendar year.	
	TYPE II	TYPE II	A winery bed and breakfast facility as a home occupation, subject to ORS 215.448, as provided in ORS 215.452 or 215.453, whichever is applicable.	401.05(A)(1) & (D)(6)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
	C	C	A large winery with a restaurant in conjunction	401.05(A)(1), (D)(7) &



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			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.	(8)
	C	C	Home occupation to host events, subject to Section 806.	401.05(A)(1) & (D)(1)
	C	C	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1). <sup>4</sup>	401.05(A)(1) & (D)(8)
	C	C	Winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to ORS 215.237 and 215.452.	401.05(A)(1)
	C	C	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (D)(9)
	C	C	An aerial fireworks display business.	401.05(A)(1) & (D)(10)
	C	C	Commercial dog boarding kennels.	401.05(A)(1)
	C	C	Dog training classes or testing trials that cannot be established under Subsection 401.05(E)(11) or (12).	401.05(A)(1)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>MINERAL, AGGREGATE, OIL, AND GAS USES</b>	A	A	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	A	A	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	C	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (E)(1) & (E)(1)(a)
	C	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (E)(1) & (E)(1)(b)
	C	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (E)(1) & (E)(1)(c)
	C	C	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.	401.05(A)(1), (E)(1) & (E)(1)(d)

	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
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<b>TRANSPORTATION USES</b>	A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311	401.05(A)(1)
	TYPE II	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	401.05(A)(1)
	TYPE II	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	401.05(A)(1)
	TYPE III	TYPE II	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	401.05(A)(1)
	C	C	Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401.	401.05(F)(1)
	C	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) &(F)(2)
	C	C	Transportation improvements on rural lands, subject to OAR 660-012-0065.	
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES</b>	A	A	Irrigation reservoirs, canals, delivery lines, and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	A	Solar energy system as an accessory use.	
	A	A	Rainwater collection systems as an accessory use.	

	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
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UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	A	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	A	Meteorological towers.	
	A	A	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	
	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.	
	TYPE II	TYPE II	Wind energy power production systems as an accessory use.	401.05(G)(1)
	TYPE II	TYPE II	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.	
	TYPE II	TYPE II	Collocation of wireless telecommunication facilities as identified in Subsection 835.05(A)(2), subject to Subsection 835.05(A), provided such facilities include a transmission tower that is over 200 feet in height.	
	TYPE II	TYPE II	Utility facilities necessary for public service, including wireless telecommunication facilities not otherwise provided for in Section 401, associated transmission lines subject to ORS 215.283(1)(c)(A) or (B) and 215.276, 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(G)(2)
	TYPE II	N	Composting operations and facilities on high value farmland.	401.05(A)(1) & (G)(3)
	N	TYPE II	Composting operations and facilities on low value farmland.	401.05(A)(1) & (G)(4)
	*NA1	C	Composting operations and facilities, subject to Section 834.	401.05(A)(1) & (G)(5)
	C	C	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)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
C	C	Commercial utility facilities for the purpose of	401.05(A)(1) &	

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			generating power for public use by sale, not including wind or photovoltaic solar power generation facilities.	(G)(6)
	C	C	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(37).	401.05(A)(1)
	C	C	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(38).	401.05(A)(1)
	*NA1	C	A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.	401.05(A)(1)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
PARKS, PUBLIC, AND QUASI-PUBLIC USES	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.	
	TYPE II	TYPE II	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)
	TYPE II	TYPE II	Public parks and playgrounds.	401.05(A)(1), (5) & (H)(2)
	TYPE II	TYPE II	Fire service facilities providing rural fire protection services.	
	TYPE II	TYPE II	Community centers.	401.05(A)(1), (5) & (H)(3)
	TYPE II	TYPE II	Living history museum.	401.05(A)(1), (5) & (H)(4)
	TYPE II	TYPE II	Firearms training facility as provided in ORS 197.770.	401.05(A)(5) & (H)(5)
	TYPE II	TYPE II	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	TYPE II	TYPE II	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
	*NA1	TYPE	Churches and cemeteries in conjunction with	401.05(A)(5)

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		II	churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	
	C	C	Operations for the extraction and bottling of water.	401.05(A)(1)
	C	C	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	*NA2	C	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
	*NA1	C	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	401.05(A)(1), (5) & (H)(6)
	*NA1	C	Golf courses.	401.05(A)(1), (5) & (H)(7)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>OUTDOOR GATHERINGS</b>	A	A	An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).	401.05(I)(1)
	C	C	Any outdoor gathering subject to review of the Planning Commission under ORS 433.763.	401.05(I)(2)

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

<sup>2</sup> Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See Section 34, Chapter 614, Oregon Laws 2015.)

<sup>3</sup> A farm stand shall not be used for the sale, or to promote the sale, of marijuana items. (See Section 34, Chapter 614, Oregon Laws 2015.)

<sup>4</sup> A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See Section 34, Chapter 614, Oregon Laws 2015.)

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

1. A lawfully established dwelling may be altered, restored, or replaced if, when an application for a permit is submitted, substantial evidence is provided that:
  - a. The dwelling to be altered, restored, or replaced has, or formerly had:
    - i. Intact exterior walls and roof structure;
    - ii. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
    - iii. Interior wiring for interior lights; and
    - iv. A heating system; and
  - b. The dwelling was assessed as a dwelling for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time; and

- c. Notwithstanding Subsection 401.05(C)(1)(b), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
    - i. The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration of the dwelling; or
    - ii. The applicant establishes the dwelling was improperly removed from the tax rolls. "Improperly removed" means the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard and the County stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.
  - d. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
    - i. Within one year from the certified occupancy; or
    - ii. If the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, the dwelling to be replaced must be removed within 90 days from the date a replacement permit is issued; and
    - iii. If a dwelling is removed to another off-site location, the applicant must obtain approval for the new location.
  - e. A dwelling to be replaced shall be recorded in the deed records of the County that it has been removed, demolished or converted.
  - f. If a dwelling to be replaced is located on a portion of the parcel that is not zoned EFU, the applicant shall record in the deed records of the County an irrevocable statement prohibiting the siting of another dwelling on that portion of the parcel.
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,

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

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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 land shall remain in common ownership as long as the dwelling remains as approved.
  - g. The tract is no more than 21 acres.
  - h. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or, the tract is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary.
  - i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or the impacts can be adequately mitigated so as not to interfere. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of impact mitigation measures, winter range is seriously considered impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
4. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils, subject to the following criteria:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
  - b. The lot of record has been under the continuous ownership of the present owner who either,

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- i. Acquired the lot of record prior to January 1, 1985, or
  - ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.
- c. The tract on which the dwelling will be sited does not include a dwelling;
- d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
- e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.
- f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.
- g. The lot of record cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. Extraordinary circumstances include very steep slopes, deep ravines, rivers, streams, roads, railroads or utility lines or other similar natural or physical barriers that by themselves or in combination, separate the subject property from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.
- h. The dwelling will not materially alter the stability of the overall land use pattern in the area.
- i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. (Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet).

5. Dwelling in conjunction with a farm use on High Value Farm Land: A primary farm dwelling for the farm operator may be allowed subject to the following criteria:
  - a. The subject tract is currently employed in farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;
  - b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
  - c. The lot of record on which the dwelling will be sited was lawfully created;
  - d. Except as permitted in Subsection 401.05(C)(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 off record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
  - c. Except as permitted in Subsection 401.05(C)(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(C)(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(C)(9)(a).
  - d. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in Subsection 401.05(C)(9)(a).
  - e. The subject lot of record on which the dwelling is proposed is not less than 10 acres.
  - f. Except as permitted in Subsection 401.05(C)(12), there is no other dwelling on the subject tract.
  - g. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
  - h. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection 401.05(C)(9)(da).
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 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 of record in the area similarly situated, subject to:

- i. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a “distinct agricultural area” based on topography, soils types, land use pattern, or the type of farm operations or practices that distinguish it from other adjacent agricultural areas. Findings shall describe the study area, its boundaries, and the location of the subject parcel 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.
- ii. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture, or grazing lands), the number, location, and type of existing dwellings (farms, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections 401.05(C)(2) through (4) and (10), including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area, including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings.
- iii. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- e. The dwelling shall comply with such other conditions as the County considers necessary.

- f. Prior to Planning Director approval for issuance of a building or manufactured dwelling permit, the applicant shall notify the County Assessor that the lot of record is no longer being used for farmland and; request the County Assessor to disqualify the lot of record for special assessment under ORS 308.370, 308.765, 321.257 to 321.381, 321.730 or 321.815 and; pay any additional tax imposed upon disqualification from special assessment. A lot of record that has been disqualified pursuant to Subsection 401.05(C)(10)(f) shall not requalify for special assessment unless, when combined with another contiguous lot of record, it constitutes a qualifying parcel.
11. 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;

- 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(C)(12)(c)(iv) shall be removed, demolished, or converted to a nonresidential use when farm worker housing is no longer required.
- v. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot of record at least the size of the applicable minimum lot size and the lot of record complies with the gross farm income requirements of Subsection 401.05(C)(12)(f)(i) or 401.05(C)(12)(f)(ii), whichever is applicable.
- d. There are no other dwellings on lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
- e. All multi-unit accessory dwellings shall be consistent with the intent of the Legislative Assembly as provided in ORS 215.243.
- f. The primary farm dwelling to which the proposed dwelling would be accessory shall meet one of the following:
  - i. On Low Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned the lower of at least \$32,500 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

- ii. On land identified as High Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years.
- g. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- h. Only gross annual income from land owned, not leased or rented, shall be counted.
- i. Any proposed land division or property line adjustment of a lot of record for an accessory farm dwelling approved pursuant to Subsection 401.05(C)(12) shall not be approved. If it is determined that an accessory farm dwelling satisfies the requirements for a dwelling in conjunction with a farm use under Subsection 401.05(C)(5) or (6), a parcel may be created consistent with the minimum parcel size requirements in Subsection 401.07(A).
- j. An accessory farm dwelling approved pursuant to Subsection 401.05(C)(12) shall not later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 401.05(C)(10).
- k. At any time the dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.
- l. “Farmworker”, means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the production of farm products, planting, cultivating or harvesting of seasonal agricultural crops; or forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.
- m. “Farmworker Housing”, means housing limited to occupancy by farmworkers and their immediate families, and no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

- n. "Relative", for the purposes of Subsection 401.05(C)(12), means an ancestor, lineal descendant, or whole or half sibling of the owner or operator or the spouse of the owner or operator.
  - o. "Farmworker Housing Owner", means a person that owns farmworker housing. It does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.
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(C)(13) is not eligible for replacement under Subsection 401.05(C)(1). County Department of Water Environment Services on-site sewage disposal system review and removal requirements also apply.

D. Commercial Uses

- 1. The home occupation shall not unreasonably interfere with other uses permitted in the EFU zoning district and shall not be used as justification for a zone change.
- 2. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
- 3. A single agri-tourism or other commercial event or activity in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(a), and (6) and the following:
  - a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and
  - b. "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.



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 winery license, as provided under ORS 215.452 for the first six of an 18-day limit for agri-tourism or other commercial events, is not a land use decision or a permit but is subject to administrative review to determine the following conditions can be satisfied:
  - a. The term of the approval shall not exceed five years; and
  - b. Subsections 806.03(I), (L), (N), (O), and (P).
6. A winery bed and breakfast facility as provided for in ORS 215.452 and 215.453 as a home occupation subject to ORS 215.448, on the same tract as a winery and in association with the winery, and the following:
  - a. The maximum number of guest rooms allowed for the bed and breakfast facility shall be seven.
  - b. May prepare and serve two meals per day to registered guests of the bed and breakfast facility; and
  - c. Meals may be served at the bed and breakfast facility or at the winery; and
  - d. No guest shall stay more than 60 days in any one-year period. An accurate, up-to-date guest register shall be maintained and available for review by any authorized agent of the County or state.
  - e. To exceed the maximum number of guest rooms allowed for the bed and breakfast facility will require review under Section 1203.

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7. 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 percent 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.
8. 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)(K) or Subsection 401.05(B)(1). The commercial activity shall be essential to the practice of agriculture.
9. 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 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.
10. 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.
11. Dog training classes, which may be conducted outdoors or in preexisting farm buildings that existed on January 1, 2013, when:
    - a. The number of dogs participating in training does not exceed 10 dogs per training class; and
    - b. The number of training classes to be held on-site does not exceed six per day.
  12. Dog testing trials, which may be conducted outdoors or in preexisting farm buildings that existed on January 1, 2013, when:
    - a. The number of dogs participating in a testing trial does not exceed 60; and
    - b. The number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

E. Mineral, Aggregate, Oil, and Gas Uses

1. Mineral, Aggregate, Oil and Gas Uses: Pursuant to ORS 215.298 a land use permit is required for mining more than 1000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A permit for mining of aggregate shall be issued only for a site included on an inventory acknowledged in the Comprehensive Plan for the following:
  - a. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources, subject to ORS 215.298.
  - b. Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement; and

- i. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- c. Processing of other mineral resources and other subsurface resources.
- d. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.

F. Transportation Uses

- 1. Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401 may be established, subject to the adoption of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
- 2. A personal-use airport means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

G. Utility and Solid Waste Disposal Facility Uses

- 1. Wind energy power production systems as an accessory use, provided:
  - a. The system is not a commercial power generating facility;
  - b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;

- c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;
  - d. The system is prohibited if tower lighting for aviation safety is required;
  - e. The system will be located outside an urban growth boundary on a minimum of one acre;
  - f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;
  - g. The system is set back a distance not less than the tower height plus one blade from all property lines; and
  - h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.
2. A utility facility necessary for public service may be established as provided in ORS 215.275 and 215.276. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided. An associated transmission line for a utility facility is subject to OAR 660-033-0130(16)(b).
  3. Composting operations and facilities allowed on high-value farmland, subject to the following:
    - 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

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- 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
  - vi. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060.
- b. Excess compost from operations and facilities on high value farmland may only be sold or transported if:
  - i. The operation or facility does not use off-site materials; and
  - ii. It is sold or transported to neighboring farm operations within two and one-half miles of the subject tract; and
  - iii. It is sold or transported in bulk loads of not less than one unit (7.5 cubic yards) in size that are transported in one vehicle.
- 4. Composting operations and facilities allowed on low-value farmland that constitute accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, subject to Subsection 401.05(G)(3).
- 5. Composting operations and facilities allowed on low value farmland that do not constitute accepted farming practices and are not in conjunction with and auxiliary to an on-site farm use on the subject tract shall be subject to Section 834.
- 6. Commercial utility facilities for the purpose of generating power for public use by sale, but not including wind power or photovoltaic solar power generation. A power generation facility shall not preclude more than 12 acres on High Value Farmland, or more than 20 acres on Low Value Farmland, from use as a commercial agricultural enterprise unless an exception is taken pursuant to Oregon Administrative Rule 660, Division 4; and

- a. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) (a private campground) or other statute or rule when the project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 401.05(A)(1) and shall have no effect on the original approval. Permanent features of a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

H. Parks, Public, and Quasi-public Uses

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under Subsection 401.05(H)(1). The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under Subsection 401.05(H)(1). An owner of property used for the purpose authorized in Subsection 401.05(H)(1) may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in Subsection 401.05(H)(1), "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.
2. Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable. A public park may be established consistent with the provisions of ORS 195.120.
3. Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A community center authorized under Subsection 401.05(H)(3) may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

4. "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in Subsection 401.05(H)(4), a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.
5. 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. A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
  - a. Except on a lot of record contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.
  - b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
  - c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.
  - d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 401.05(H)(6)(g).



- e. Campgrounds authorized by Subsection 401.05(H)(6) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.
  - f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
  - g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 401.05(H)(6), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.
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).

I. Outdoor Gatherings

- 1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period. Agri-tourism and other commercial events or activities may not be permitted as mass gatherings under ORS 215.283(4).
- 2. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month planning period is subject to review by the Planning Commission under the provisions of ORS 433.763. Outdoor gatherings may not include agri-tourism events or activities.

J. Nonconforming Uses

- 1. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection 401.05(A)(1) and OAR 660-033-0130(20), but shall not be expanded to contain more than 36 total holes.
- 2. In addition to and not in lieu of the authority in 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(J)(3); and
  - b. Conditional approval as provided in Subsection 401.05(A)(1).
3. A nonconforming use described in Subsection 401.05(J)(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(J)(3)(b)(i) and that was owned by the applicant on January 1, 2009.

401.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

401.07 DIMENSIONAL STANDARDS

- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 401.09 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. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

## 401.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Oregon Revised Statutes (ORS) Chapter 92. A land division pursuant to Subsection 401.09(A) shall require review of a Type I application pursuant to Section 1307. A land division pursuant to Subsection 401.09(B), (C), (D), or (E), shall require review of a Type II application pursuant to Section 1307.

- A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved, if each new lot of record is a minimum of 80 acres in size, as established by Subsection 401.07(A).
- 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.
- C. Nonfarm Dwelling Land Divisions: Lots of record less than 80 acres in size may be approved, subject to the following criteria:
  - 1. The originating lot of record is at least 80 acres, and is not stocked to the requirements under ORS 527.610 to 527.770;
  - 2. The lot of record is composed of at least 95% Class VI through Class VIII agricultural soils, and composed of at least 95% soils not capable of producing 50 cubic feet per acre per year of wood fiber;
  - 3. The new lot of record for a dwelling will not be smaller than 20 acres; and
  - 4. No new lot of record may be created until the criteria in Subsections 401.05(C)(10)(a), (b), (d), (e), and (f) for a dwelling are satisfied.
- 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) and Subsection 401.05(A)(1).
- 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).

401.10 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for any use requiring review of a Type I, II, or III application shall include an accurate site plan drawn to scale on eight-and-one-half-inch by 11-inch or eight-and-one-half-inch by 14-inch paper, showing the subject property and proposal. In addition, applications for farm dwellings requiring a justification of income shall include tax forms, farm receipts, or other appropriate documentation demonstrating the income produced from the subject property.

401.11 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of a Type I, II, or III application is valid for four years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. “Implemented” means:
1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or
  2. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.
- B. Time Extension: If the approval of a Type I, II, or III application is not implemented within the initial approval period established by Subsection 401.11(A), a two-year time extension may be approved pursuant to Section 1310.
- C. Subsections 401.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203, respectively.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-241, 1/1/13; Amended by Ord. ZDO-247, 3/1/14; Amended by Ord. ZDO-248, 10/13/14]

**406 TIMBER DISTRICT (TBR)**

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## 406.01 PURPOSE

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

406.02 APPLICABILITY AREA OF APPLICATION

~~Section 406 applies to land in the Property may be zoned Timber (TBR) 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.~~

## 406.03 DEFINITIONS

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

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

- H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.
- I. Owner: For purposes of a 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.
- J. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.
- K. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.
- L. 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.
- M. Temporary Structures: Onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.
- N. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a County or public road, or land contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.

406.04 USES PERMITTED

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

- A. As used in Table 406-1:
  - 1. “A” means the use is allowed.
  - 2. “Type II” means the use requires review of a Type II application, pursuant to Section 1307, Procedures.



3. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
  4. The "Subject To" column identifies any specific provisions of Subsection 406.05 to which the use is subject.
- B. Permitted uses are subject to the applicable provisions of Subsection 406.07, *Dimensional Standards*; Subsection 406.08, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

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

	Type	Use	Subject To
<b>FARM AND FOREST USES</b>	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 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 href="#">Marijuana production is subject to Section 841.</a>	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if a primary farm or forest use exists.	
	TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1) & (6)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)
		<b>Type</b>	<b>Use</b>
<b>NATURAL RESOURCE USES</b>	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

	Type	Use	Subject To
<u>RESIDENTIAL USES</u>	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)
	TYPE II	Forest Lot of Record Dwelling.	406.05(A)(3), (4), (5) & (D)(2)
	TYPE II	Forest Template Test Dwelling.	406.05(A)(3), (4), (5) & (D)(3)
	TYPE II	160 Acre Forest Dwelling.	406.05(A)(3), (4), (5) & (D)(4)
	TYPE II	200 Acre Noncontiguous Tract Forest Dwelling	406.05(A)(3), (4), (5) & (D)(5)
	TYPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	TYPE II	Temporary forest labor camp, subject to Subsection 1204.01, for a period not to exceed one year.	
	TYPE II	Temporary dwelling for care, subject to Subsection 1204.03.	406.05(A)(1), (2) & (D)(6)
	Type	Use	Subject To
<u>COMMERCIAL USES</u>	A	Family daycare provider.	
	TYPE II	Home occupation, subject to Section 822.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836.	406.05(A)(1), (2) (5) & (E)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	Type	Use	Subject To
<u>MINERAL, AGGREGATE, OIL, AND GAS USES</u>	A	Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)
	Type	Use	Subject To
<u>TRANSPORTATION USES</u>	A	Widening of roads within existing rights-of-way in conformance with Chapter 5 of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	



	Type	Use	Subject To
<b>TRANSPORTATION USES (cont.)</b>	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & (G)(1)
	Type	Use	Subject To
<b>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES</b>	A	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	
	A	Essential public communication services, subject to Subsection 835.04(C).	
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
A	Electric vehicle charging stations for residents and		

	Type	Use	Subject to
<u>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)</u>	A	their nonpaying guests. Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	<u>406.05(H)(1)</u>
	TYPE II	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility that exceed Subsection 835.04(A), subject to Subsection 835.05(A).	
	TYPE II	Placement of telecommunication antennas with associated equipment on replacement utility pole that exceeds the replaced pole by no more than 20 feet, subject to Subsection 835.05(A).	
	C	Wireless telecommunication facilities listed in Subsection 835.06, subject to Section 835.	
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	<u>406.05(A)(1) &amp; (6)</u>
	C	Reservoirs and water impoundments.	406.05(A)(1), (2) & (5)
	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. A composting facility is subject to Section 834.	406.05(A)(1) & (6)
	C	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.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)
	Type	Use	Subject To
<u>PARKS AND PUBLIC/QUASI-PUBLIC USES</u>	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	C	Fire stations for rural fire protection.	406.05(A)(1) & (6)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (2)
	C	Cemeteries.	406.05(A)(1) & (6)
	C	Firearms training facility.	406.05(A)(1) & (6)
	C	Private parks and campgrounds.	406.05(A)(1), (2), (6) & (I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)

	Type	Use	Subject To
<b>OUTDOOR GATHERINGS</b>	A	An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period.	406.05(J)(1)
	C	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.	406.05(A)(1) & (J)(2)

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

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

A. General Criteria

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

6. A land division for the use may be approved pursuant to Subsection 406.09(D).

B. Farm and Forest Uses

1. Temporary portable facility for the primary processing of forest products grown on-site, subject to Subsection 1204.01, for a period not to exceed one year.

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 tract on which the dwelling will be sited does not include a dwelling.
  - b. No dwellings are allowed on other lots of record that make up the tract.
  - c. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling.
  - d. The lot of record upon which the dwelling is to be located was lawfully created.
  - e. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).
  - f. The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:

- i. A 160 acre square template shall be centered upon the 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, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:
  - a. Except on a lot of record contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.
  - b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
  - c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.

- d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(I)(1)(g).
- e. Campgrounds authorized by Subsection 406.05(I)(1) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.
- f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
- g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 406.05(I)(1), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.

J. Outdoor Gatherings

- 1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period, subject to ORS 433.735 through 433.760.
- 2. An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces, shall be subject to review by the Planning Commission under the provisions of ORS 433.763.

406.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

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.

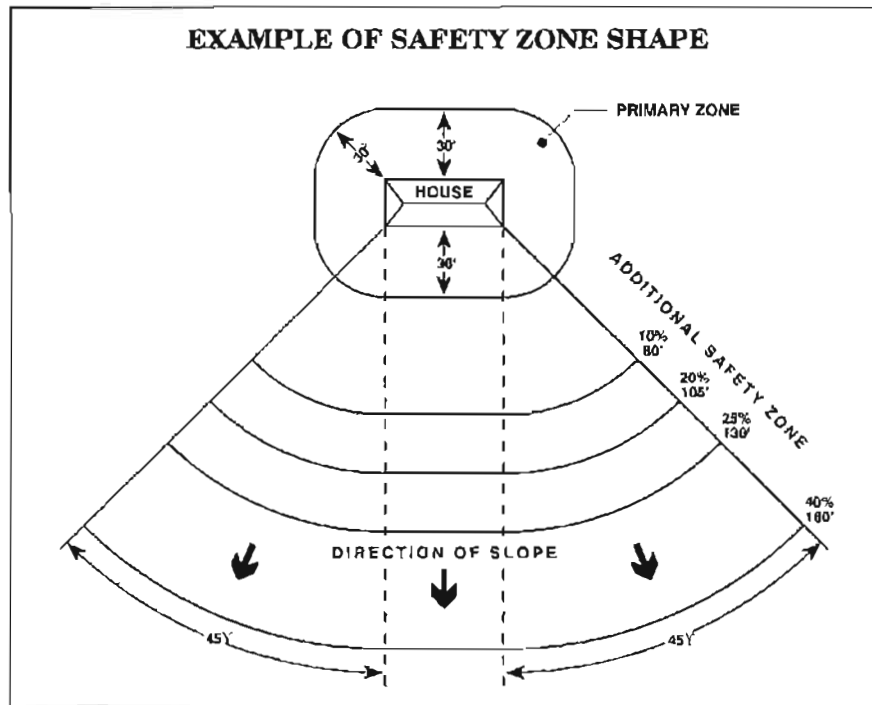
- D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- E. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- F. Variances: The requirements of Subsections 406.07(B) through (D) may be modified pursuant to Section 1205.

406.08 DEVELOPMENT 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. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2 and Figure 406-1. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1:

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

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

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

2. For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.
  - a. The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be 100 feet.
3. Where the fuel-free breaks can reasonably be satisfied, they must be.
4. Section 1205 shall not be used to modify fuel-free breaks.
5. If a structure cannot reasonably satisfy fuel-free breaks on the subject property due to the size, shape, topography, or other physical characteristics of the property, the standards may be modified by one or more of the following alternatives:

- a. Irrevocable easements for fuel-free break safety zones may be obtained from adjacent property owners so that the fuel-free break safety zone can be maintained. The easement(s) shall be recorded with the County Clerk.
  - b. The area of an existing road right-of-way or access easement in use and adjacent to the subject property may be utilized to satisfy the fuel-free break safety zone requirement.
  - c. 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. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.
6. The fuel-free break standards shall be completed and approved by the Planning Director 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.

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.
3. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's (OWRD) administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Oregon Forest Practices Rules (OAR Chapter 629). Evidence of a domestic water supply means:
  - a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  - b. A water use permit issued by the OWRD for the use described in the application; or

- c. Verification from the OWRD that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.

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

406.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Oregon Revised Statutes Chapter 92. A land division pursuant to Subsection 406.09(A) shall require review of a Type I application pursuant to Section 1307. A land division pursuant to Subsection 406.09(B), (C), (D), (E), or (F) shall require review of a Type II application pursuant to Section 1307.

- A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved if each new lot of record is a minimum of 80 acres in size, as established by Subsection 406.07(A).
- B. Multiple Dwelling Land Divisions: A lot of record may be divided subject to Subsection 406.05(A)(2) and the following provisions:
  1. At least two lawfully established dwellings existed on the lot of record prior to November 4, 1993;
  2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.05(D)(1);
  3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;
  4. At least one of the existing dwellings is located on each lot or parcel created under this provision;
  5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to the statewide planning goals for lands zoned for Forest use;
  6. A lot of record may not be divided under this provision if an existing dwelling on the lot of record was approved through:



- a. A statute, an administrative rule, or a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot of record; or
  - b. A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (*Forest Lands*);
7. Existing structures shall comply with the minimum setback standards of Subsections 406.07(B) through (D) from new property lines; and
8. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- C. Homestead Dwelling Land Division: A land division may be approved for the establishment of a parcel for an existing dwelling, subject to the following criteria:
- 1. The parcel established for the existing dwelling shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;
  - 2. The dwelling existed prior to June 1, 1995;
  - 3. The remaining parcel, not containing the existing dwelling, is:
    - a. At least 80 acres; or
    - b. The remaining parcel, not containing the existing dwelling, is consolidated with another parcel, and together the parcels total at least 80 acres;
  - 4. The remaining parcel, not containing the existing dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal;
  - 5. The landowner shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the existing dwelling, has been recorded with the County Clerk. The restriction shall state that the parcel is not entitled to a dwelling unless subsequently authorized by law or goal and shall be irrevocable unless a statement of release is signed by the Planning Director that the law or goal has changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural or forest land; and
  - 6. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

- D. Conditional Use Divisions: A land division creating parcels less than 80 acres in size may be approved for a conditional use to which Subsection 406.05(A)(6) is applicable, subject to the following criteria:
1. The parcel created for the conditional use shall be the minimum size necessary for the use;
  2. Either the conditional use was approved pursuant to Subsections 406.05(A)(1) and (2), or—for those uses not subject to Subsections 406.05(A)(1) and (2)—compliance with Subsections 406.05(A)(1) and (2) shall be demonstrated; and
  3. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- E. Parks/Open Space/Land Conservation Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.783. In addition, the landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- F. Forest Practice Divisions: A land division creating parcels less than 80 acres in size may be approved, subject to the following criteria:
1. The division will facilitate a forest practice as defined in ORS 527.620;
  2. There are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than 80 acres in order to conduct the forest practice;
  3. Parcels created pursuant to Subsection 406.09(F):
    - a. Are not eligible for siting of a new dwelling;
    - b. May not serve as the justification for the siting of a future dwelling on other lots of record;
    - c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
    - d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
      - i. Facilitate an exchange of lands involving a governmental agency;  
or

- ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and
- e. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

406.10 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for any use requiring review of a Type I or II application shall include an accurate site plan drawn to scale on eight-and-one-half-inch by 11-inch or eight-and-one-half-inch by 14-inch paper, showing the subject property and proposal.

406.11 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of a Type I or II application is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:
  - 1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or
  - 2. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.
- B. Time Extension: If the approval of a Type I or II application is not implemented within the initial approval period established by Subsection 406.11(A), a two-year time extension may be approved pursuant to Section 1310.
- C. Subsections 406.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203, respectively.

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[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-247, 3/1/14; Amended by Ord. ZDO-248, 10/13/14]

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

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**407.01 PURPOSE**

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

**407.02 APPLICABILITY AREA OF APPLICATION**

~~Section 407 applies to land in the Property may be zoned Ag/Forest (AG/F) 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.~~

**407.03 DEFINITIONS**

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

**407.04 USES PERMITTED**

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

**A. As used in Table 407-1:**

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

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



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

	Type	Use	Subject To
<b>FARM AND FOREST USES</b>	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for the purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in ORS 215.203. <u>Marijuana production is subject to Section 841.</u>	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if the primary farm or forest use exists.	
	TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	TYPE II	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141. <u>Marijuana processing is subject to Section 841.</u> <sup>1</sup>	401.05(B)(1)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1) & (6)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)
		<b>Type</b>	<b>Use</b>
<b>NATURAL RESOURCE USES</b>	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	A	Creation of, restoration of, or enhancement of wetlands.	
	TYPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1)
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
<b>RESIDENTIAL USES</b>	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling, subject to OAR 660-033-	406.05(D)(1)

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Type	Use	Subject To
	0130(8).	

Type	Use	Subject To
TYPE II	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places. <sup>2</sup>	401.05(A)(3)
TYPE II	Forest Lot of Record Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(2)
TYPE II	Agricultural Lot of Record Dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(2), (3), (4) & (C)(2) or (3)
TYPE III	Agricultural Lot of Record Dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(2), (3), (4) & (C)(4)
TYPE II	Agricultural Dwelling in conjunction with a farm use on High Value Farmland on land that was predominantly agriculture on January 1, 1993. <sup>2</sup>	401.05(A)(3) & (C)(5)
TYPE II	Agricultural Dwelling in conjunction with a farm use on Low Value Farmland on land that was predominantly agriculture on January 1, 1993. <sup>2</sup>	401.05(A)(3) & (C)(6)
TYPE II	Agricultural Dwelling customarily provided in conjunction with a commercial dairy farm on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (C)(7)
TYPE II	Agricultural 160 acre test on low value farmland for a dwelling on land that was predominantly agriculture on January 1, 1993. <sup>2</sup>	401.05(A)(3), (4) & (C)(8)
TYPE II	Agricultural Capability test on low value farmland for a dwelling on land that was predominantly agriculture on January 1, 1993. <sup>2</sup>	401.05(A)(3), (4) & (C)(9)
TYPE II	Agricultural Nonfarm dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3), (4) & (C)(10)
TYPE II	Agricultural Accessory farm dwelling for a relative on land that was predominantly agriculture on January 1, 1993. <sup>2</sup>	401.05(A)(3) & (C)(11)
TYPE II	Agricultural Accessory farm dwelling for year-round and seasonal farm workers on land that was predominantly agriculture on January 1, 1993. <sup>2</sup>	401.05(A)(3) & (C)(12)
TYPE II	Forest Template Test Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(3)
TYPE II	160 Acre Forest Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(4)
TYPE II	200 Acre Noncontiguous Tract Forest Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(5)
TYPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
TYPE II	Temporary forest labor camp, subject to Subsection 1204.01, for a period not to exceed one year.	
TYPE II	Temporary dwelling for care, subject to Subsection 1204.03.	406.05(A)(1), (2) & (D)(6)
TYPE II	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
TYPE II	Residential home or facility as defined in ORS	401.05(A)(1) & (3)

RESIDENTIAL USES (cont.)

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	197.660, in existing dwellings.	
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	Type	Use	Subject To
<b>COMMERCIAL USES</b>	A	Family daycare provider.	
	A	Dog training classes.	401.05(D)(11)
	A	Dog testing trials.	401.05(D)(12)
	A	A winery license for the first six of 18-day agri-tourism and other commercial events, subject to ORS 215.237 and 215.452.	401.05(A)(1) & (D)(5)
	TYPE II	Farm stands, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o). <sup>3</sup>	401.05(D)(1)
	TYPE II	Home occupation, subject to Section 822.	406.05(A)(1), (2), (5) & (E)(1)
	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
	TYPE II	Agri-tourism single event.	401.05(A)(1) & (D)(3)
	TYPE II	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (D)(4)
	TYPE II	A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but not a restaurant open more than 25 days per calendar year.	
	TYPE II	A winery bed and breakfast facility as a home occupation, subject to ORS 215.448, as provided in ORS 215.452 or 215.453, whichever is applicable.	401.05(A)(1) & (D)(6)
	C	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), (D)(5) & (6)
	C	Home occupation to host events, subject to Section 806.	406.05(A)(1), (2), (5) & (E)(1)
	C	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1). <sup>4</sup>	401.05(A)(1) & (D)(6)
	C	Winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to ORS 215.237 and 215.452.	401.05(A)(1)
	C	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (D)(7)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	C	An aerial fireworks display business.	401.05(A)(1) & (D)(8)
	C	Commercial dog boarding kennels.	401.05(A)(1)
C	Dog training classes or testing trials that cannot be established under Subsection 401.05(E)(11) or (12).	401.05(A)(1)	
	Type	Use	Subject To
<b>MINERAL AGGREGATE, OIL, AND GAS USES</b>	A	Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	A	Operations for the exploration for, and production	



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		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).	
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
<b>MINERAL, AGGREGATE, OIL, AND GAS USES (cont.)</b>	A	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (E)(1) & (E)(1)(a)
	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (E)(1) & (E)(1)(b)
	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (E)(1) & (E)(1)(c)
	C	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 407.	401.05(A)(1), (E)(1) & (E)(1)(d)
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
<b>TRANSPORTATION USES</b>	A	Widening of roads within existing rights-of-way in conformance with Chapter 5 of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	

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TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
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	Type	Use	Subject To
<u>TRANSPORTATION USES (cont.)</u>	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311.	401.05(A)(1)
	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (F)(2)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	401.05(F)(1)
		Type	Use
<u>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES</u>	A	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	
	A	Essential public communication services, subject to Subsection 835.04(C).	
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their non-paying guests.	

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			A	Meteorological towers.	
			TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
			<b>Type</b>	<b>Use</b>	<b>Subject to</b>
<b>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)</b>		TYPE II	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility that exceed Subsection 835.04(A), subject to Subsection 835.05(A).		
		TYPE II	Placement of telecommunication antennas with associated equipment on replacement utility pole that exceeds the replaced pole by no more than 20 feet, subject to Subsection 835.05(A).		
		TYPE II	Composting operations and facilities on high value farmland.		401.05(A)(1) & (G)(3)
		C	Wireless telecommunication facilities listed in Subsection 835.06, subject to Section 835.		406.05(A)(1)
		C	Composting facilities on low value farmland.		401.05(A)(1) & (G)(4)
		C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.		406.05(A)(1) & (6)
		C	Reservoirs and water impoundments.		406.05(A)(1),(2) & (6)
		C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation.		406.05(A)(1) & (6)
		C	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.		406.05(A)(1) & (6)
		C	Commercial utility facilities for the purpose of generating power.		406.05(A)(1), (6) & (H)(2)
		C	New electric transmission lines.		406.05(A)(1) & (H)(3)
		C	Television, microwave, and radio communication facilities.		406.05(A)(1), (6) & (H)(4)
				<b>Type</b>	<b>Use</b>
<b>PARKS, PUBLIC, AND QUASI-PUBLIC USES</b>		A	Private hunting and fishing operations without any lodging accommodations.		
		A	Towers and fire stations for forest fire protection.		
		A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468(B).095.		
		A	Onsite filming and activities accessory to onsite filming for 45 days or less.		
		TYPE II	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.		401.05(H)(1)

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	TYPE II	Community centers.	401.05(A)(1), (5)& (H)(3)
	TYPE II	Living history museum.	401.05(A)(1), (5)& (H)(4)
	<b>Type</b>	<b>Use</b>	<b>Subject to</b>
<u>PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)</u>	TYPE II	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	TYPE II	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)
	TYPE II	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)
	TYPE II	Fire service facilities providing rural fire protection services.	
	C	Operations for extraction and bottling of water.	401.05(A)(1)
	C	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	C	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
	C	Golf courses.	401.05(A)(1), (5)& (H)(7)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (2)
	C	Cemeteries.	406.05(A)(1) & (6)
	C	Firearms training facility.	406.05(A)(1) & (6)
	C	Private parks and campgrounds.	406.05(A)(1),(2),(6)&(I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
<u>OUTDOOR GATHERINGS</u>	A	An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period.	406.05(J)(1)
	C	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.	406.05(A)(1) & (J)(2)

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

<sup>2</sup> Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling.

<sup>3</sup> A farm stand shall not be used for the sale, or to promote the sale, of marijuana items.

<sup>4</sup> A commercial activity carried on in conjunction with a marijuana crop is prohibited.

407.05 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

407.06 DIMENSIONAL STANDARDS

Subsection 406.07, which establishes dimensional standards in the Timber District, shall apply in the Ag/Forest District.

407.07 DEVELOPMENT STANDARDS

Subsection 406.08, which establishes development standards in the Timber District, shall apply in the Ag/Forest District.

407.08 LAND DIVISIONS

Subsection 406.09, which establishes land division standards in the Timber District, shall apply in the Ag/Forest District.

407.09 SUBMITTAL REQUIREMENTS

Subsection 406.10, which establishes submittal requirements in the Timber District, shall apply in the Ag/Forest District.

407.10 APPROVAL PERIOD AND TIME EXTENSION

Subsection 406.11, which establishes approval period and time extension standards in the Timber District, shall apply in the Ag/Forest District.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-241, 1/1/13; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-247, 3/1/14; Amended by Ord. ZDO-248, 10/13/14]



**510 NEIGHBORHOOD COMMERCIAL (NC), COMMUNITY COMMERCIAL (C-2), REGIONAL CENTER COMMERCIAL (RCC), RETAIL COMMERCIAL (RTL), CORRIDOR COMMERCIAL (CC), GENERAL COMMERCIAL (C-3), PLANNED MIXED USE (PMU), STATION COMMUNITY MIXED USE (SCMU), OFFICE APARTMENT (OA), OFFICE COMMERCIAL (OC), AND REGIONAL CENTER OFFICE (RCO) DISTRICTS**

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510.01 PURPOSE

Section 510 is adopted to implement the policies of the Comprehensive Plan for the Neighborhood Commercial zoning district and Community Commercial, Regional Center Commercial, Retail Commercial, Corridor Commercial, General Commercial, Planned Mixed Use, Station Community Mixed Use, Office Apartment, Office Commercial, and Regional Center Office areas.

510.02 APPLICABILITY

Section 510 applies to land in the Neighborhood Commercial (NC) Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (GC), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OA), and Regional Center Office (RCO) Districts, hereinafter collectively referred to as the urban commercial and mixed-use zoning districts.

510.03 USES PERMITTED

Uses permitted in each zoning district are listed in Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorization of Similar Uses*.

A. As used in Table 510-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "L" means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
4. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. "S" means the use may be authorized only pursuant to Section 106; however, identifying a use as "S" does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.

6. "X" means the use is prohibited.
  7. Numbers in superscript correspond to the notes that follow Table 510-1.
- B. If a use is identified in Table 510-1 as prohibited, it is prohibited even if it also falls within a broader use description that is permitted in the applicable zoning district. For example, a car wash may be prohibited even if commercial services in general are permitted.
  - C. If a use is included in more than one use description in Table 510-1, the more specific listing applies. For example, if a car wash is a conditional use, but commercial services in general are a primary use, the car wash shall be reviewed as a conditional use. Notwithstanding this provision, a use may be included in two of the following categories because it is allowed with fewer restrictions in one category than another: primary, accessory, limited, and conditional. In that case, the use may be approved in either category, to the extent that it complies with the respective approval criteria. For example, daycare facilities may be permitted as a limited use with a maximum building floor area and as a conditional use without a maximum building floor area.
  - D. Permitted uses are subject to the applicable provisions of Subsection 510.04, *Dimensional Standards*, Subsection 510.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.



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

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Accessory Uses, Customarily Permitted</b> , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family daycare providers, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms , television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A	A	A	A	A	A
<b>Assembly Facilities</b> , including auditoriums, churches, community centers, convention facilities, exhibition halls, fraternal organization lodges, senior centers, and theaters for the performing arts <sup>4</sup>	C	P	P,C <sup>5</sup>	P	P	P	P	P	S	P,C <sup>5</sup>	P,C <sup>5</sup>
<b>Bed and Breakfast Residences and Inns</b> , subject to Section 832	P	P	X	P	P	P	X	X	X	P	X
<b>Bus Shelters</b> , subject to Section 823	A	A	P	P	P	P	P	P	A	P	P

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Civic and Cultural Facilities</b> , including art galleries, libraries, museums, and visitor centers	P	P	P	P	P	P	P	P	P	P	P
<b>Congregate Housing Facilities</b>	X	X	P <sup>6,7</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P	P	L	P <sup>8</sup>	P <sup>6,7</sup>
<b>Daycare Facilities, subject to Section 807</b>	P	P	P	P	P	P	P	P	P	L <sup>102</sup> ,C	L <sup>140</sup> , C
<b>Daycare Services, Adult</b>	P	P	P	P	P	P	P	P	P	L <sup>102</sup> ,C	L <sup>140</sup> , C
<b>Drive-Thru Window Services</b> , subject to Section 827	C	A	A <sup>121</sup>	A	A	A	A <sup>132</sup>	X	X	A <sup>132</sup>	A <sup>132</sup>
<b>Dwellings, Attached Single-Family</b>	X	A	X	A	X	A	P	P	L <sup>143</sup>	X	X
<b>Dwellings, Detached Single-Family</b>	A	A	X	A	X	A	X	X	X	X	X
<b>Dwellings, Multifamily</b>	X	X	P <sup>6</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P	P	L <sup>914</sup>	P <sup>8</sup>	P <sup>6</sup>
<b>Dwellings, Three-Family</b>	X	X	X	P	P	P	P	P	L <sup>914</sup>	P <sup>8</sup>	X
<b>Dwellings, Two-Family</b>	X	A	X	P	P	P	P	P	L <sup>914</sup>	P <sup>8</sup>	X
<b>Electric Vehicle Charging Stations</b>	A,C	P	A	A,C	P	P	A	A	A	A	A
<b>Employee Amenities</b> , including cafeterias, clinics, daycare facilities <sup>15</sup> , fitness facilities, lounges, and recreational facilities	A	A	A	A	A	A	A	A	A <sup>16</sup>	A <sup>16</sup>	A <sup>16</sup>
<b>Entertainment Facilities</b> , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	C <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P	P	P	P <sup>17</sup>	P <sup>17,18</sup>	S	C <sup>17,3219</sup>	L <sup>140</sup> , 17
<b>Farmers' Markets, subject to Section 840</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Financial Institutions</b> , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P	P	P	P	P	P	P	P	P	P

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P	P	P	P <sup>17</sup>	P <sup>17,18</sup>	L <sup>17,38,20</sup>	C <sup>17</sup>	L <sup>17,19,21</sup>
<b>Government Uses</b> , including fire stations, police stations, and post offices	C	P	P	P	P	P	P	P	P	P	P
<b>Heliports</b>	X	X	C <sup>202</sup>	C	C	C	X	X	X	C <sup>202</sup>	C <sup>202</sup>
<b>Helistops</b>	X	X	C <sup>202</sup>	C	C	C	C	C	X	C <sup>202</sup>	C <sup>202</sup>
<b>Home Occupations</b> , subject to Section 822	A	A	A	A	A	A	A	A	A	A	A
<b>Hospitals</b> , subject to Section 809	X	X	X	X	X	X	X	X	X	C	C
<b>Hotels</b>	P	P	P	P	P	P	P	P <sup>18</sup>	S	L <sup>109,243</sup> , C <sup>243</sup>	P <sup>243</sup>
<b>Hydroelectric Facilities</b> , subject to Section 829	X	C	X	C	X	C	X	X	X	X	X
<b>Manufacturing</b> , including the mechanical, physical, or chemical transformation of materials, substances, or components into new products; and the assembly of component parts. Primary processing of raw materials is prohibited.	S <sup>3924</sup>	S <sup>4025</sup>	S	S	P	P	S	P <sup>226,237</sup>	S	P <sup>248</sup>	S
<b>Marijuana Processing</b>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P<sup>29</sup></u>	<u>P<sup>29</sup></u>	<u>X</u>	<u>P<sup>26,29</sup></u>	<u>X</u>	<u>P<sup>28,29</sup></u>	<u>X</u>
<b>Marijuana Production</b>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<b>Marijuana Retailing</b> , subject to Section 841	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P<sup>18</sup></u>	<u>X</u>	<u>P<sup>19</sup></u>	<u>L<sup>10</sup></u>
<b>Marijuana Wholesaling</b>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<b>Mobile Vending Units</b> , subject to Section 837	P	P	P	P	P	P	P	P	A <sup>2330</sup>	A <sup>2330</sup>	A <sup>2330</sup>
<b>Motels</b>	P	P	P	P	P	P	P	P <sup>18</sup>	S	L <sup>109,2631</sup> , C <sup>2631</sup>	L <sup>140</sup>
<b>Multi-Use Developments</b> , subject to Section 1016	X	X	X	X	X	C	X	X	X	C	X
<b>Nursing Homes</b> , subject to Section 810	X	X	X	X	X	X	P	P	L	X	X

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Offices</b> , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P	P	P	P	P	P	P	P	P	P
<b>Offices and Outpatient Clinics</b> —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P	P	P	P	P	P	P	P	P	P	P
<b>Parking Lots</b>	A	A	A	A	P	P	A	A	A	P <sup>2732</sup>	A
<b>Parking Structures</b>	X	A <sup>2833</sup>	P <sup>2732</sup>	P <sup>2732</sup>	P	P	A	A	A <sup>2833</sup>	P <sup>2732</sup>	P <sup>2732</sup>

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Parks, Government-Owned</b> , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; nature preserves and wildlife sanctuaries; picnic areas and structures; play equipment and playgrounds; tables and seating; and similar recreational uses. Accessory uses to a park may include concessions, maintenance facilities, restrooms, and similar support uses.	P	P	P	P	P	P	P	P	P	P	P
<b>Pedestrian Amenities</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Public Utility Facilities</b>	S	C	C <sup>2934</sup>	C <sup>4934</sup>	C	C	S	S	S	S	S
<b>Race Tracks, Outdoor</b>	X	X	X	X	X	C	X	X	X	X	X
<b>Radio and Television Studios</b> , excluding transmission towers	C	P	P	P	P	P	P	P	S	P	P
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b> <sup>305</sup>	S	C	S	S	C	C	S	S	S	S	S
<b>Radio and Television Transmission and Receiving Earth Stations</b>	S	C	C	C	C	C	A	S	S	S	S

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Recreational Sports Facilities</b> for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: general recreation, instruction, practice, and competitions.	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P	P	P	P <sup>17</sup>	P <sup>17,18</sup>	S	C <sup>17</sup>	L <sup>17,19</sup> <sub>21</sub>
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A	A	X	X	A	A	X	X	X	X	X
<b>Research Facilities and Laboratories</b> , including medical laboratories, medical research, product design and testing, and product research and development	S	S	S	S	P	P	P <sup>2428</sup>	P	P <sup>3436</sup>	P <sup>3436</sup>	P <sup>2428</sup>
<b>Retailing</b> —whether by sale, lease, or rent—of new or used products	S	S	P	P	P	P	P	P <sup>18</sup>	S	C <sup>3219</sup>	L <sup>140</sup>
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P	P	P	P	P	P	P <sup>18</sup>	S	C <sup>3219</sup>	L <sup>140</sup>

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	P	P	P	P	X	X	X	C <sup>3219</sup>	L <sup>140</sup>
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X
<b>Schools</b> <sup>337</sup>	P <sup>348</sup>	P <sup>348</sup>	P	P	P	P	P	P	L <sup>339</sup>	P	P
<b>Service Stations</b> , subject to Section 820	C	P	X	C	P	P	X	X	X	X	X
<b>Services, Business</b> , including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	P	P	P	P	P	P	P	P	P	P	P
<b>Services, Commercial</b>	S	S	P	P	P	P	P	P <sup>18</sup>	S	C <sup>3219</sup>	L <sup>140</sup>
<b>Services, Commercial—Car Washes</b>	S	S	X	C	P	P	P	X	X	X	X
<b>Services, Commercial—Construction and Maintenance</b> , including contractors engaged in construction and maintenance of electrical and plumbing systems	C	P	P	P	P	P	P	S	S	C <sup>3219</sup>	L <sup>140</sup>

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	P	P	P	P	P	P	P	P <sup>18</sup>	L <sup>3820</sup>	L <sup>109</sup> , C <sup>3640</sup>	L <sup>140</sup>
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P	P	P	P	P	P	P <sup>18</sup>	S	C <sup>3219</sup>	L <sup>140</sup>
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	C	P	P	P	P	P	X	X	X	C <sup>3219</sup>	L <sup>140</sup>
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X
<b>Services, Commercial—Miscellaneous</b> , including food lockers, interior decorating, locksmith, upholstery, and veterinary	P	P	P	P	P	P	P	P <sup>18</sup>	S	C <sup>3219</sup>	L <sup>140</sup>



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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Services, Commercial—Personal and Convenience</b> , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, tanning salons, and video rental. Also permitted are incidental retail sales of products related to the service provided.	P	P	P	P	P	P	P	p <sup>18</sup>	L <sup>3820</sup>	L <sup>492</sup>	L <sup>140</sup>
<b>Services, Commercial—Mini-Storage/Self-Storage Facilities</b>	S	S	X	C	P	P	X	X	S	X	X
<b>Services, Commercial—Storage</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	X	C	P	P	X	X	X	X	X
<b>Services, Commercial—Storage</b> of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	C	P	P	X	X	X	X	X
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	P	P	P	P	P	P	P	p <sup>18</sup>	S	P	P
<b>Services, Commercial—Truck Stops</b>	X	X	X	X	P	P	X	X	X	X	X
<b>Services, Information</b> , including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	S	S	S	S	P	P	P	p <sup>236</sup>	P	P	P
<b>Signs</b> , subject to Section 1010	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>	A <sup>3741</sup>

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Stadiums, Outdoor</b>	X	X	X	X	X	C	X	X	X	X	X
<b>Telephone Exchanges</b>	S	C	C	C	C	C	S	S	S	S	S
<b>Temporary Buildings for Uses Incidental to Construction Work</b> , provided that such buildings shall be removed upon completion or abandonment of the construction work	A	A	A	A	A	A	A	A	A	A	A
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A	A	A	A	A	A	A	A	A	A	A
<b>Transit Facilities</b> , including transit centers, transit park-and-rides, transit stations, and transit stops	S	S	P	P	P	P	P	P	S	P	P
<b>Utility Carrier Cabinets</b> , subject to Section 830	P	P	P	P	P	P	P	P	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsection 835.04, subject to Section 835	P	P	P	P	P	P	P	P	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsection 835.05, subject to Section 835	P	P	P	P	P	P	P	X	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsection 835.06(A), subject to Section 835	C	X	X	X	X	X	X	X	X	X	X

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

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

<sup>3</sup> A maximum of 40 percent of the total building floor area on a site may be limited use(s). Limited uses may be allowed as part of a development when developed concurrently with, or after, the primary use(s).

<sup>4</sup> Churches are not subject to Section 804, *Churches*.

- <sup>5</sup> An assembly facility with a maximum capacity of more than 500 people is a conditional use.
- <sup>6</sup> Freestanding congregate housing facilities and freestanding multifamily dwellings are subject to the development and dimensional standards applicable to congregate housing facilities and multifamily dwellings in the RCHDR District. This requirement does not apply to congregate housing facilities or multifamily dwellings in a mixed-use building.
- <sup>7</sup> A congregate housing facility shall have a minimum of four dwelling units.
- <sup>8</sup> Freestanding congregate housing facilities and freestanding multifamily dwellings are subject to the development and dimensional standards applicable to congregate housing facilities and multifamily dwellings in the HDR District. With the exception of compliance with the maximum density standard, this requirement does not apply to congregate housing facilities or multifamily dwellings in a mixed-use building.
- <sup>9</sup> ~~Two-family, three-family and multifamily dwellings, subject to the density standards of the MR-2 District, may be developed in the same building as a primary use.~~
- <sup>109</sup> The maximum combined building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.
- <sup>110</sup> The use is permitted only in a multistory building with a primary use—up to a maximum building floor area equal to the building floor area of the first floor—or on the ground-level floor of a freestanding parking structure. However, a freestanding eating and drinking establishment shall be allowed in conjunction with a primary use in the same development, subject to the following criteria:
- a. The building floor area of the freestanding eating and drinking establishment shall not exceed 5,000 square feet.
  - b. If the primary use in the same development is an office use, as defined in Note 276 to Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*, the floor area ratio of the development, including the eating and drinking establishment, shall comply with the minimum floor area ratio standard for primary office uses in Table 510-2.
  - c. If the primary use in the same development is a multifamily dwelling or a congregate housing facility, the acreage developed with the eating and drinking establishment, and any parking or accessory structures that are used exclusively for the eating and drinking establishment, may be subtracted from the total acreage when calculating minimum density pursuant to Table 510-2.
  - d. The eating and drinking establishment shall be developed concurrently with or after a primary use is developed on the site.
- <sup>121</sup> Drive-thru window service is prohibited on streets designated as Main Streets on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*.
- <sup>132</sup> Drive-thru window service is permitted only if it is accessory to a financial institution and only if the financial institution is not on a street designated as a Main Street on Comprehensive Plan Map X-CRC-3.
- <sup>143</sup> Attached single-family dwellings, subject to the density standards of the VTH District, may be developed in the same building as a primary use.



<sup>14</sup> Two-family, three-family and multifamily dwellings, subject to the density standards of the MR-2 District, may be developed in the same building as a primary use.

<sup>15</sup> Daycare facilities as an employee amenity are not subject to Section 807.

<sup>16</sup> Employee amenities shall be located in the same structure as the use to which they are accessory.

<sup>17</sup> Only indoor facilities are permitted.

<sup>18</sup> A maximum of 40,000 square feet of ground-floor building floor area may be occupied by any one business, regardless of the number of buildings occupied by that business. In addition, the total ground-floor building floor area occupied by any combination of uses subject to Note 18 to Table 510-1 shall not exceed 40,000 square feet in a single building.

<sup>19</sup> The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note 19 to Table 510-1, shall be 20 percent of the building floor area of primary uses in the same development.

<sup>20</sup> An individual use shall not exceed 2,500 square feet of building floor area. In addition, the maximum combined building floor area of an individual use, and any other uses subject to Note 20 to Table 510-1, shall be 10 percent of the total building floor area in the same development.

<sup>1921</sup> The use may be allowed in conjunction with a primary use on the site, subject to the following criteria:

- a. If the primary use on the site is an office use, the minimum floor area ratio (FAR) standard of Table 510-2 may be modified as follows for a lot of greater than two and one-half acres in size:
  - i. The minimum FAR for the office use shall be 0.75; and
  - ii. The minimum FAR for the fitness facility or recreational sports facility and the office use combined shall be 1.0.
- b. If the primary use on the site is a multifamily dwelling, the site area developed with the fitness facility or recreational sports facility and any parking or accessory structures used exclusively for the fitness facility or recreational sports facility shall be included in the net acreage when calculating minimum density pursuant to Table 510-2.
- c. The fitness facility or recreational sports facility shall be developed concurrently with or after a primary use is developed on the site.

<sup>202</sup> This use is permitted only in conjunction with a primary or another conditional use.

<sup>241</sup> Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the hotel.

<sup>24</sup> In the NC District, sign production is a conditional use.

<sup>25</sup> In the C-2 District, sign production is a permitted use.

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- <sup>226</sup> These uses are permitted with a maximum of 10,000 square feet of building floor area per building, if part of a mixed-use development and if the combined building floor area of the use, and any other uses subject to Note 226 of Table 510-1, does not exceed 25 percent of the building floor area of the mixed-use development.
- <sup>227</sup> Manufacturing of the following is prohibited: explosive devices; incendiary devices; and renewable fuel resources, such as alcohol, biomass, and methanol.
- <sup>248</sup> This use is permitted only if it has physical and operational requirements that are similar to those of other primary uses allowed in the same zoning district.
- <sup>29</sup> Marijuana processing shall be located entirely within one or more completely enclosed buildings. The processing, compounding, or conversion of marijuana into cannabinoid concentrates or cannabinoid extracts is prohibited.
- <sup>2530</sup> Only level one mobile vending units are permitted.
- <sup>2631</sup> Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the motel.
- <sup>2732</sup> The parking structure is permitted to serve only developments located in the same zoning district as the subject property.
- <sup>2833</sup> This use is limited to understructure parking.
- <sup>2914</sup> Only substations are permitted.
- <sup>305</sup> The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- <sup>316</sup> No operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions.
- <sup>32</sup> ~~The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note 32 to Table 510-1, shall be 20 percent of the building floor area of primary uses in the same development.~~
- <sup>327</sup> Schools are not subject to Section 805, *Schools*.
- <sup>348</sup> Only commercial schools are permitted.
- <sup>359</sup> Schools shall be limited to no more than 30 percent of the total building floor area on a site.
- <sup>3640</sup> An eating and drinking establishment may be permitted as a conditional use, provided that it complies with a minimum of five of the following criteria:
- a. Has a minimum seating capacity of 75;
  - b. Specializes in gourmet, ethnic, or specialty cuisine;
  - c. Includes banquet facilities and services;



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- d. Provides live entertainment at least two nights a week;
- e. Utilizes custom architectural design and/or collections of artistic, cultural, or historic items to produce a distinctive thematic decor or atmosphere;
- f. Has an Oregon Liquor Control Commission license to serve beer and wine; or
- g. Employs only chefs who have graduated from a recognized culinary institute, or who have outstanding qualifications or reputations for their culinary skills.

<sup>3741</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

<sup>38</sup> ~~An individual use shall not exceed 2,500 square feet of building floor area. In addition, the maximum combined building floor area of an individual use, and any other uses subject to Note 38 to Table 510-1, shall be 10 percent of the total building floor area in the same development.~~

<sup>39</sup> ~~In the NC District, sign production is a conditional use.~~

<sup>40</sup> ~~In the C-2 District, sign production is a permitted use.~~

510.04 DIMENSIONAL STANDARDS

Dimensional standards applicable in the urban commercial and mixed-use zoning districts are listed in Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*. The standards of Table 510-2 may be modified pursuant to Section 800, *Special Use Requirements*; Section 902, *Lot Size Exceptions*; Section 903, *Setback Exceptions*; Section 904, *Other Exceptions*; Section 1013, *Planned Unit Developments*; Section 1107, *Property Line Adjustments*; and Section 1205, *Variances*. As used in Table 510-2, numbers in superscript correspond to the notes that follow Table 510-2.

**Table 510-2: Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts**

Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Lot Size	7,260 square feet <sup>1,2</sup>	None	1 acre <sup>2,3</sup>	½ acre <sup>3,4</sup>	None	None	PMU1: None PMU2: 2 acres PMU3: 3 acres PMU4: ½ acre PMU5: 10 acres PMU6: 5 acres	½ acre <sup>2,5</sup>	None	1 acre <sup>3,4</sup>	2½ acres <sup>2,3</sup>
Minimum Street Frontage	None	None	None	None	None	None	None	100 feet <sup>6</sup>	None	None	None
Maximum Front Yard Depth	20 feet <sup>7</sup>	20 feet <sup>7</sup>	20 feet <sup>8,9</sup>	20 feet <sup>7</sup>	20 feet <sup>7</sup>	20 feet <sup>7</sup>	20 feet <sup>8,9,10</sup>	See Subsection 1005.10	20 feet <sup>7</sup>	20 feet <sup>7</sup>	20 feet <sup>8,9</sup>



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Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Front Yard Depth	0	15 feet	5 feet <sup>11</sup>	15 feet	15 feet	15 feet	None	See Subsection 1005.10	10 feet	15 feet	5 feet <sup>11</sup>
Minimum Rear Yard Depth	0	0 <sup>12</sup>	0 <sup>13</sup>	0 <sup>14</sup>	0 <sup>14</sup>	0 <sup>14</sup>	0 <sup>10,12</sup>	See Subsection 1005.10	10 feet <sup>15</sup>	10 feet <sup>16</sup>	0 <sup>17</sup>
Minimum Side Yard Depth	0	0 <sup>18</sup>	0 <sup>18</sup>	0 <sup>19</sup>	0 <sup>19</sup>	0 <sup>19</sup>	0 <sup>10,18</sup>	See Subsection 1005.10	6 feet <sup>20</sup>	10 feet <sup>21</sup>	0 <sup>18</sup>
Maximum Building Height	35 feet	None <sup>22</sup>	None	None	None	None	None	None	45 feet	None <sup>23</sup>	None
Minimum Floor Area Ratio	None	None	0.3 for a retail development; 0.5 for an office development <sup>24</sup>	None	None	None	None, except as set forth in Table 510-3	None	None	None	0.5 for primary office uses on lots of 2½ acres or less; 1.0 for primary office uses on lots greater than 2½ acres <sup>24,25, 26</sup>

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Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Maximum Building Floor Area per Use	5,000 square feet	None	None	None	None	None	None, except as set forth in Subsection 510.05(I)(1)	None	None	None	None
Minimum Density	None	None	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use <sup>27</sup>	None	None	None	None, except as set forth in Table 510-3	20 dwelling units per net acre for residential development; none for mixed-use development <sup>27</sup>	None	None	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use or with a limited use other than a fitness facility or a freestanding restaurant <sup>27</sup>

Notes to Table 510-2:

- <sup>1</sup> The minimum lot size for land with a Comprehensive Plan land use plan designation of Low Density Residential shall be the same as that allowed by the zoning district that applied to the subject property immediately prior to the application of the NC zoning district.
- <sup>2</sup> The minimum lot size standard applies only to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, an undersized lot of record may be developed, subject to other applicable standards of this Ordinance.
- <sup>3</sup> No minimum lot size standard applies to a lot created by partition or subdivision or adjusted through a property line adjustment, provided that the newly created or adjusted lot is developed only with a dwelling classified as a nonconforming use and uses accessory to that dwelling.
- <sup>4</sup> The minimum lot size standard applies to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, an undersized lot of record may be developed with primary, accessory, and limited uses, provided that the lot of record is physically separated from all other undeveloped or underdeveloped properties in the same zoning district as the subject property. In addition, contiguous undersized lots of record may be aggregated for development purposes, if such aggregation results in land area equal to or greater than the minimum lot size. Alternatively, contiguous undersized lots of record may be aggregated for development purposes, if such aggregation satisfies the requirement to demonstrate that the undersized site is physically separated from all other undeveloped or underdeveloped properties in the same zoning district as the subject property.
- <sup>5</sup> The minimum is 2,000 square feet for a lot developed only with an attached single-family dwelling and uses accessory to that dwelling.
- <sup>6</sup> The minimum street frontage standard applies only to subdivisions, partitions, and property line adjustments. The minimum for a lot of record developed only with an attached single-family dwelling, and uses accessory to that dwelling, shall be 20 feet. A lot of record with frontage on more than one street shall meet the minimum on each street.
- <sup>7</sup> The maximum front yard depth standard applies only if required by Subsection 1005.03(L).
- <sup>8</sup> The maximum front yard depth standard shall be met for all buildings, except as set forth in Note 8 to Table 510-2. However, if a lot has more than one front yard, the standard must be met for only one. A private road used to satisfy the maximum front yard depth standard must comply with the standards in Subsection 1005.08(G). The maximum front yard depth from Main Streets identified on Comprehensive Plan Map X-CRC-3 is 10 feet.

- <sup>9</sup> The maximum front yard depth may be exceeded to the minimum extent necessary to accommodate pedestrian amenities. Freestanding parking structures are exempt from the maximum front yard depth, except from Main Streets identified on Comprehensive Plan Map X-CRC-3.
- <sup>10</sup> In lieu of complying with the standard, an applicant for design review on a site of 25 acres or larger may submit for approval alternate yard depth standards, which will be reviewed as part of the application. The alternative standards, or any part thereof, shall be approved if they are found to be equally effective as the regular standards in establishing a visual image, sense of place, and quality pedestrian environment for the area.
- <sup>11</sup> There is no minimum yard depth from a front lot line that abuts a Main Street identified on Comprehensive Plan Map X-CRC-3.
- <sup>12</sup> If the rear yard abuts a residential or OSM zoning district, the minimum shall be 15 feet.
- <sup>13</sup> If the rear yard abuts a residential or OSM zoning district, the minimum shall be 35 feet.
- <sup>14</sup> If the rear yard abuts a residential or OSM zoning district, the minimum shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.
- <sup>15</sup> If the rear yard abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: 10 feet for the portion of a building that is 25 feet or less in height; 20 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.
- <sup>16</sup> If the rear yard abuts a residential zoning district, the minimum shall be 35 feet.
- <sup>17</sup> If the rear yard abuts a residential or OSM zoning district, the minimum shall be 35 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 39 feet.
- <sup>18</sup> If the side yard abuts a residential or OSM zoning district, the minimum shall be 15 feet.
- <sup>19</sup> If the side yard abuts a residential or OSM zoning district, the minimum side yard setback shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.

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- <sup>20</sup> If the side yard abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: six feet for the portion of a building that is 25 feet or less in height; 16 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.
- <sup>21</sup> If the side yard abuts a residential zoning district, the minimum shall be 35 feet.
- <sup>22</sup> If the subject property abuts a residential or OSM zoning district, the maximum building height shall be 35 feet.
- <sup>23</sup> If the building is located less than 100 feet from an Urban Low Density Residential, VR-4/5, or VR-5/7 District, the maximum building height shall be equal to the building's distance from the Urban Low Density Residential, VR-4/5, or VR-5/7 District.
- <sup>24</sup> Floor area ratio shall be calculated pursuant to Subsection 1005.03(R).
- <sup>25</sup> With an approved master plan, a lot greater than two and one-half acres may be developed in phases provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.
- <sup>26</sup> For the purposes of this provision, "office uses" include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Offices and Outpatient Clinics, and Research Facilities and Laboratories.
- <sup>27</sup> Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).

510.05 DEVELOPMENT STANDARDS

The following development standards apply:

- A. Outdoor Operations in the NC District: In the NC District, primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.
- B. Operational Impacts in the C-2 and C-3 Districts: In the C-2 and C-3 Districts, processes and equipment employed and goods processed or sold shall be limited to those that are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried wastes.
- C. Storage in the C-2 District: In the C-2 District, storage of materials and merchandise shall be confined and contained within completely enclosed buildings.
- D. Outdoor Operations in the RCC District: In the RCC District:
  - 1. Primary commercial uses are permitted provided that outdoor display and storage shall be limited to no more than five percent of the building coverage.
  - 2. Outdoor sales and services are prohibited.
- E. Outdoor Operations in the RTL District: In the RTL District, primary commercial uses and conditional uses are permitted provided that:
  - 1. Outdoor display and storage shall be limited to no more than five percent of the building coverage.
  - 2. Notwithstanding Subsection 510.05(E)(1), auto body, recreational vehicle, and boat repair businesses shall store within a completely enclosed structure those vehicles and equipment that are damaged or being repaired.
  - 3. Primary commercial uses shall conduct most activities within a completely enclosed structure.
- F. Outdoor Sales and Storage in the PMU District: In the PMU District, outdoor sales, except temporary sidewalk sales and sidewalk cafes and food vendors, are prohibited. Also prohibited is permanent outdoor storage of materials or products.

- G. Site-Specific Standards in the PMU District: Six sites have a Comprehensive Plan designation of PMU. These sites are designated PMU1 through PMU6 and are identified on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*. When one of these sites is zoned Planned Mixed Use District, a site number corresponding to the number designated by the Comprehensive Plan is assigned. A PMU site shall comply with the specific standards for that site identified in Table 510-3, *Site-Specific Requirements for the PMU District*. As used in Table 510-3, numbers in superscript correspond to the notes that follow Table 510-3.

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

<b>Land Uses &amp; Areas Required</b>	<b>PMU1</b>
Office uses <sup>1</sup> , minimum square feet	525,000 square feet
Retail, entertainment, hotel, service commercial, theater, or equivalent, minimum square feet	500,000 square feet
Dwelling units, minimum number	200 dwelling units; demonstrate ability to accommodate 600 dwelling units
Public plaza	one-half- to one-acre plaza
Entertainment/recreational facility	
Transit facilities	
<b>Land Uses &amp; Areas Required</b>	<b>PMU 2, 3, 4, and 5</b>
Office uses <sup>1</sup> or residential uses <sup>2</sup> , minimum site area	50 percent
Office uses <sup>1</sup> , minimum floor area ratio (FAR)	0.5 for office uses on lots of two and one-half acres or less; 1.0 for office uses on lots greater than two and one-half acres, calculated pursuant to Subsection 1005.03(R). With a master plan approved pursuant to Subsection 1102.03(B)(1), a lot greater than two and one-half acres may be developed in phases, provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.
Retail uses and service commercial uses, minimum FAR	0.3, calculated pursuant to Subsection 1005.03(R)
Residential density <sup>2</sup>	The minimum density for residential development shall be 30 dwelling units per net acre. Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).
<b>Land Uses &amp; Areas Required</b>	<b>PMU6</b>
Phase one, minimum FAR	0.3, calculated pursuant to Subsection 1005.03(R)
Subsequent phases, minimum FAR	0.6, calculated pursuant to Subsection 1005.03(R)
Dwelling units, minimum number	395



Notes to Table 510-3:

<sup>1</sup> For the purposes of this provision, “office uses” include the following uses from Table 510-1: Assembly Facilities, Business Services, Cultural Uses, Financial Institutions, Information Services, Offices, Offices and Outpatient Clinics, Radio and Television Studios, Research Facilities and Laboratories, and Schools.

<sup>2</sup> For the purposes of this provision, “residential uses” include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Congregate Housing Facilities, Multifamily Dwellings, and Nursing Homes. However, nursing homes are excluded from the minimum residential density standard.

H. PMU1 Standards: In the PMU District, the following standards apply to site PMU1:

1. May expand the existing mall with retail or other uses;
2. Preserve Phillips Creek and enhance Phillips Creek Greenway;
3. Accommodate and provide proportionate share of streetscape improvements on Monterey Avenue, 82<sup>nd</sup> Avenue, Sunnyside Road, and the internal circulation network; and
4. Coordinate internal circulation network with the street and transit system.

I. PMU6 Standards: In the PMU District, the following standards apply to site PMU6:

1. Exclusively retail uses larger than 40,000 square feet of gross leasable ground floor area per building or business shall be prohibited, unless it can be otherwise demonstrated through the master planning process that desired levels of transportation connectivity will be provided.
2. The master plan shall contain a minimum of 10 percent useable open space. Open space shall be integral to the master plan. Plans shall emphasize public gathering places such as plazas, neighborhood parks, trails, and other publicly accessible spaces that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the following standards apply:
  - a. The open space area shall be shown on the master plan and recorded by final plat or separate instrument; and
  - b. If approved by the County, the open space shall be conveyed in accordance with one of the following methods:
    - i. By dedication to the County as publicly owned and maintained open

space. Open space proposed for dedication to the County must be acceptable to the County with regard to the size, shape, location, improvement, and environmental condition; or

- ii. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners association, or other legal entity, with the County retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the County.
3. As part of the master plan review required pursuant to Subsection 1102.03(B)(1), a construction phasing plan shall demonstrate that the order in which buildings identified in the master plan will be constructed complies with the following:
    - a. Nonresidential buildings may be constructed prior to construction of dwelling units provided that the total floor area of nonresidential buildings constructed (excluding parking structures) does not exceed 50 percent of the total nonresidential floor area approved in the master plan (excluding parking structures).
    - b. The remaining nonresidential buildings may only be constructed after construction of dwelling units is underway. The ratio of constructed dwelling units to the minimum number of dwelling units required shall equal or exceed the ratio of constructed nonresidential floor area (excluding parking structures) to the total nonresidential floor area approved in the master plan (excluding parking structures). For the purposes of Subsection 510.05(I)(3)(b), “constructed dwelling units” shall mean that, at a minimum, building permits have been issued and the framing inspection by the County Building Codes Division has been approved.
    - c. The County may approve a construction phasing plan that does not meet the standards in Subsections 510.05(I)(3)(a) and (b) where the applicant demonstrates that the orderly development of the property would be furthered by allowing construction of a greater percentage of nonresidential floor area.
  4. Monterey Avenue shall be constructed between SE Stevens Road and SE Bob Schumacher Road at the functional road classification of Collector, with a median planted with street trees and ground cover.
- J. Outdoor Operations in the SCMU District: In the SCMU District, outdoor displays, processes, or storage, except for the storage of solid waste and recyclables either as required by Section 1021 or as an accessory use to an attached single-family dwelling, are prohibited.

- K. Outdoor Operations in the OA District: In the OA District, all primary and accessory uses associated with office uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure. For the purposes of this provision, “office uses” include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Office and Outpatient Clinics, and Research Facilities and Laboratories.
- L. Outdoor Storage and Display in the OC District: In the OC District, outdoor storage or display of materials or products is prohibited.
- M. Outdoor Sales, Storage, and Display in the RCO District: In the RCO District, outdoor sales, storage, or display of materials or products is prohibited.
- N. Condominiums: Any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of attached single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record.
- O. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use is subject to Subsection 825.03.

[Added by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]



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

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511.01 PURPOSE

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

511.02 APPLICABILITY

Section 511 applies to land in the VCS District.

511.03 USES PERMITTED

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

A. As used in Table 511-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. "X" means the use is prohibited.

4.5. Numbers in superscript correspond to the notes that follow Table 511-1.

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

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

Use	VCS
<b>Accessory Uses, Customarily Permitted</b> , including bicycle racks, cogeneration facilities, meeting facilities, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, storage of building maintenance and landscape maintenance equipment, and transit amenities	A
<b>Assembly Facilities</b> , including auditoriums, community centers, and senior centers	P
<b>Athletic Clubs</b>	C
<b>Bus Shelters</b> , subject to Section 823	A
<b>Civic and Cultural Facilities</b> , including art galleries, libraries, and museums	P <sup>1</sup> ,C <sup>2</sup>

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Use	VCS
<b>Community Gardens</b>	P
<b>Daycare Facilities</b> , subject to Section 807	P
<b>Daycare Services, Adult</b>	P
<b>Electric Vehicle Charging Stations</b>	A
<b>Employee Amenities</b> , including cafeterias, clinics, daycare facilities <sup>3</sup> , fitness facilities, lounges, and recreational facilities	A <sup>4</sup>
<b>Farmers' Markets</b> , subject to Section 840	P
<b>Government Uses</b> , including fire stations, police stations, and post offices	P
<b><u>Marijuana Processing</u></b>	<u>X</u>
<b><u>Marijuana Production</u></b>	<u>X</u>
<b><u>Marijuana Retailing</u></b>	<u>X</u>
<b><u>Marijuana Wholesaling</u></b>	<u>X</u>
<b>Offices</b> , including developer sales offices and professional offices	C
<b>Offices</b> , including government offices and utility offices	P
<b>Pedestrian Amenities</b>	P
<b>Public Recreation Facilities</b>	P
<b>Recyclable Drop-off Sites</b> , subject to Section 819	A
<b>Schools</b>	P
<b>Signs</b> , subject to Section 1010	A <sup>5</sup>
<b>Telecommuting Support Services</b> , including photocopying centers with fax and computer facilities	P
<b>Temporary Buildings for Uses Incidental to Construction Work</b> , provided that such buildings shall be removed upon completion or abandonment of the construction work	A
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-Site Prior to On-Site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A
<b>Utility Carrier Cabinets</b> , subject to Section 830	P
<b>Wireless Telecommunication Facilities Listed in Subsections 835.04 and 835.05</b> , subject to Section 835	P
<b>Wireless Telecommunication Facilities Listed in Subsection 835.06(A)</b> , subject to Section 835	C

Notes to Table 511-1:

- <sup>1</sup> Libraries and museums are a primary use.
- <sup>2</sup> Art galleries are a conditional use.
- <sup>3</sup> Daycare facilities as an employee amenity are not subject to Section 807.
- <sup>4</sup> Employee amenities shall be located in the same structure as the use to which they are accessory.
- <sup>5</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

511.04 DIMENSIONAL STANDARDS

The following dimensional standards apply in the VCS District.

- A. Yard Depth: The yard depth from the east-west collector road and the diagonal connector roads shall be zero. Minimum yard depth from lot lines abutting residential areas shall be five feet.
- B. Maximum Building Height: Maximum building height shall be 35 feet, except that the maximum height of tower elements shall be 60 feet, provided that such elements do not have a footprint exceeding 400 square feet.

511.05 DEVELOPMENT STANDARD

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

[Added by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15]





**512 VILLAGE OFFICE DISTRICT (VO)**

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512.01 PURPOSE

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

512.02 APPLICABILITY

Section 512 applies to land in the VO District.

512.03 USES PERMITTED

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

A. As used in Table 512-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "L" means the use is a limited use.
4. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. "X" means the use is prohibited.

~~5.6.~~ Numbers in superscript correspond to the notes that follow Table 512-1.

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

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

Use	VO
<b>Accessory Uses, Customarily Permitted</b> , including bicycle racks, cogeneration facilities, meeting facilities, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, storage of building maintenance and landscape maintenance equipment, and transit amenities	A
<b>Assembly Facilities</b> , including auditoriums, churches, community centers, convention facilities, exhibition halls, fraternal organization lodges, senior centers, and theaters for the performing arts	C <sup>2,3</sup>
<b>Bus Shelters</b> , subject to Section 823	A
<b>Civic and Cultural Facilities</b> , including art galleries, libraries, and museums	C <sup>2</sup>
<b>Daycare Facilities</b> , subject to Section 807	L <sup>4,5</sup> ,C <sup>6</sup>
<b>Daycare Services, Adult</b>	L <sup>4,7</sup> ,C <sup>6</sup>
<b>Educational Institutes</b>	C <sup>1</sup>
<b>Electric Vehicle Charging Stations</b>	A
<b>Employee Amenities</b> , including cafeterias, clinics, daycare facilities <sup>8</sup> , fitness facilities, lounges, and recreational facilities	A <sup>9</sup>
<b>Farmers' Markets, subject to Section 840</b>	P
<b>Financial Institutions</b> , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	C
<b>Manufacturing</b> , including the mechanical, physical, or chemical transformation of materials, substances, or components into new products; and the assembly of component parts. Primary processing of raw materials is prohibited.	P <sup>10</sup>
<b><u>Marijuana Processing</u></b>	<u>P<sup>10,11</sup></u>
<b><u>Marijuana Production</u></b>	<u>X</u>
<b><u>Marijuana Retailing</u></b>	<u>X</u>
<b><u>Marijuana Wholesaling</u></b>	<u>X</u>
<b>Mobile Vending Units, Level One</b> , subject to Section 837	A

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Use	VO
<b>Offices</b> , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: architectural services, business management services, call centers, employment agencies, engineering services, governmental services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P
<b>Offices and Outpatient Clinics</b> —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P
<b>Pedestrian Amenities</b>	P
<b>Radio and Television Studios</b> , excluding transmission towers	C <sup>1</sup>
<b>Recreational Sports Facilities</b> for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: general recreation, instruction, practice, and competitions.	C
<b>Recyclable Drop-off Sites</b> , subject to Section 819	A
<b>Research Facilities and Laboratories</b> , including medical laboratories, medical research, product design and testing, and product research and development	P <sup>1+2</sup>
<b>Services, Business</b> , including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	P
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	L <sup>4</sup>
<b>Services, Information</b> , including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	P
<b>Signs</b> , subject to Section 1010	A <sup>1+2</sup>
<b>Studios</b> of the following types: art, dance, and music	C <sup>1</sup>
<b>Temporary Buildings for Uses Incidental to Construction Work</b> , provided that such buildings shall be removed upon completion or abandonment of the construction work	A
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-Site Prior to On-Site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A

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Use	VO
<b>Trade Schools.</b> Trade schools provide training in occupational skills. These facilities also may be referred to as technical schools, vocational schools, and career schools.	C <sup>1</sup>
<b>Utility Carrier Cabinets</b> , subject to Section 830	P
<b>Wireless Telecommunication Facilities Listed in Subsections 835.04 and 835.05</b> , subject to Section 835	P

Notes to Table 512-1:

- <sup>1</sup> This use is permitted only if there is no opportunity to locate it on land zoned Village Commercial District prior to annexation to the City of Happy Valley.
- <sup>2</sup> This use is permitted only if there is no opportunity to locate it either in the VCS District or on land zoned VCS prior to annexation to the City of Happy Valley.
- <sup>3</sup> An assembly facility shall have a maximum capacity of 500 people.
- <sup>4</sup> The maximum building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.
- <sup>5</sup> The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 children.
- <sup>6</sup> The use shall be located in the southern half of the VO District and shall be oriented toward the adjacent residential neighborhood.
- <sup>7</sup> The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 adults.
- <sup>8</sup> Daycare facilities as an employee amenity are not subject to Section 807.
- <sup>9</sup> Employee amenities shall be located in the same structure as the use to which they are accessory.
- <sup>10</sup> This use is allowed only if it has physical and operational requirements that are similar to those of other primary uses allowed in the VO District.
- <sup>11</sup> The processing, compounding, or conversion of marijuana into cannabinoid concentrates or cannabinoid extracts is prohibited.
- <sup>142</sup> No operation shall be conducted, or equipment used, that would create any of the following: hazards, noxious conditions, or offensive conditions.
- <sup>123</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

512.04 DIMENSIONAL STANDARDS

- A. Maximum Front Yard Depth: The maximum front yard depth shall be 50 feet from the centerline of 142<sup>nd</sup> Avenue, 75 feet from the centerline of Sunnyside Road, and 10 feet from lot lines abutting any other road. The maximum front yard depth may be exceeded to the minimum extent necessary to accommodate proposed pedestrian amenities.
- B. Minimum Front Yard Depth: The minimum front yard depth shall be 40 feet from the centerline of 142<sup>nd</sup> Avenue, 65 feet from the centerline of Sunnyside Road, and five feet from lot lines abutting any other road. Awnings or other overhangs may extend a maximum of four feet into the minimum front yard depth.
- C. Rear Yard Depth: The maximum and minimum front yard depth standards for yards abutting 142<sup>nd</sup> Avenue and Sunnyside Road shall apply even if a lot line abutting 142<sup>nd</sup> Avenue or Sunnyside Road is designated as a rear lot line pursuant to Subsection 903.01(A).
- D. Maximum Building Height: Maximum building height shall be 45 feet, except that the maximum height of tower elements shall be 60 feet, provided that such elements do not have a footprint exceeding 400 square feet.

511.05 DEVELOPMENT STANDARD

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

[Added by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15]



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

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513.01 PURPOSE

Section 513 is adopted to implement the policies of the Comprehensive Plan for Community Commercial areas regulated by the Mount Hood Community Plan and for Rural Commercial areas.

513.02 APPLICABILITY

Section 513 applies to land in the Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts.

513.03 USES PERMITTED

- A. Uses permitted in the RTC and RC Districts are listed in Table 513-1, *Permitted Uses in the RTC and RC Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorization of Similar Uses*.
- B. As used in Table 513-1:
  - 1. “P” means the use is a primary use.
  - 2. “A” means the use is an accessory use.
  - 3. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
  - 4. “S” means the use may be authorized only pursuant to Section 106; however, identifying a use as “S” does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.
  - 5. “X” means the use is prohibited.
  - 6. Numbers in superscript correspond to the notes that follow Table 513-1.
- C. Permitted uses are subject to the applicable provisions of Subsection 513.04, *Dimensional Standards*; Subsection 513.05, *Development Standard*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

**Table 513-1: Permitted Uses in the RTC and RC Districts**

Use	RTC	RC
<b>Accessory Uses, Customarily Permitted</b> , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family daycare providers, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A
<b>Assembly Facilities</b> , including auditoriums, churches <sup>1</sup> , community centers, convention facilities, exhibition halls, fraternal organization lodges, senior centers, and theaters for the performing arts	P	P,C <sup>2</sup>
<b>Bed and Breakfast Inns</b> , subject to Section 832	P	P
<b>Bed and Breakfast Residences</b> , subject to Section 832	P	P
<b>Bus Shelters</b> , subject to Section 823	P	P
<b>Civic and Cultural Facilities</b> , including art galleries, libraries, museums, and visitor centers	P	P
<b>Contractors, Logging</b>	P	P
<b>Daycare Facilities</b> , subject to Section 807	P	P
<b>Daycare Services, Adult</b>	P	P
<b>Drive-Thru Window Services</b> , subject to Section 827	X	A
<b>Dwellings, Detached Single-Family</b>	P <sup>3</sup> ,A	A
<b>Electric Vehicle Charging Stations</b>	P	P
<b>Employee Amenities</b> , including cafeterias, clinics, daycare facilities <sup>4</sup> , fitness facilities, lounges, and recreational facilities	A	A
<b>Entertainment Facilities</b> , including arcades, billiard halls, and movie theaters	P	P
<b>Farmers’ Markets</b> , subject to Section 840	P	P
<b>Financial Institutions</b> , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	P	P
<b>Government Uses</b> , including fire stations, police stations, and post offices	P	P
<b>Government Uses</b> , unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	S	C
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822	A	A



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Use	RTC	RC
<b>Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events</b>	C	C
<b>Hotels</b>	P <sup>5</sup>	S <sup>6</sup>
<b>Hydroelectric Facilities</b> , subject to Section 829	C	C
<b><u>Marijuana Processing</u></b>	<u>X</u>	<u>X</u>
<b><u>Marijuana Production</u></b>	<u>X</u>	<u>X</u>
<b><u>Marijuana Retailing</u></b> , subject to Section 841	<u>P</u> <sup>7</sup>	<u>P</u> <sup>7</sup>
<b><u>Marijuana Wholesaling</u></b>	<u>P</u> <sup>8</sup>	<u>P</u> <sup>8</sup>
<b>Mobile Vending Units</b> , subject to Section 837	P	P
<b>Motels</b>	P <sup>5</sup>	S <sup>6</sup>
<b>Offices</b> , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P
<b>Offices and Outpatient Clinics</b> —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P	P
<b>Parking Lots</b>	A	A
<b>Parking Structures, Community</b>	P <sup>9</sup> <sup>2</sup>	X
<b>Pedestrian Amenities</b>	P	P
<b>Public Utility Facilities</b>	S	C
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	S <sup>8</sup> <sup>10</sup>	C <sup>8</sup> <sup>10</sup>
<b>Recreational Uses</b> , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails <sup>9</sup> <sup>11</sup>	C	C
<b>Recreational Uses, Government-Owned</b> , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses <sup>9</sup> <sup>11</sup>	P	P
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>9</sup> <sup>11</sup>	P	P
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	P	X
<b>Recycling Centers</b> , subject to Section 819	C	C

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Use	RTC	RC
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A	A
<b>Resort Accommodations</b>	P <sup>5</sup>	S <sup>6</sup>
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: Class I, III, and IV all-terrain vehicles, as defined by Oregon Revised Statutes Chapter 801; motorcycles; and snowmobiles	S	P
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: animal feed, building materials, farm equipment, forestry equipment, and livestock supplies	P	P
<b>Schools</b> <sup>102</sup>	P	P, C <sup>2,143</sup>
<b>Service Stations</b> , subject to Section 820	P	P
<b>Services, Commercial—Construction and Maintenance</b> , including contractors engaged in construction and maintenance of buildings, electrical systems, and plumbing systems	P	P
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	P <sup>124</sup>	P <sup>124</sup>
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	P	P
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles	S	P
<b>Services, Commercial—Miscellaneous</b> , including food lockers, interior decorating, locksmith, upholstery, and veterinary	P	P
<b>Services, Commercial—Mini-Storage/Self-Storage Facilities</b>	C <sup>132</sup>	C

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Use	RTC	RC
<b>Services, Commercial—Personal and Convenience</b> , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	P	P
<b>Services, Commercial—Storage</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	C
<b>Services, Commercial—Storage</b> of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles	S	C
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	P	P
<b>Signs</b> , subject to Section 1010	A <sup>146</sup>	A <sup>146</sup>
<b>Telephone Exchanges</b>	S	C
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A	A
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
<b>Theme Parks and Amusement Parks</b>	C	S
<b>Transfer Stations</b> , subject to Section 819	C	C
<b>Transit Park-and-Rides</b>	P	P
<b>Utility Carrier Cabinets</b> , subject to Section 830	P	P
<b>Wholesaling</b> —whether by sale, lease, or rent—of any of the following new or used products: animal feed, farm equipment, farm materials, farm products, fertilizer, forestry equipment, forestry materials, forestry products, mulch, nursery stock, seeds, and seedlings	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsections 835.04 and 835.05, subject to Section 835	P	P

<sup>1</sup> Churches are not subject to Section 804, *Churches*.

<sup>2</sup> A church, fraternal organization lodge, or school is a conditional use if the building floor space exceeds 4,000 square feet.

<sup>3</sup> On a lot of record created on or before December 7, 1983, one detached single-family dwelling is a primary use. Otherwise, detached-single family dwellings are permitted only as an accessory use.

<sup>4</sup> Daycare facilities as an employee amenity are not subject to Section 807, *Daycare Facilities*.



- <sup>5</sup> A hotel, motel, or resort accommodations development in Government Camp shall be limited to a maximum of 50 units per acre or 100 units in total, whichever is less. A hotel, motel, or resort accommodations development in Rhododendron shall be limited to a maximum number of units per acre calculated pursuant to Table 1012-2, or 35 units in total, whichever is less. A hotel, motel, or resort accommodations development in Wemme/Welches shall be limited to a maximum number of units per acre calculated pursuant to Table 1012-2.
- <sup>6</sup> If a hotel, motel, or resort accommodations development is authorized as a similar use inside an unincorporated community, it shall be subject to Oregon Administrative Rules 660-022-0030(5).
- <sup>7</sup> Marijuana retailing is permitted only inside an unincorporated community.
- <sup>8</sup> Marijuana wholesaling shall be located entirely within one or more completely enclosed buildings. A maximum of 4,000 square feet of building floor space may be used for all activities associated with marijuana wholesaling on a lot of record.
- <sup>79</sup> Parking structures are permitted only in Government Camp and only if they are consistent with an adopted community parking plan.
- <sup>810</sup> The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- <sup>911</sup> This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- <sup>102</sup> Schools are not subject to Section 805, *Schools*.
- <sup>143</sup> Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.
- <sup>124</sup> Drive-in restaurants are prohibited.
- <sup>135</sup> No outside storage shall be permitted.
- <sup>146</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

#### 513.04 DIMENSIONAL STANDARDS

- A. General: Dimensional standards applicable in the RTC and RC Districts are listed in Tables 513-2, *Dimensional Standards in the RTC and RC Districts, Except in Government Camp*, and 513-3, *Dimensional Standards in Government Camp*. As used in Tables 513-2 and 513-3, numbers in superscript correspond to the notes that follow the tables.
- B. Modifications: The standards in Tables 513-2 and 513-3 may be modified pursuant to Section 800, *Special Use Requirements*; Section 903, *Setback Exceptions*; Section 904, *Other Exceptions*; Section 1013, *Planned Unit*

*Developments; Section 1107, Property Line Adjustments; and Section 1205, Variances.*

**Table 513-2: Dimensional Standards in the RTC and RC Districts, Except in Government Camp**

Standard	RTC	RC
Minimum Lot Size	None	None <sup>1</sup>
Minimum Front Yard Depth	25 feet	30 feet
Minimum Rear Yard Depth	10 feet <sup>2,3</sup>	10 feet <sup>4</sup>
Minimum Side Yard Depth	10 feet <sup>2,5</sup>	10 feet <sup>6</sup>
Maximum Building Floor Space per Commercial Use in an Unincorporated Community	4,000 square feet <sup>7</sup>	4,000 square feet <sup>7,8</sup>
Maximum Building Floor Space per Commercial Use outside an Unincorporated Community	Not Applicable	3,000 square feet <sup>7,9</sup>

<sup>1</sup> The minimum lot size inside the Portland Metropolitan Urban Growth Boundary shall be 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.

<sup>2</sup> If the yard abuts a national forest, there shall be no minimum yard depth.

<sup>3</sup> If the rear yard abuts an RR or HR District, the minimum shall be 20 feet.

<sup>4</sup> If the rear yard abuts a residential zoning district, the minimum shall be 20 feet.

<sup>5</sup> If the side yard abuts an RR or HR District, the minimum shall be 20 feet.

<sup>6</sup> If the side yard abuts a residential zoning district, the minimum shall be 20 feet.

<sup>7</sup> No maximum applies to hotels, motels, and resort accommodations.

<sup>8</sup> A lawfully established commercial use that existed on December 20, 2001, and serves the community or the travel needs of people passing through the area, may expand to occupy a maximum of 4,000 square feet of building floor space or 50 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.

- <sup>9</sup> A lawfully established commercial use that existed on December 20, 2001, may expand to occupy a maximum of 3,000 square feet of building floor space or 25 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.

**Table 513-3: Dimensional Standards in Government Camp**

Standard	RTC
Minimum Front Yard Depth unless the Front Yard abuts Government Camp Loop	10 feet, except 20 feet to garage and carport motor vehicle entries
Minimum Front Yard Depth if the Front Yard abuts Government Camp Loop	4 feet <sup>1</sup>
Maximum Front Yard Depth if the Front Yard abuts Government Camp Loop	10 feet <sup>2</sup>
Minimum Rear Yard Depth	10 feet <sup>3,4</sup>
Minimum Side Yard Depth	None
Maximum Building Height	70 feet <sup>5</sup>
Minimum Building Separation above 3,500 Feet in Elevation	20 feet between buildings with contiguous snow slide areas
Maximum Building Floor Space per Commercial Use	8,000 square feet <sup>6</sup>

- <sup>1</sup> There shall be no minimum setback for building cantilevers with a minimum vertical clearance of eight feet above any pedestrian pathway, sidewalk, or walkway. Structures less than 10 feet from the front lot line shall be designed to include measures to protect the public and vehicles from snow slide incidents.
- <sup>2</sup> The maximum front yard depth standard may be exceeded to the minimum extent necessary to accommodate public plaza space. Detached single-family dwellings are exempt from complying with the maximum front yard depth standard.
- <sup>3</sup> If the rear yard abuts a national forest, there shall be no minimum yard depth.
- <sup>4</sup> If the rear yard abuts an HR District, the minimum shall be 20 feet.
- <sup>5</sup> The maximum building height may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.
- <sup>6</sup> No maximum applies to hotels, motels, and resort accommodations.

513.05 DEVELOPMENT STANDARD

Redevelopment of a manufactured dwelling park with a different use is subject to Subsection 825.03.

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]





**601      CAMPUS INDUSTRIAL DISTRICT (CI)**

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601.01    PURPOSE

Section 601 is adopted to implement the policies of the Comprehensive Plan for Campus Industrial areas.

601.02    APPLICABILITY

Section 601 applies to land in the Campus Industrial (CI) District.

601.03    PRIMARY USES

A. The following business and industrial uses may occupy up to 100 percent of the total floor area of the development:

1. Experimental, film or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards, and/or noxious or offensive conditions.
2. Industries which manufacture products from, or otherwise process, previously prepared materials which satisfy the following conditions:
  - a. The use is employee-intensive, providing approximately 15 or more jobs for every developed acre of land.
  - b. The use is not of a type or intensity which produces odor, smoke, fumes, noise, glare, heat or vibrations which are incompatible with other primary uses allowed in this district.
  - c. The physical and operational requirements of the use, including type of structure used and volume of heavy truck traffic generated, are similar to other industrial and office uses allowed in this district.
3. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing.
4. Trade or community schools primarily serving the business community within the area.
5. Corporate headquarters or regional offices with 50 or more employees.

B. Offices, except corporate headquarters or regional offices allowed under Subsection 601.03(A) and those offices specified as limited uses under Subsection 601.05, may occupy up to 70 percent of the total floor area of the development.

C. High Density Residential uses, subject to Section 315, may occupy up to 75 percent of the total floor area of the development. Density and land area used for

this use shall be subject to the limits specified under Subsection 601.08(F), except as provided under Subsection 601.08(G).

- D. Public and private community buildings, indoor and outdoor recreational facilities, such as swimming pools, racquetball clubs, athletic clubs, health and exercise spas, gymnasiums, tennis courts, playgrounds, and other similar uses, developed to serve primarily the recreational needs of residents and employees of the district, may occupy up to 100 percent of the floor area of the development.
- E. Utility carrier cabinets, subject to Section 830.
- F. Wireless telecommunication facilities, subject to Section 835.
- G. Farmers' markets, subject to Section 840.

601.04 ACCESSORY USES

The following are permitted as accessory uses in the CI District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. Employee lounges and dining rooms, conference rooms for tenant use, newsstands, central mail room and self-service postal and banking facilities, and products information and display areas which are included within the primary use structures;
- C. Warehouse or storage structures provided in conjunction with a primary use under Subsection 601.03 on the same site;
- D. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, exercise and dance studios, community meeting rooms, lounges, playgrounds, tennis and other courts, bike and walking trails, and pedestrian plazas and courts, which are provided in association with a primary use within the same development;
- E. Parking structures;
- F. Bus shelters, subject to Section 823;
- G. Signs, subject to Section 1010;
- H. Bicycle racks, pedestrian amenities, and transit amenities;
- I. Rental and development information offices;
- J. Handyman and maintenance services in association with primary, accessory or limited uses in the development;

- K. The temporary storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on site prior to onsite reuse or removal by the generator or licensed or franchised collector to a user or broker;
- L. Self-service laundry facilities;
- M. Solar energy systems;
- N. Rainwater collection systems;
- O. Electric vehicle charging stations;
- P. Temporary buildings for uses incidental to construction. Such buildings shall be removed upon completion or abandonment of the construction work;
- Q. Daycare facilities, subject to Section 807; and
- R. Level one mobile vending units, subject to Section 837.

601.05 LIMITED USES

- A. The following retail and service commercial uses may be permitted on a limited basis as part of the development of the CI District when developed concurrently with or after the primary uses, subject to Subsection 601.05(B):
  - 1. The following neighborhood commercial uses:
    - a. Apparel stores and dressmaking shops;
    - b. Bakery shops;
    - c. Catering establishments;
    - d. Confectionery stores;
    - e. Delicatessen shops and restaurants, but not drive-in restaurants or drive-thru service;
    - f. Drug stores;
    - g. Fabric and dry goods stores;
    - h. Florist and gift shops;
    - i. Grocery and produce stores;
    - j. Hardware and garden supplies;
    - k. Meat and fish markets;

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- l. Barber and beauty shops;
  - m. Clothes pressing, alterations, and tailoring shops;
  - n. Daycare facilities and other adult or child care facilities, operated during the daytime, subject to Section 807;
  - o. Dry cleaners; laundry agencies; self-service laundromats and dry cleaning facilities;
  - p. Exercise and tanning studios;
  - q. Offices for doctors, dentists, chiropractors, naturopathic treatment personnel, and other health service personnel; small clinics or community health care programs;
  - r. Photo finishing;
  - s. Shoe repair;
  - t. Veterinarian services and pet supplies;
  - u. Video rental stores;
  - v. Bed and breakfast residences and inns, subject to Section 832;
  - w. Preexisting retail or service commercial uses; and
  - x. Mobile vending units, subject to Section 837;
2. Banks;
  3. Clinics for doctors, dentists, chiropractors, naturopathic and counseling treatment personnel, and other health services; and
  4. Bars and cocktail lounges in conjunction with a restaurant.
- B. Limitations and conditions on the development of the limited uses itemized above shall be as follows:
1. The total combined floor area occupied by all limited uses shall not exceed 10 percent of the total floor area occupied by primary uses.
  2. All limited uses shall be located, arranged and integrated within the development to serve primarily the shopping and service needs of residents and employees of the district.

3. Uses shall not be or a type of intensity that produce odor, smoke, fumes, noise, glare, heat or vibrations, which are incompatible with associated primary uses in the area.

601.06 CONDITIONAL USES

The following are conditional uses in the CI District, approval of which is subject to Section 1203, *Conditional Uses*:

- A. Conversion of multifamily dwellings into condominiums;
- B. The following uses that exceed a primary or accessory use:
  1. Recreational areas, uses, and facilities, including country clubs, lodges, fraternal organizations, swimming pools, gymnastics facilities, golf courses, equine facilities, boat moorages, parks, and concessions;
  2. City, county, state, federal, service district, and municipal corporation uses or buildings;
  3. Telephone exchanges and public utility structures without shops, garages, or general administrative offices;
  4. Radio and television transmission and receiving towers and earth stations, provided that the base of such towers shall not be closer to the property line than a distance equal to the height of the tower; and
  5. Recreational vehicle camping facilities, subject to Section 813;
- C. Hydroelectric facilities, subject to Section 829;
- D. Heliports;
- E. Retail and service commercial uses not included as limited use under Subsection 601.05(A), subject to the additional limitations and conditions of Subsection 601.05(B);
- F. Uses listed as limited uses in Subsection 601.05(A) on a site separate from a primary use, when:
  1. The site is physically separated from all other undeveloped or underdeveloped properties in the district; or
  2. The site is not physically separated from other undeveloped or underdeveloped sites, but the applicant demonstrates:
    - a. The site is located on a primary access or frontage road, served or planned to be served, by public transit.

- b. There is no alternative site in the area for the proposed use.
  - c. It is not possible to develop the proposed use in conjunction with a primary use.
- G. Development of a primary use listed in Subsection 601.03 and its associated accessory and limited uses, on a lot or site area which is smaller than the minimum area requirement for the use, and which is not physically separated from all other undeveloped or underdeveloped properties in this district, may be approved when the applicant demonstrates the following:
- 1. The proposed lot size is not smaller than half the minimum lot size for the use.
  - 2. It is not possible to develop the site in conjunction with an adjacent lot or lots, as provided under Subsection 601.08(B).
  - 3. The purposes set forth under Subsection 601.08(A) are addressed and satisfied in the proposed use and design of the development; and
- H. Multi-use developments, subject to Section 1016.

601.07 PROHIBITED USES

Uses of structures and land not specifically permitted in Section 601 shall be prohibited in the CI District, except as provided in Section 106, *Authorization of Similar Uses*. Marijuana production, marijuana processing, marijuana wholesaling, and marijuana retailing are prohibited in the CI District.

601.08 DIMENSIONAL STANDARDS

The following dimensional standards apply in the CI District.

- A. Purpose: The dimensional standards are intended to:
- 1. Encourage coordinated development, and the most efficient and maximum use of the CI District;
  - 2. Provide for adequate structure separation to ensure air and light access and fire safety and protection for all development site areas and structures within the district and adjoining districts;
  - 3. Provide for a compatible mix of uses supportive of public transportation facilities;
  - 4. Provide for the protection of adjacent properties; and
  - 5. Provide for open space and outdoor activity areas.

- B. Site Area Requirements: A "site area" for purposes of Section 601 shall be the total land area to be developed as a unit, prior to the creation of any new parcels or lots within the land area. A site area may be either of the following:
1. A single tax lot, or two or more contiguous tax lots, under the same ownership.
  2. Two or more contiguous tax lots under separate ownership, provided that:
    - a. All individual property owners are members of a group formed for the purpose of developing the properties as a single planned development, and
    - b. All individual tax lot ownerships are converted into development shares prior to any building permit being issued for the project, or
    - c. The group shall record, in the office of the County Clerk, a contract in which all members agree to subject the use and development of individual tax lots or ownerships to the development plan for the site area as approved by the County. No permit shall be issued on any separate tax lot or ownership for any structure or use not indicated on the County approved development plan for the site area.
- C. Minimum Site Area:
1. Developments which include uses under at least two of the primary use categories under Subsection 601.03(A) through (D) shall require a minimum site area of three acres.
  2. Developments which include only uses under Subsection 601.03(A) and accessory uses shall require a minimum site area of two acres.
  3. Developments which include only uses under Subsection 601.03(D) shall require a minimum site area of one acre.
- D. Undersized Lots: Any primary use under Subsection 601.03, and its associated accessory and limited uses, may be established on a lot smaller than the minimum site area that is physically separated from all other underdeveloped properties in this district, or that is approved as a conditional use under Subsection 601.06(G). However, any lot less than two acres in size resulting from a property line adjustment is not buildable, except for recreational uses under Subsection 601.03(D) on a lot a minimum of one acre in size, unless combined with other property as provided under Subsection 601.08(B).
- E. Floor Area Ratio: The maximum floor area for all primary and conditional uses within a site area shall not exceed the net site area multiplied by one (1:1 ratio).
- F. Floor Area Requirements: Any primary use or combination of primary uses under Subsections 601.03(A) through (D) may be allowed within a development at floor

area percentages, excluding accessory uses, not exceeding those illustrated in Table 601-1.

**Table 601-1: Floor area limitations for primary use categories under Subsection 601.03**

A	B	C	D
100 percent	70 percent	75 percent	100 percent

1. Land area and density for residential uses shall be as follows:
  - a. No more than 25 percent of a site area may be developed with exclusively high-density residential uses, and associated accessory and limited uses.
  - b. The entire site, or any portion thereof, may be developed with mixed-use structures which combine housing and other primary uses allowed in this district.
  - c. The entire area may be used to calculate the allowed density under the district land area standard for the HDR District and Section 1012, subject to the floor area limitation of this district.

2. Limited Uses: Only primary use floor area may be included for purposes of calculating the allowed limited use floor area for a development.

G. Exceptions to Floor Area Requirements: The requirements under Subsection 601.08(F) may be modified or waived subject to compliance with Subsections 601.08(G)(1) through (3), or Subsection 601.08(G)(4):

1. The modification or waiver is consistent with the purposes under Subsection 601.08(A); and
2. The need for the use for which additional floor area is requested is at least as great as the need for other compatible primary uses allowed in this district; and
3. The proposed use, and location of the use, is compatible with, and complementary to existing or proposed developments within the district area; or
4. A substantial mix of primary uses has been established within the immediate district area to the extent that all primary use categories under Subsections 601.03(A) through (D) are represented.

H. Maximum Lot Coverage: 55 percent.



I. Minimum Perimeter Setback: 15 feet.

1. The following uses may be allowed within a perimeter setback area that fronts on a public, county, or state road:
  - a. Landscaping;
  - b. Bikeways, trails, pedestrian walks and plazas;
  - c. Access driveways; and
  - d. Bus shelters and other pedestrian amenities.
2. The following uses may be allowed within perimeter setback areas that are adjacent to other site areas:
  - a. Landscaping;
  - b. Bikeways, trails, pedestrian walks, patios, courts;
  - c. Coordinated joint-use circulation drives, parking, loading, recreational activity areas, plazas, and
  - d. Coordinated joint-use structures.

J. Minimum Street Frontage: 50 feet.

- K. Exceptions to Dimensional Standards: The requirements of Subsection 601.08 are not subject to modification pursuant to Sections 903, *Setback Exceptions*, and 904, *Other Exceptions*. However, the requirements for lot coverage, perimeter setback, and street frontage may be modified pursuant to Section 1205, *Variances*.

601.09 DEVELOPMENT STANDARDS

The following development standards apply in the CI District.

- A. General: Development is subject to the applicable provisions of Sections 1000, *Development Standards*, and 1100, *Development Review Process*.
- B. Outdoor Storage: No outdoor storage of materials shall be allowed.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]



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

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602.01 PURPOSE

Section 602 is adopted to implement the policies of the Comprehensive Plan for Business Park, Light Industrial, and General Industrial areas.

602.02 APPLICABILITY

Section 602 applies to land in the Business Park (BP), Light Industrial (LI), and General Industrial (GI) Districts.

602.03 USES PERMITTED

Uses permitted in each zoning district are listed in Table 602-1, *Permitted Uses in the BP, LI, and GI Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorization of Similar Uses*.

A. As used in Table 602-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. "X" means the use is prohibited.
5. Numbers in superscript correspond to the notes that follow Table 602-1.

B. Permitted uses are subject to the applicable provisions of Subsection 602.04, *Dimensional Standards*, Subsection 602.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

**Table 602-1: Permitted Uses in the BP, LI, and GI Districts**

Use	BP	LI	GI
<b>Accessory Uses permitted in the R-5 through R-30 Districts, except accessory dwelling units, listed in Table 315-1, Permitted Uses in the Urban Residential Zoning Districts, provided that such uses are accessory to a single-family dwelling that is a nonconforming use</b>	A	A	A
<b>Arenas, Exhibition Halls, and Stadiums</b>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>
<b>Bus Shelters, subject to Section 823</b>	A	A	A
<b>Cogeneration Facilities</b>	A	A	A
<b>Composting Facilities, subject to Section 834</b>	X	C	C
<b>Construction and Maintenance Contractors</b> This category includes contractors engaged in construction and maintenance of buildings and their component parts (e.g., roofing, siding, windows), fencing, decking, building systems (e.g., plumbing, electrical, mechanical), landscaping, and infrastructure (e.g., roads, utilities). Also included are excavation contractors, building movers, pest control services, and janitorial services.	P	P	P
<b>Electric Vehicle Charging Stations</b>	A	A	A
<b>Electrical Power Production Facilities</b>	X	X	C
<b>Employee Amenities, such as clinics, daycare facilities, lounges, cafeterias, and recreational facilities</b>	A	A	A
<b>Farmers' Markets, subject to Section 840</b>	P	P	P
<b>Government and Special District Uses</b>	C <sup>2,3</sup>	C <sup>2,3</sup>	C <sup>2,3</sup>
<b>Heavy Truck and Heavy Equipment Uses</b> This category includes sales, rental, storage, repair, and servicing of heavy trucks such as dump trucks, moving trucks, and truck tractors; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; and large cargo trailers such as semitrailers. Sales, rental, storage, repair, and servicing of passenger vehicles, recreational vehicles, and boats are excluded from this category.	X	P	P
<b>Heliports</b>	C	C	C

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Use	BP	LI	GI
<p><b>Indoor Recreational Facilities</b></p> <p>This category includes indoor facilities for such sports as dance, gymnastics, martial arts, soccer, basketball, and skating. These facilities may be used for instruction, practice, and competitions. Health and fitness clubs are excluded from this category but are included in the “retail and professional services that cater to daily customers/retail commercial uses” category.</p>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
<p><b>Industrial Trade Schools</b></p> <p>This category includes training facilities whose primary purpose is to provide training to meet industrial needs. These facilities also may be referred to as technical schools, vocational schools, and career schools. Industrial trade schools provide training in such occupational skills as welding, operation and repair of industrial machinery, and truck driving.</p>	P	P	P
<p><b>Information Services</b></p> <p>This category includes establishments engaged in producing and distributing information; providing the means to transmit or distribute these products, as well as data or communications; and processing data. Examples include publishing industries such as book, periodical, and software publishing; computer systems design; internet web search services; internet service providers; radio, television, motion picture, and recording studios; computer data storage services; optical scanning and imaging services; and financial transaction processing such as credit card transaction and payroll processing services. These businesses primarily serve other industries or deliver their products to the end user through means other than on-site pickup by the customer. Few general public customer visits per day are generated.</p>	P	P	P
<p><b>Large-Scale Laundry, Dry-Cleaning, and Carpet-Cleaning Plants</b></p> <p>These businesses primarily serve other industries or deliver their services to the end user through means other than on-site customer visits. Few general public customer visits per day are generated.</p>	P	P	P
<p><b>Level One Mobile Vending Units, subject to Section 837</b></p>	A	A	A

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Use	BP	LI	GI
<p><b>Manufacturing</b></p> <p>This category includes establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products, including the assembly of component parts. Examples of manufacturing include alternative energy development, biosciences, food and beverage processing, software and electronics production, and fabrication of products made from materials such as metal, glass, rubber, plastic, resin, wood, and paper.</p>	P	P	P
<b><u>Marijuana Processing</u></b>	<u>P<sup>4</sup></u>	<u>P<sup>4</sup></u>	<u>P<sup>4</sup></u>
<b><u>Marijuana Production</u></b>	<u>P<sup>4</sup></u>	<u>P<sup>4</sup></u>	<u>P<sup>4</sup></u>
<b><u>Marijuana Retailing</u></b>	<u>X</u>	<u>X</u>	<u>X</u>
<b><u>Marijuana Wholesaling</u></b>	<u>P<sup>4</sup></u>	<u>P<sup>4</sup></u>	<u>P<sup>4</sup></u>
<p><b>Miscellaneous Industrial Uses</b></p> <p>This category includes wrecking and salvage of building materials, equipment, and vehicles; tire retreading and recapping; and petroleum, coal, or other fuel storage, refining, reclaiming, distribution, and wholesale trade. These businesses primarily serve other industries or deliver their products and services to the end user through means other than on-site customer visits. Few general public customer visits per day are generated.</p>	X	X	P
<p><b>Offices</b></p> <p>This category includes administrative and corporate offices and call centers. These businesses primarily serve other industries or deliver their products and services to the end user through means other than on-site customer visits. Few general public customer visits per day are generated.</p>	P	P	P
<b>Outdoor Display of Products, subject to Subsection 602.05(B)(1) or (C)(1), provided that such display is associated with a permitted use</b>	X	C	A
<b>Outdoor Entertainment Facilities, including amusement parks, circuses, carnivals, drive-in theatres, and racetracks for automobiles, dogs, horses, and motorcycles</b>	X	X	C
<b>Outdoor Storage Areas larger than allowed by Subsection 602.05(B)(2)(a), provided that such storage is associated with a permitted use</b>	X	C	A
<b>Parking, Storage, Repair, and Servicing of Fleet Vehicles</b>	A	A	A

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Use	BP	LI	GI
<b>Parking Structures</b>	A	A	A
<b>Pedestrian Amenities</b>	A	A	A
<b>Public Utility Facilities</b>	C	C	C
<b>Radio and Television Transmission and Receiving Towers and Earth Stations, provided that the base of such towers shall not be closer to the property line than a distance equal to the height of the tower</b>	C	C	C
<b>Rainwater Collection Systems</b>	A	A	A
<b>Recycling Centers and Transfer Stations, subject to Section 819</b>	X	C	P
<p><b>Repair and Servicing Uses</b></p> <p>This category includes large-scale repair and servicing of equipment, machinery, and other products. Examples include authorized service centers, welding shops and machine shops. Products are received from and returned to customers primarily by shipping or pickup/delivery by employees of the business. Few general public customer visits per day are generated.</p>	P	P	P
<p><b>Research Facilities and Laboratories</b></p> <p>This category includes product research and development, product design and testing, medical research, and medical laboratories. Medical laboratories in this category primarily serve other industries or deliver their services to the end user through means other than on-site customer visits. Few general public customer visits per day are generated.</p>	P	P	P
<p><b>Retail and Professional Services that Cater to Daily Customers/Retail Commercial Uses</b></p> <p>This category includes the sale of goods and services to the general public. Examples of retail and professional services that cater to daily customers include rental and storage of passenger vehicles, recreational vehicles, and boats; health and fitness clubs; daycare facilities; and financial, insurance, real estate, legal, medical, and dental offices. Examples of retail commercial uses include sales of passenger vehicles, recreational vehicles, and boats; stores; and restaurants. Sales of motor vehicle fuels are excluded from this category.</p>	p <sup>4,5,6,7</sup>	p <sup>4,5,6,7</sup>	A <sup>78</sup>

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Use	BP	LI	GI
<b>Retail Services, as follows: auto repairing, overhauling, painting, washing, body and fender work, and reconditioning</b>	X	X	C
<b>Satellite Dishes</b>	A	A	A
<b>Signs, subject to Section 1010</b>	A <sup>89</sup>	A <sup>89</sup>	A <sup>89</sup>
<b>Solar Energy Systems</b>	A	A	A
<b>Surface Mining, subject to Section 818</b>	X	C	C <sup>910</sup>
<b>Telephone Exchanges</b>	C	C	C
<b>Temporary Buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work.</b>	A	A	A
<b>Temporary Storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on-site prior to on-site reuse or removal by the generator or licensed or franchised collector to a user or broker</b>	A	A	A
<b>Towing Establishments, Including Storage of Towed Vehicles</b>	X	P	P
<b>Transportation Uses</b> This category includes the transportation of cargo using motor vehicles or rail spurs and may include loading docks and parking of cargo transport vehicles. Examples include freight terminals, parcel delivery services, moving companies, and parking facilities for long-haul trucks. These uses often are associated with warehousing facilities. This category also includes parking, storage, repair, and servicing of fleet vehicles used for the transport of people. Examples include ambulance services and mass transit and school bus fleet facilities. This category also includes commercial motor vehicle fueling services, such as cardlock fueling stations; however, motor vehicle fueling stations that cater to the general public are prohibited.	X	P	P
<b>Utility Carrier Cabinets, subject to Section 830</b>	P	P	P
<b>Warehouse Event Retail Sales</b>	A <sup>101</sup>	A <sup>101</sup>	A <sup>101</sup>



Use	BP	LI	GI
<p><b>Warehousing and Distribution</b></p> <p>This category includes establishments primarily engaged in operating warehousing and distribution facilities for general merchandise, refrigerated goods, and other products and materials that have been manufactured and generally are being stored in anticipation of delivery to the final customer. A range of logistical services may be provided, including labeling, packaging, price marking and ticketing, and transportation arrangement. Mini-storage facilities are not included in this category.</p>	A	P	P
<p><b>Wholesale Trade</b></p> <p>This category includes establishments engaged in selling and distributing goods and services to retailers; to industrial, commercial, or professional business users; or to other wholesalers, generally without transformation. Wholesalers sell goods and services to other businesses, not the general public.</p>	P	P	P
<p><b>Wireless Telecommunication Facilities, subject to Section 835</b></p>	P	P	P

Notes to Table 602-1:

- <sup>1</sup> In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, places of assembly shall not exceed 20,000 square feet.
- <sup>2</sup> A government or special district use is a conditional use only if the proposed use does not also fall within one of the categories identified as a primary or accessory use in the applicable zoning district.
- <sup>3</sup> In Regionally Significant Industrial Areas (RSIAs) identified on Comprehensive Plan Map IV-8, parks—intended to serve people other than those working or residing in the RSIA—and schools are prohibited.
- <sup>4</sup> Notwithstanding Subsection 602.05, marijuana production, marijuana processing, and marijuana wholesaling shall be located entirely within one or more completely enclosed buildings. A maximum of 20,000 square feet of building floor space may be used for all activities associated with marijuana production, marijuana processing, and marijuana wholesaling on a lot of record.
- <sup>45</sup> Notwithstanding other provisions of Section 602 that may permit outdoor display, storage, or processing, these uses shall be conducted entirely within a building, except the following are permitted: outdoor seating areas associated with a restaurant, outdoor play areas associated

with a daycare facility, and similar outdoor amenities. Drive-thru window service facilities are prohibited.

- <sup>56</sup> In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 3,000 square feet, and the total building floor area of all such uses in the same development project shall not exceed 20,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of September 9, 2013, may continue and expand to add up to 20 percent more building floor area. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, the same standards shall apply, except that the single-use limit is 5,000 square feet of building floor area. However, the building floor area limitations do not apply to the following uses in the BP District: destination restaurants that comply with Subsection 1016.05(B)(4) and provide lunch service; and hotels and associated convention facilities, gift shops, and restaurants.
- <sup>67</sup> Lots of record created on or after September 9, 2013, shall be subject to Note ~~76~~ to Table 602-1 in lieu of Note ~~65~~ to Table 602-1. In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 3,000 square feet. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 5,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of September 9, 2013, may continue and expand to add up to 20 percent more building floor area. In all cases, the total building floor area of all such uses on the same lot of record shall not exceed 20,000 square feet or 25 percent of the building floor area on the lot of record, whichever is less. However, the building floor area limitations do not apply to the following uses in the BP District: destination restaurants that comply with Subsection 1016.05(B)(4) and provide lunch service; and hotels and associated convention facilities, gift shops, and restaurants.
- <sup>78</sup> This use is limited to indoor areas for retail display and retail sales of products manufactured by the same business occupying the premises, as well as related products. In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area for such retail display and retail sales shall not exceed 3,000 square feet per business, and the total building floor area of all such retail display and retail sales areas in the same development project shall not exceed 20,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of September 9, 2013, may continue and expand to add up to 20 percent more building floor area. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, the same standards shall apply, except that the single-business limit is 5,000 square feet of building floor area.
- <sup>82</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- <sup>910</sup> Aggregate batch plant operations are a primary use in the GI District.
- <sup>101</sup> Warehouse event retail sales are permitted if the products being sold at the event sale are manufactured, warehoused, or distributed as a primary use on the subject property; no more than one event sale occurs each calendar month; a single event sale lasts a maximum of three

consecutive days, which shall be Friday, Saturday, Sunday, or Monday; and the event sales occur indoors.

602.04 DIMENSIONAL STANDARDS

Dimensional standards applicable in the BP, LI, and GI Districts are listed in Table 602-2, *Dimensional Standards in the BP, LI, and GI Districts*. The standards of Table 602-2 are not subject to modification under Section 903, *Setback Exceptions*, but may be modified pursuant to Section 1205, *Variances*.

A. As used in Table 602-2, numbers in superscript correspond to the notes that follow Table 602-2.

**Table 602-2: Dimensional Standards in the BP, LI, and GI Districts**

Standard	BP	LI	GI
Minimum Lot Size <sup>1</sup>	3 acres	1 acre <sup>2</sup>	1 acre <sup>2</sup>
Maximum Front Yard Depth	20 feet <sup>3</sup>	None	None
Minimum Front Yard Depth	20 feet <sup>4</sup>	20 feet <sup>4</sup>	20 feet <sup>4</sup>
Minimum Rear Yard Depth, if the rear yard abuts an industrial zoning district	0 <sup>4</sup>	0 <sup>4</sup>	0 <sup>4,5</sup>
Minimum Rear Yard Depth, if the rear yard abuts a commercial or mixed use zoning district	15 feet <sup>4</sup>	15 feet <sup>4</sup>	15 feet <sup>4,5</sup>
Minimum Rear Yard Depth, if the rear yard abuts a residential, natural resource, or Open Space Management zoning district	35 feet <sup>4</sup>	35 feet <sup>4</sup>	35 feet <sup>4,5</sup>
Minimum Side Yard Depth, if the side yard abuts an industrial zoning district	0 <sup>4</sup>	0 <sup>4</sup>	0 <sup>4,5</sup>
Minimum Side Yard Depth, if the side yard abuts a commercial or mixed use zoning district	15 feet <sup>4</sup>	15 feet <sup>4</sup>	15 feet <sup>4,5</sup>

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Standard	BP	LI	GI
Minimum Side Yard Depth, if the side yard abuts a residential, natural resource, or Open Space Management zoning district	35 feet <sup>4</sup>	35 feet <sup>4</sup>	35 feet <sup>4,5</sup>

Notes to Table 602-2:

- 1 The minimum lot size standard applies to subdivisions, partitions, and property line adjustments, except that no minimum lot size standard applies to a lot that is developed with a dwelling that is a nonconforming use. Notwithstanding the minimum lot size standard, a lot of record may be developed, subject to other applicable standards of this Ordinance.
- 2 The minimum lot size may be reduced to 20,000 square feet, subject to design review approval pursuant to Section 1102, *Design Review*, of the overall development plan for the entire lot of record, including access, circulation, parking, landscaping, and proposed building locations.
- 3 The maximum front yard depth standard applies, if required by Subsection 1005.03(L), except that this standard does not apply to dwellings that are nonconforming uses, or to structures that are accessory to such dwellings.
- 4 The minimum yard depth requirements of Table 315-2, *Dimensional Standards in the Urban Low Density Residential Districts*, as modified by Subsection 315.04(C), apply to dwellings that are nonconforming uses, as well as to structures that are accessory to such dwellings.
- 5 The minimum yard depth for a silo, tower, or other specialized storage or processing structure (unless such structure is enclosed in a building) is 35 feet for structures 35 feet or less in height. An additional five feet of yard depth is required for each additional 10-foot height increment, or portion thereof, for structures over 35 feet in height. These greater yard depth standards do not apply if the yard abuts an LI or GI District.

602.05 DEVELOPMENT STANDARDS

The following development standards apply in the BP, LI, and GI Districts.

- A. Outdoor Operations in the BP District: In the operation of a primary use in the BP District:
  1. All display areas shall be located within a building. No outdoor display areas shall be allowed.

2. No outdoor storage of materials or products shall be allowed.
3. No outdoor processes shall be employed in the operation of the business.
4. Receptacles for solid waste and recyclable materials shall be maintained within an enclosed structure.

B. Outdoor Operations in the LI District: In the operation of a primary use in the LI District:

1. All display of products shall be located within an enclosed building. No outdoor display areas shall be allowed. Notwithstanding these limitations, outdoor display of finished products may be permitted as a conditional use, as established by Table 602-1 and provided that, at a minimum, outdoor display areas and items on display shall:
  - a. Not block visibility to or from any road or driveway, or block visibility of signs located on adjacent lots;
  - b. Be located a minimum of 15 feet from the front lot line(s);
  - c. Be maintained to project an organized and neat appearance at all times; and
  - d. Only include finished products manufactured on, or sold on a wholesale basis from, the subject property.
2. Limited outdoor storage areas shall be allowed, subject to the following criteria:
  - a. Except as permitted as a conditional use, as established by Table 602-1, outdoor storage may occupy an area no greater than the area of the ground floor of the building(s) on the same premises.
  - b. Outdoor storage areas shall be located behind the building, to the rear of the site, and not adjacent to front lot lines.
  - c. Outdoor storage areas shall be screened with a sight-obscuring fence a minimum of six feet in height. Fencing shall be located behind the landscaping strips required by Subsections 1009.04(B) and 1009.06.
  - d. Equipment, vehicles, materials, and other items located within outdoor storage areas shall be maintained in an orderly fashion and, except for large industrial or commercial vehicles and equipment, shall be no higher than the height of the fence.
  - e. Outdoor storage areas shall not be used to store waste or recyclable materials.

3. No outdoor processes shall be employed in the operation of the business.
4. Receptacles for solid waste and recyclable materials shall be maintained within an enclosed structure.

C. Outdoor Operations in the GI District: In the operation of a primary use in the GI District:

1. Outdoor display of finished products is permitted, provided that outdoor display areas and items on display shall:
  - a. Not block visibility to or from any road or driveway, or block visibility of signs located on adjacent lots;
  - b. Be located a minimum of 10 feet from the front lot line(s);
  - c. Be maintained to project an organized and neat appearance at all times; and
  - d. Only include finished products manufactured on, or sold on a wholesale basis from, the subject property.
2. Outdoor storage and processing are permitted, subject to the following standards:
  - a. Outdoor storage and processing areas shall be located a minimum of 20 feet from the front lot line(s), a minimum of 15 feet from side or rear lot lines that abut a commercial or mixed use zoning district, and a minimum of 35 feet from side or rear lot lines that abut a residential, natural resource, or Open Space Management zoning district.
  - b. Outdoor storage areas shall be screened with a sight-obscuring fence a minimum of six feet in height and a maximum of 10 feet in height. Fencing shall be located behind the landscaping strips required by Subsections 1009.04(B) and 1009.06. Outdoor processing areas shall be buffered pursuant to Subsections 1009.05(D) through (F).
  - c. Equipment, stockpiles of materials, and other items located within outdoor storage and processing areas shall be maintained in an orderly fashion.
  - d. Waste materials (by-products that are not further processed or recycled on-premise) shall not accumulate in outdoor storage and processing areas for more than two weeks, except that waste materials from water treatment facilities or surface water retention facilities may accumulate for such longer period as necessitated by Best Management Practices for the facility.

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- e. It shall be demonstrated through engineering and design or monitoring that outdoor storage of waste materials will not negatively impact ground or surface waters.

D. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use is subject to Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15]





**604 RURAL INDUSTRIAL DISTRICT (RI)**

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604.01 PURPOSE

Section 604 is adopted to implement the policies of the Comprehensive Plan for Rural Industrial areas.

604.02 APPLICABILITY

Section 604 applies to land in the Rural Industrial (RI) District.

604.03 USES PERMITTED

Uses permitted in the RI District are listed in Table 604-1, *Permitted Uses in the RI District*. In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, *Authorization of Similar Uses*.

A. As used in Table 604-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. "X" means the use is prohibited.

54. Numbers in superscript correspond to the notes that follow Table 604-1.

- B. Permitted uses are subject to the applicable provisions of Subsection 604.04, *Dimensional Standards*, Subsection 604.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

**Table 604-1: Permitted Uses in the RI District**

Use	RI
<b>Accessory Uses permitted in the RA-2 District, provided that such uses are accessory to a single-family dwelling that is a nonconforming use</b>	A
<b>Animal Slaughtering and Rendering, Distillation of Bones, and Leather Tanning</b>	C
<b>Auto Wrecking Yard and Junkyards, subject to Section 817</b>	C
<b>Bus Shelters, subject to Section 823</b>	A
<b>Cogeneration Facilities</b>	A
<b>Composting Facilities, subject to Section 834</b>	C
<p><b>Construction and Maintenance Contractors</b></p> <p>This category includes contractors engaged in construction and maintenance of buildings and their component parts (e.g., roofing, siding, windows), fencing, decking, building systems (e.g., plumbing, electrical, mechanical), landscaping, and infrastructure (e.g., roads, utilities). Also included are excavation contractors, building movers, pest control services, and janitorial services.</p>	P
<b>Dwellings</b>	A
<b>Electric Vehicle Charging Stations</b>	A
<b>Employee Amenities, such as clinics, daycare facilities, lounges, cafeterias, and recreational facilities</b>	A
<b>Farmers' Markets, subject to Section 840</b>	P
<b>Government and Special District Uses</b>	C <sup>1</sup>
<b>Heliports</b>	C
<b>Hosting of weddings, family reunions, class reunions, company picnics, and similar events</b>	C
<b>Incineration and Reduction of Offal, Dead Animals, and Solid Waste</b>	C
<p><b>Indoor Recreational Facilities</b></p> <p>This category includes indoor facilities for such sports as dance, gymnastics, martial arts, soccer, basketball, and skating. These facilities may be used for instruction, practice, and competitions. Health and fitness clubs are excluded from this category.</p>	P
<b>Lawfully Established Industrial Uses that existed on December 20, 2001, and are not otherwise listed in Table 604-1</b>	P
<b>Level One Mobile Vending Units, subject to Section 837</b>	A
<b>Light Metal and Fiberglass Fabrication</b>	P

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Use	RI
<p><b>Manufacturing</b></p> <p>This category includes establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products, including the assembly of component parts. Examples of manufacturing include alternative energy development, biosciences, food and beverage processing, software and electronics production, and fabrication of products made from materials such as metal, glass, rubber, plastic, resin, wood, and paper.</p>	P <sup>2</sup>
<p><b>Manufacturing, transportation, distribution, warehousing, and wholesale trade of the following: explosive materials and devices, fertilizer, natural gas, pesticides, petroleum, and petroleum products</b></p>	C
<p><b><u>Marijuana Processing</u></b></p>	P <sup>3</sup>
<p><b><u>Marijuana Production</u></b></p>	P <sup>3</sup>
<p><b><u>Marijuana Retailing</u></b></p>	X
<p><b><u>Marijuana Wholesaling</u></b></p>	P <sup>3</sup>
<p><b>Offices</b></p>	A
<p><b>Ornamental and Horticultural Nurseries</b></p>	P
<p><b>Parking, Storage, Repair, and Servicing of Fleet Vehicles</b></p>	A
<p><b>Pedestrian Amenities</b></p>	A
<p><b>Private commercial, noncommercial, or nonprofit recreational areas, uses, and facilities, including country clubs, lodges, fraternal organizations, swimming pools, gymnastics facilities, golf courses, equine facilities, boat moorages, parks, and concessions</b></p>	C
<p><b>Public Utility Facilities without shops, garages, or general administrative offices.</b></p>	C
<p><b>Radio and Television Transmission and Receiving Towers and Earth Stations, provided that the base of such towers shall not be closer to the property line than a distance equal to the height of the tower</b></p>	C
<p><b>Rainwater Collection Systems</b></p>	A
<p><b>Recyclable Drop-off Sites, subject to Section 819</b></p>	A
<p><b>Recycling Centers and Transfer Stations, subject to Section 819</b></p>	C
<p><b>Repair and Refinishing of Furniture and Household Goods</b></p>	P
<p><b>Repair of Motor Vehicles</b></p>	P
<p><b>Retail Sales of Lumber and Building Materials</b></p>	P
<p><b>Retail Sales of products that are manufactured on the subject property,</b></p>	A

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Use	RI
distributed from the subject property, warehoused on the subject property, or sold on a wholesale basis from the subject property	
Sales, Rental, Storage, Repair, and Servicing of equipment and materials associated with farm and forest uses, road maintenance, mineral extraction, and construction	P
Satellite Dishes	A
Sheet Metal and Machine Shops	P
Signs, subject to Section 1010	A <sup>2d</sup>
Small Power Production Facilities, provided that if it is a hydroelectric facility, it shall be subject to Section 829	P
Solar Energy Systems	A
Surface Mining, subject to Section 818	C
Telephone Exchanges	C
Temporary Buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work.	A
Temporary Storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on-site prior to on-site reuse or removal by the generator or licensed or franchised collector to a user or broker	A
Upholstery Shops	P
Utility Carrier Cabinets, subject to Section 830	P
Veterinary Hospital	P
<p><b>Warehousing and Distribution</b></p> <p>This category includes establishments primarily engaged in operating warehousing and distribution facilities for general merchandise, refrigerated goods, and other products and materials that have been manufactured and generally are being stored in anticipation of delivery to the final customer. A range of logistical services may be provided, including labeling, packaging, price marking and ticketing, and transportation arrangement. This category includes the transportation and distribution of cargo using motor vehicles or rail spurs and may include loading docks and parking of cargo transport vehicles. Mini-storage facilities are not included in this category.</p>	p <sup>2</sup>
<p><b>Wholesale Trade</b></p> <p>This category includes establishments engaged in selling and distributing goods and services to retailers; to industrial, commercial, or professional business users; or to other wholesalers, generally without transformation. Wholesalers sell</p>	p <sup>2</sup>



Use	RI
goods and services to other businesses, not the general public.	
<b>Wireless Telecommunication Facilities, subject to Section 835</b>	P

Notes to Table 604-1:

- <sup>1</sup> A government or special district use is a conditional use only if the proposed use does not also fall within one of the categories identified as a primary or accessory use.
- <sup>2</sup> Manufacturing, transportation, distribution, warehousing, and wholesale trade of certain products are conditional uses, when specifically listed as such in Table 604-1.
- <sup>3</sup> Marijuana production, marijuana processing, and marijuana wholesaling shall be located entirely within one or more completely enclosed buildings. A maximum of 20,000 square feet of building floor space may be used for all activities associated with marijuana production, marijuana processing, and marijuana wholesaling on a lot of record.
- <sup>34</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

604.04 DIMENSIONAL STANDARDS

The following dimensional standards apply in the RI District.

- A. Minimum Front Yard Depth: The minimum front yard depth is 30 feet.
- B. Minimum Rear Yard Depth: The minimum rear yard depth is 30 feet if the rear yard abuts a residential zoning district and 10 feet if the rear yard abuts a commercial zoning district. In either case, an additional five feet of yard depth is required for each additional 10-foot height increment, or portion thereof, for structures over 35 feet in height.
- C. Minimum Side Yard Depth: The minimum side yard depth is 30 feet if the side yard abuts a residential zoning district and 10 feet if the side yard abuts a commercial zoning district. In either case, an additional five feet of yard depth is required for each additional 10-foot height increment, or portion thereof, for structures over 35 feet in height.
- D. Nonconforming Dwellings: Notwithstanding Subsections 604.04(B) and (C), the minimum rear and side yard depth standards applicable in the RA-2 District apply to dwellings that are nonconforming uses, as well as to uses that are accessory to such dwellings.
- E. Minimum Lot Size: There is no minimum lot size standard, except within the Portland Metropolitan Urban Growth Boundary, where the minimum lot size is 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.

F. Maximum Building Floor Space:

1. For an industrial use within an unincorporated community, the maximum building floor space per use shall be 40,000 square feet, except that no limit shall apply to:
  - a. Uses authorized under Statewide Planning Goals 3 and 4;
  - b. Expansion of a use that existed on December 5, 1994;
  - c. Uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a);
  - d. New uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and
  - e. Uses sited on abandoned or diminished mill sites.
2. For an industrial use outside an unincorporated community, the maximum building floor space per use shall be 39,500 square feet, except:
  - a. No limit shall apply to the primary processing of raw material produced in rural areas or to uses sited on abandoned or diminished mill sites.
  - b. A lawfully established use that existed on December 20, 2001 may expand to occupy a maximum of 40,000 square feet of building floor space or 25 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.

G. Modifications: The minimum yard depth standards are subject to modification under Section 903, *Setback Exceptions*, and may be modified pursuant to Section 1205, *Variances*.

604.05 DEVELOPMENT STANDARD

Redevelopment of a manufactured dwelling park with a different use is subject to Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]

**801 — GENERAL PROVISIONS**

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~~801.01 — Special uses are those included in Section 800. Due to their public convenience and necessity and their effect upon the surrounding area, these uses are subject to conditions and standards that differ from those required of other uses. Special uses shall be subject to the provisions of the section that regulates the specific use and the provisions of the zoning district in which the special use will be located. Special uses are permitted only when specified as a primary, accessory, limited or conditional use in the subject zoning district.~~

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





**822 HOME OCCUPATIONS**

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**822.01 PURPOSE**

Section 822 is adopted to:

- A. Encourage economic development in the County by promoting home occupations;
- B. Reduce vehicle miles traveled by providing opportunities for people to work from their homes;
- C. Recognize the differences between residential communities, and provide standards for home occupations consistent with these differences;
- D. Ensure the compatibility of home occupations with other uses permitted in the underlying zoning district;
- E. Maintain and preserve the character of the community and residential neighborhoods; and
- F. Mitigate noise, traffic, and other possible negative effects of home occupations.

**822.02 DEFINITIONS**

Unless specifically defined in Subsection 822.02, words or phrases used in Section 822 shall be interpreted to give them the same meaning as they have in common usage and to give Section 822 its most reasonable application.

- A. Abutting Properties: Properties that are contiguous to the property on which the home occupation is proposed, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.
- B. Accessory Space: Any building space, other than the dwelling unit, that is used for the home occupation, including, but not limited to, an attached garage, detached garage, or pole building. Accessory space does not include manufactured dwellings, residential trailers, or recreational vehicles.
- C. Employee: Any on-site person, whether they work full-time or part-time in the home occupation, including, but not limited to, the operator, partners, assistants, and any other persons participating in the operation of the home occupation.

- D. Home Occupation: An occupation or business activity which results in a product or service; is conducted, in whole or in part, in a dwelling unit and/or an accessory building normally associated with primary uses allowed in the underlying zoning district; is conducted by at least one resident of the dwelling unit; 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.
- E. Incidental Use: The use of no more than 25 percent of the floor area of a structure or 500 square feet, whichever is less.
- F. Operator: The person who conducts the home occupation, has majority ownership interest in the home occupation, lives full-time in a dwelling unit on the subject property, and is responsible for strategic decisions and day-to-day operations of the home occupation.
- G. Property: A lot of record.
- H. Vehicle: Any motorized or non-motorized transportation equipment intended for use on public roads and associated with the home occupation, including, but not limited to, a car, van, pickup, motorcycle, truck, detached trailer, or a truck tractor with no more than one trailer. An exception may be made for a detached trailer or trailers, which may be categorized as equipment if stored within an enclosed building approved for this use through a home occupation permit. Accessory space utilized for storage of a trailer shall be included in the calculation of total accessory space approved for the home occupation.
- I. Vehicle Trip: A vehicular movement either to or from the subject property by any vehicle used in the home occupation, any delivery vehicle associated with the home occupation, or any customer or client vehicle.

822.03 LEVEL ONE MINOR HOME OCCUPATIONS

No land use permit is required for a Level 1 Minor Home Occupation, which shall comply with the following standards:

- A. Employees: No persons other than residents of the dwelling unit in which the home occupation is located shall be employees of the home occupation.
- B. Building Space: The home occupation shall be conducted in a dwelling unit, but is limited to incidental use thereof. In addition, incidental use of accessory space is allowed for storage purposes only.
- C. Noise, Vibration, Glare, Fumes, and Odors: The home occupation shall not create noise, vibration, glare, fumes, or odors detectable to normal sensory perception

off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

- D. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.
- E. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or other external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.03. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.
- F. Signs: Signs shall be permitted pursuant to Section 1010.
- G. Traffic: The home occupation shall not generate more than 10 vehicle trips per day.
- H. Parking: Parking associated with the home occupation shall be regulated as follows:
1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.
  2. The maximum number of customer or client vehicles that are associated with the home occupation and located on the subject property shall not exceed two at any time.
  3. The home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks. Parcel post, United Parcel Service, or similar in-town delivery services shall be limited to no more than one delivery per day.
  4. Two parking spaces for customers/clients shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. The minimum parking space requirement for the home occupation shall be in addition to the parking required for other permitted uses on the subject property.
- I. Prohibited Uses: The following uses shall be prohibited as a home occupation:
1. Marijuana production;
  2. Marijuana processing;
  3. Marijuana wholesaling; and

4. Marijuana retailing.

## 822.04 LEVEL TWO MAJOR HOME OCCUPATIONS

A Level Two Major Home Occupation requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. Location: The home occupation shall be located on a property where the majority of abutting properties are equal to or less than two acres. A renewal application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation.
- B. Operator: The operator of the home occupation shall reside in a dwelling unit on the subject property.
- C. Employees: The home occupation shall have no more than five employees.
- D. Building Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. A maximum of 500 square feet of accessory space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.
- E. Noise: Noise shall be regulated as follows:
  - 1. From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise detectable to normal sensory perception off the subject property.
    - a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.04(E)(1).
    - b. Subsection 822.04(E)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
  - 2. A noise study may be required to demonstrate compliance with Subsection 822.04(E)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability.

Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

- F. Vibration, Glare, Fumes, and Odors: The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.
- G. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.
- H. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.04. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.
- I. Signs: Signs shall be permitted pursuant to Section 1010.
- J. Traffic: The home occupation shall not generate more than 20 vehicle trips per day.
- K. Parking: Parking associated with the home occupation shall be regulated as follows:
  - 1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.
  - 2. The maximum number of vehicles that are associated with the home occupation and located on the subject property shall not exceed four at any time, including, but not limited to, employee vehicles and customer/client vehicles.
  - 3. The home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks.
  - 4. Parking spaces needed for employees or customers/clients of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. Parking for the home occupation may be required to comply with Americans with Disabilities Act requirements, as determined by the County Building Codes Division.



- L. Change of Occupancy Classification: If the home occupation will alter the occupancy classification of an existing structure as determined by the County Building Codes Division, then the structure shall be made to conform with the current edition of the Oregon Structural Specialty Code or the Oregon Residential Specialty Code and the requirements of the State Fire Marshal or the local fire district.
- M. Prohibited Uses: The following uses shall be prohibited as a home occupation:
1. Repair of motorized vehicles and equipment, including the painting or repair of automobiles, trucks, trailers, or boats;
  2. Towing and vehicle storage business;
  3. Any other use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than an automobile repair shop with open flame; ~~and~~
  4. Hazardous materials on the subject property in quantities greater than those normally associated with the primary uses allowed in the underlying zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.;
  5. Marijuana production;
  6. Marijuana processing;
  7. Marijuana wholesaling; and
  8. Marijuana retailing.
- N. Access: The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.
- O. If the subject property is located in an EFU, TBR, or AG/F zoning district, only structures otherwise allowed in the zoning district shall be used in the operation of the home occupation.

822.05 LEVEL THREE MAJOR HOME OCCUPATIONS

A Level Three Major Home Occupation requires review as a Type II application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. Location: The home occupation shall be located on a property where a minimum of 50 percent of abutting properties are greater than two acres. A renewal application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation.
- B. Operator: The operator of the home occupation shall reside in a dwelling unit on the subject property.
- C. Employees: The home occupation shall have no more than five employees.
- D. Building Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. A maximum of 1,500 square feet of accessory space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.
- E. Noise: Noise shall be regulated as follows:
  - 1. From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise that is detectable to normal sensory perception off the subject property.
    - a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.05(E)(1).
    - b. Subsection 822.05(E)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
  - 2. A noise study may be required to demonstrate compliance with the noise standards. If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

- F. Vibration, Glare, Fumes, and Odors: The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.
- G. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.
- H. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.05. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.
- I. Signs: Signs shall be permitted pursuant to Section 1010.
- J. Traffic: The home occupation shall not generate more than 30 vehicle trips per day.
- K. Parking: Parking associated with the home occupation shall be regulated as follows:
1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.
  2. The maximum number of vehicles that are associated with the home occupation and located on the subject property shall not exceed five at any time, including, but not limited to, employee vehicles, customer/client vehicles, and vehicles to be repaired. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from off the subject property.
  3. No more than one of the five vehicles permitted to be located on the subject property at one time shall exceed a gross vehicle weight of 11,000 pounds.
  4. Parking spaces needed for employees or customers/clients of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. Parking for the home occupation may be required to comply with Americans with Disabilities Act requirements, as determined by the County Building Codes Division.
- L. Change of Occupancy Classification: If the home occupation will alter the occupancy classification of an existing structure as determined by the County Building Codes Division, then the structure shall be made to conform with the current edition of the Oregon Structural Specialty Code or the Oregon Residential



Specialty Code and the requirements of the State Fire Marshal or the local fire district.

M. Prohibited Uses: The following uses shall be prohibited as a home occupation:

1. Any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than aircraft engine repair; **and**
2. Hazardous materials on the subject property in quantities greater than those normally associated with the primary uses allowed in the underlying zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less;
3. Marijuana production;
4. Marijuana processing;
5. Marijuana wholesaling; **and**
6. Marijuana retailing.

N. Access: The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.

O. If the subject property is located in an EFU, TBR, or AG/F zoning district, only structures otherwise allowed in the zoning district shall be used in the operation of the home occupation.

## 822.06 EXCEPTIONS

A. An exception to any of the standards identified in Subsections 822.04(C) through ~~(LM)~~, 822.04(M)(1) through (4), ~~or 822.05(C) through (LM)~~, or 822.05(M)(1) and (2) requires review as a Type III application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

1. The subject property shall take direct vehicular access to a road with a functional classification of collector, minor or major arterial, or freeway/expressway as identified on Comprehensive Plan Map 5-4a, *Road Functional Classification, Urban*, or 5-4b, *Road Functional Classification, Rural*.

2. The use shall remain compatible with the area. The following factors shall be considered when determining if a use is compatible with the area:
  - a. The number of standards identified in Subsections 822.04(C) through (M) or 822.05(C) through (M) that will be exceeded; it is presumed that the more standards exceeded, the more difficult it will be to demonstrate compatibility;
  - b. The character of the neighborhood, including such factors as the presence of other similar uses, proximity of other dwellings, the level of surrounding traffic, the size of accessory buildings, background noise levels, and other outside storage uses;
  - c. The ability to mitigate impacts by screening, landscaping, building location, building design, and other property improvements (for example, driveway or road improvements);
  - d. Potential environmental impacts, including effects on air and water quality; and
  - e. Provision of adequate and safe access to public, County, or state roads.
3. Services adequate to serve the proposed use shall be available, including transportation, public facilities, and other services existing or planned for the area affected by the use. At a minimum, compliance with Subsections 1006.02(F), 1006.06(B), and 1006.08(C) (except as set forth in Subsection 1006.09), and 1007.09 is required.

B. Notwithstanding Subsection 822.06(A):

1. Maximum accessory space for the home occupation shall not exceed 3,000 square feet; and
2. If the subject property is in an EFU, TBR, or AG/F zoning district, the number of employees shall not exceed five.

822.07 PREEXISTING HOME OCCUPATIONS

Home occupations legally established prior to April 22, 2010, which complied with all provisions of this Ordinance then in effect, including appropriate permits if required, are exempt from the requirements of Section 822. Those preexisting home occupations that were subject to annual permit review shall be reviewed for compliance with the standards in effect at the time of their establishment, on the same schedule as home occupations established under the current provisions of Section 822. Home occupations established prior to the requirement for permit application and review are not subject to automatic review, but must continue to comply with the standards in effect at the time of their establishment. Preexisting home occupations may not be transferred to another operator or be enlarged without satisfying all the requirements of Section 822.

822.08 APPROVAL PERIOD AND RENEWALS

- A. A major home occupation permit is valid for three years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.
- B. A major home occupation permit may be renewed an unlimited number of times. Renewals also shall be valid for three years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.
- C. A renewal of a major home occupation permit, including one for a home occupation with one or more previously approved exceptions under Subsection 822.06, requires review as a Type II application pursuant to Section 1307, *Procedures*. However, if the renewal application includes a request for an exception not approved under the prior home occupation permit, the renewal requires review as a Type III application pursuant to Section 1307.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-248, 10/13/14]



**841 MARIJUANA PRODUCTION, PROCESSING, AND RETAILING**

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**841.01 APPLICABILITY**

Section 841 applies to:

- A. Marijuana production in the AG/F, EFU, FF-10, RRFF-5, and TBR Districts;
- B. Marijuana processing in the AG/F and EFU Districts; and
- C. Marijuana retailing in the C-2, C-3, CC, NC, OC, PMU, RC, RCC, RCO, RTC, RTL, and SCMU Districts.

**841.02 PROCEDURE**

Marijuana production, marijuana processing, and marijuana retailing require review as Type I applications pursuant to Section 1307, *Procedures*, except that in the AG/F and EFU Districts, marijuana processing requires review as a Type II application pursuant to Section 1307.

**841.03 MARIJUANA PRODUCTION AND MARIJUANA PROCESSING**

Marijuana production and marijuana processing shall be subject to the following standards and criteria:

A. Minimum Lot Size. A minimum lot size standard shall apply as follows:

1. In the FF-10 and RRFF-5 Districts, the subject property shall be a minimum of five acres, except that if the majority of abutting properties are equal to or greater than two acres, the subject property shall be a minimum of two acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.
2. In the AG/F, EFU, and TBR Districts, the subject property shall be a minimum of two acres, except that if outdoor production is proposed, the subject property shall be a minimum of five acres. Outdoor production means producing marijuana:
  - a. In an expanse of open or cleared ground; or
  - b. In a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources. A mature marijuana plant is a marijuana plant that is flowering.

B. Minimum Yard Depth/Distance from Lot Lines. In the FF-10 and RRFF-5 Districts, the minimum front, rear, and side yard depths for any structure used for marijuana production shall be 50 feet. In the AG/F, EFU, and TBR Districts, outdoor production, as defined in Subsection 841.03(A)(2), shall be a minimum of 100 feet from all lot lines.

C. Indoor Production and Processing. In the FF-10 and RRFF-5 Districts, marijuana production shall be located entirely within one or more completely enclosed buildings. In the AG/F, EFU, and TBR Districts, marijuana processing shall be located entirely within one or more completely enclosed buildings.

D. Maximum Building Floor Space. The following standards apply in the FF-10 and RRFF-5 Districts:

1. A maximum of 5,000 square feet of building floor space may be used for all activities associated with marijuana production on the subject property.
2. If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production space and the remainder of the building.

E. Access. The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. However, this standard will be waived if the property takes access via a private road or easement which also serves other properties and evidence is provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.

F. Lighting. Lighting shall be regulated as follows:

1. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject property.

G. Odor. As used in Subsection 841.03(G), building means the building, or portion thereof, used for marijuana production or marijuana processing. However, Subsection 841.03(G) does not apply to a building approved as part of outdoor production pursuant to Subsection 841.03(A)(2)(b).

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
4. Negative air pressure shall be maintained inside the building.
5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
6. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.03(G).
7. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

H. Noise. The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that generators as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any lot line of the subject property, exceeds 50 dB(A).

I. Security Cameras. If used, security cameras shall be directed to record only the subject property and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC).

J. Water. The applicant shall submit:

1. A water right permit or certificate number for the proposed marijuana production or marijuana processing;

2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
3. Proof from the Oregon Water Resources Department that the water to be used for marijuana production or marijuana processing is from a source that does not require a water right.

K. Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee.

L. Residency. In the FF-10 and RRFF-5 Districts, a minimum of one of the following shall reside in a dwelling unit on the subject property:

1. An owner of the subject property;
2. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; or
3. A holder of an OLCC license for marijuana processing, provided that the license applies to the subject property.

#### 841.04 MARIJUANA RETAILING

Marijuana retailing shall be subject to the following standards and criteria:

A. Hours. A marijuana retailer may only sell to consumers between the hours of 10:00 a.m. and 9 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 10:00 a.m. and 9 p.m.

B. Odor. As used in Subsection 841.04(B), building means the building, or portion thereof, used for marijuana retailing.

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
4. Negative air pressure shall be maintained inside the building.



5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
  6. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.04(B).
  7. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.
- C. Window Service. The use shall not have a walk-up window or drive-thru window service.
- D. Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
- E. Minors. No one under the age of 21 shall be permitted to be present in the building space occupied by the marijuana retailer, except as allowed by state law.
- F. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
- G. Minimum Separation Distances. Minimum separation distances shall apply as follows:
1. The use shall be located a minimum of:
    - a. 2000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
    - b. 1500 feet from a public park, public playground, government-owned recreational use, public library, licensed treatment center, light rail transit station, or a multifamily dwelling owned by a public housing authority.
    - c. 500 feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool;

- d. 100 feet from a residentially zoned property; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial, as identified on Comprehensive Plan Map 5-4a, Road Functional Classification Urban.
2. If the use is licensed by the Oregon Liquor Control Commission (OLCC) pursuant to Section 22, Chapter 1, Oregon Laws 2015, it shall be located a minimum of 1,000 feet from any other marijuana retailer so licensed by the OLCC.
3. If the use is registered with the Oregon Health Authority (OHA) pursuant to ORS 475.314, it shall be located a minimum of 1,000 feet from any other marijuana retailer so registered with the OHA.
4. For purposes of Subsection 841.04(G)(1), distance shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For purposes of Subsections 841.04(G)(2) and (3), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.
5. A change in use (including a zone change) to another property to a use identified in Subsection 841.04(G) after a complete Type I application for marijuana retailing has been filed shall not result in the marijuana retailer being in violation of Subsection 841.04(G).
6. Subsection 841.04(G) does not apply to any marijuana retailer that obtained full, unconditional approval of a registration from the OHA on or before March 31, 2015, that is operating in a building space where marijuana retailing activities approved by the OHA have been continuously occurring in that building space since May 31, 2014, except during the effective dates of the Medical Marijuana Facility Moratorium adopted pursuant to Clackamas County Ordinance 01-2014.
7. In case of a conflict under Subsection 841.04(G)(2) or (3), any person who has received approval of a Type I land use permit for marijuana retailing, shall be deemed to have established marijuana retailing at the approved location, so long as the marijuana retailer begins operation within one year of the date of the County's final decision on the Type I land use permit application. If more than one Type I application is in process with the County at one time, the County shall issue decisions in the order in which complete applications were filed.

841.05 APPROVAL PERIOD

- A. Approval of a permit under Subsection 841.03 is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval

period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

1. Implemented means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
  - a. A building permit for a new primary structure that was part of the approved development; or
  - b. A permit issued by the County for parking lot or road improvements required by the approved development.
  
- B. Approval of a permit under Subsection 841.04 is valid for one year from the date of the County's final decision. During this one-year period, the approval shall be implemented, or the approval will become void. Implemented means that the marijuana retailer has begun operation. Notwithstanding this one-year implementation period, a complete application for a marijuana retailing license shall be filed with the Oregon Liquor Control Commission, or a complete application for a medical marijuana dispensary registration shall be filed with the Oregon Health Authority, within three months of the date of the County's final decision, or the approval will become void.



**1307 PROCEDURES**

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1307.01 PURPOSE

Section 1307 is adopted to:

- A. Implement the goals and policies of the Comprehensive Plan for citizen involvement and the planning process;
- B. Establish uniform procedures for the review of land use applications and legislative land use proposals;
- C. Facilitate timely review of land use applications by the County;
- D. Clarify the land use application review process for applicants; and
- E. Enable the public to effectively participate in the County's land use permit decision-making process.

1307.02 APPLICABILITY

Section 1307 applies to all land use permit applications and all legislative land use proposals under this Ordinance.

- A. No person shall engage in or cause development to occur without first obtaining the necessary land use permit approvals required by, and according to the procedures in, Section 1307.
- B. Where the provisions of Section 1307 conflict with other provisions of this Ordinance, the more specific provisions shall control.

1307.03 REVIEW AUTHORITIES

A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding land use permit applications and legislative land use proposals. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and establishes:

- 1. The review authority charged with making the initial decision;
- 2. The review authority charged with making the decision on the initial County-level appeal, if any;
- 3. The review authority charged with making the decision on the second County-level appeal, if any; and
- 4. Those circumstances where an additional review authority is charged with

making a recommendation on the application or proposal to the decision maker.

- B. Planning Director: Pursuant to Oregon Revised Statutes 215.042, the Planning Director is the County official designated to administer land use planning in the County. In this role, the Planning Director administers the Comprehensive Plan and this Ordinance, issues decisions on certain land use permit applications, and provides administrative support to other review authorities. As used in this Ordinance, the term Planning Director includes any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by this Ordinance.
- C. Hearings Officer: Pursuant to ORS 215.406, the Hearings Officer is appointed by the Board of County Commissioners to conduct public hearings and issue decisions on certain land use permit applications.
- D. Historic Review Board: The Historic Review Board is designated as an advisory body on matters pertaining to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district and has the powers and duties described in Sections 707 and 1307.
1. The Historic Review Board shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
  2. Historic Review Board members shall have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of historic preservation. Three positions on the Historic Review Board shall be filled as follows:
    - a. One architect, with knowledge in historic restoration;
    - b. One contractor, with expertise in construction techniques applied to historic structures; and
    - c. One representative from a historic group in the County.
  3. Unless otherwise provided for, members of the Historic Review Board shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
  4. If a member of the Historic Review Board does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
  5. A member whose term has ended may continue to serve on the Historic Review Board until the Board of County Commissioners renews that term or

appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(D)(3).

6. The Historic Review Board shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
  7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- E. Design Review Committee: The Design Review Committee is designated as an advisory body on matters pertaining to the design review process and has the powers and duties described in Sections 1102 and 1307.
1. The Design Review Committee shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
  2. Five positions on the Design Review Committee shall be filled as follows:
    - a. One landscape architect;
    - b. One architect;
    - c. One registered engineer;
    - d. One graphic design representative; and
    - e. One representative from the field of finance or the construction and development industry.
  3. Unless otherwise provided for, members of the Design Review Committee shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
  4. If a member of the Design Review Committee does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
  5. A member whose term has ended may continue to serve on the Design Review Committee until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(E)(3).
  6. The Design Review Committee shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to

those bylaws, and County, state, and federal law.

7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

F. Planning Commission: The Planning Commission is designated as the land use planning advisory body to the Board of County Commissioners and acts as the decision maker on an initial appeal of the Planning Director's interpretation of the Comprehensive Plan. The Planning Commission shall have the powers and duties described in Section 1307 and such other powers and duties as may be imposed on it by County, state, or federal law.

1. The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.
2. Members of the Planning Commission shall be residents of the various geographic areas of the County. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.
3. Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
4. If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
5. A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(F)(3).
6. The Planning Commission shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.



- G. Board of County Commissioners: The Board of County Commissioners is the governing body of the County and is the final County decision maker on legislative land use proposals and certain land use permit applications.

1307.04 REVIEW PROCEDURE TYPES

- A. Land use permits and legislative land use proposals provided for under this Ordinance are classified as one of four types, each of which is subject to a corresponding review procedure. The four types are described as follows:
1. Type I permits are ministerial in nature and involve land use actions governed by non-discretionary standards and clear and objective approval criteria. Approval of a Type I permit may require imposition of conditions of approval to ensure compliance with this Ordinance. The Type I procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
  2. Type II permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
  3. Type III permits are quasi-judicial in nature, and involve land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.
  4. Type IV proposals are legislative in nature, and involve the creation, broad-scale implementation, or revision of public policy. These include amendments to the text of the Comprehensive Plan or this Ordinance. Large-scale changes in the Comprehensive Plan Land Use Plan maps and zoning maps also may be characterized as legislative where a larger number of property owners are directly affected.
- B. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and assigns a procedure type to each. In the event that the procedure type for a land use permit application is not identified in Table

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1307-1, specified elsewhere in this Ordinance, or otherwise required by law, the Planning Director shall determine the applicable procedure based on the guidelines in Subsection 1307.04(A). Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

1. As used in Table 1307-1:
  - a. “PD” means Planning Director.
  - b. “HO” means Hearings Officer.
  - c. “BCC” means Board of County Commissioners
  - d. Numbers in superscript correspond to the notes that follow Table 1307-1.

**Table 1307-1: Land Use Permits by Procedure Type**

<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
AG/F District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(A)]	I	No	PD	No County-Level Appeal
AG/F District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(4)]	III	No	HO	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 407-1	II	No	PD	HO
Comprehensive Plan Map Amendment <sup>1</sup>	III or IV	Type III Only	BCC	No County-Level Appeal
Comprehensive Plan Text Amendment	IV	No	BCC	No County-Level Appeal

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Conditional Use	III	Yes	HO	No County-Level Appeal
Condominium Plat <sup>2</sup>	I	No	PD	No County-Level Appeal
Conversion of a Manufactured Dwelling Park or a Mobile Home Park to a Subdivision	I	No	PD	No County-Level Appeal
Design Review <sup>3</sup>	II	Yes	PD	HO
Design Review of a Master Plan in the PMU District	III	Yes	HO	No County-Level Appeal
EFU District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(A)]	I	No	PD	No County-Level Appeal
EFU District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(4)]	III	No	HO	No County-Level Appeal
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1	II	No	PD	HO
Farmers' Market	II	No	PD	HO
Floodplain Development	II	No	PD	HO
Floodway, Fish Enhancement Project [pursuant to Subsection 703.07(F)]	I	No	PD	No County-Level Appeal

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<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Habitat Conservation Area District	See Subsection 706.06	No	See Subsection 706.06	See Subsection 706.06
Historic Landmark, Historic District, and Historic Corridor, Maintenance	I	No	PD	No County-Level Appeal
Historic Landmark, Historic District, and Historic Corridor, Major Alteration <sup>4</sup>	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Minor Alteration	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Moving or Demolition <sup>4</sup>	II <sup>3</sup>	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction <sup>4</sup>	II <sup>3</sup>	Yes	PD	HO
Home Occupation, Major, New, with an Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, New, without an Exception	II	No	PD	HO
Home Occupation, Major, Renewal, with a New Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, Renewal, without a New Exception	II	No	PD	HO

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Interpretation, Comprehensive Plan <sup>5</sup>	II	No	PD	PC
Interpretation, Zoning and Development Ordinance <sup>6</sup>	II	No	PD	HO
<u>Marijuana Processing in the AG/F and EFU Districts</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Marijuana Production, if regulated by Section 841, Marijuana Production, Processing, and Retailing</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Marijuana Retailing</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
Mineral and Aggregate Overlay District, Extraction Area Permit	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Impact Area Permit	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Two	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Three	II	Yes	PD	HO
Modification	II	No	PD	HO
Nonconforming Use, Alteration not Required by Law	II	No	PD	HO

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Nonconforming Use, Verification	II	No	PD	HO
Open Space, Conflict Resolution for Wetlands and Significant Natural Areas	II	No	PD	HO
Open Space Review	II	No	PD	HO
Partition	II	Yes	PD	HO
Principal River Conservation Area	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, Expansion of Existing Use [pursuant to Subsection 712.05(B)]	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, New Use [pursuant to Subsection 712.06]	III	No	HO	No County-Level Appeal
Public Use Airport and Safety Overlay Zones, Use Permitted Subject to Review [pursuant to Subsection 713.05]	III	No	HO	No County-Level Appeal
Property Line Adjustment [except pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3)]	I	No	PD	No County-Level Appeal
Property Line Adjustment [pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3)]	II	No	PD	HO
Replat (number of lots or parcels proposed to increase)	II	Yes	PD	HO

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<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Replat (number of lots or parcels proposed to decrease or remain the same)	I	No	PD	No County-Level Appeal
Sensitive Bird Habitat District, Alteration or Development	II	No	PD	HO
Sign Permit	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.02(A)]	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.02(B)]	II	No	PD	HO
Stream Conservation Area	II	No	PD	HO
Subdivision, Major	III	Yes	HO	No County-Level Appeal
Subdivision, Minor	II	Yes	PD	HO
TBR District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]	I	No	PD	No County-Level Appeal
TBR District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 406-1	II	No	PD	HO
Temporary Dwelling for Care	II	No	PD	HO

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<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Temporary Dwelling while Building	I	No	PD	No County-Level Appeal
Temporary Structure for Emergency Shelter	I	No	PD	No County-Level Appeal
Temporary Use Otherwise Prohibited	II	No	PD	HO
Time Extension	II	No	PD	HO
Variance	II	No	PD	HO
Vested Right Determination	II	No	PD	HO
Water Quality Resource Area District	See Subsection 709.06	No	See Subsection 709.06	See Subsection 709.06
Willamette River Greenway	II	No	PD	HO
Willamette River Greenway, Timber Harvest [pursuant to Subsection 705.03(I)]	II	No	PD	HO
Wireless Telecommunication Facility [pursuant to Subsection 835.04]	I	No	PD	No County-Level Appeal
Wireless Telecommunication Facility, with an Adjustment [pursuant to Subsection 835.05]	III	No	HO	No County-Level Appeal



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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Wireless Telecommunication Facility, without an Adjustment [pursuant to Subsection 835.05]	II	No	PD	HO
Zone Change <sup>7</sup>	III or IV	Type III Only	HO, Type III BCC, Type IV	No County-Level Appeal
Zoning and Development Ordinance Text Amendment	IV	No	BCC	No County-Level Appeal

Notes to Table 1307-1:

- <sup>1</sup> The Type III ~~procedure~~process shall be modified to include Planning Commission public hearing and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing. In the case of a Comprehensive Plan amendment related to the designation of a Historic Landmark, Historic District, or Historic Corridor, both the Type III and Type IV ~~procedures~~processes shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.
- <sup>2</sup> If condominium platting is proposed as part of a design review application, a separate condominium plat application is not required.
- <sup>3</sup> The Type II ~~procedure~~process may be modified, pursuant to Subsection 1102.02(B) or (C), to include Design Review Committee review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.
- <sup>4</sup> The Type II ~~procedure~~process shall be modified to include Historic Review Board review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.

- 5 The Type II procedureprocess shall be modified to allow the Planning Commission's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(1).
  - 6 The Type II procedureprocess shall be modified to allow the Hearings Officer's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(2).
  - 7 In the case of a zone change related to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district, the Type III procedureprocess shall be modified to designate the Board of County Commissioners as the initial decision review authority and to include Historic Review Board review and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing, and the Type IV procedureprocess shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.
- C. Notwithstanding any other provision in Section 1307, except for an application for an interpretation of the Comprehensive Plan, an applicant may choose to process a Type II land use permit application using the Type III procedure, and the Hearings Officer shall be the review authority for the initial decision. The decision of the Hearings Officer shall be the final decision of the County, except for an application for an interpretation of this Ordinance, in which case appeal to the Board of County Commissioners is allowed pursuant to Subsection 1307.13(E)(2).

#### 1307.05 PRE-APPLICATION CONFERENCE

- A. Purpose: Pre-application conferences are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.
- B. Applicability: Table 1307-1 identifies the land use permit applications for which pre-application conferences are mandatory. Pre-application conferences are voluntary for all other land use permit applications.
- C. Submittal Requirements: Pre-application conference requests shall include:
  1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

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- a. The names, mailing addresses, and telephone numbers of the applicant(s);
  - b. The address of the subject property, if any, and its assessor's map and tax lot number;
  - c. The size of the subject property;
  - d. The Comprehensive Plan designation and zoning district of the subject property;
  - e. The type of application for which the pre-application conference is requested;
  - f. A brief description of the proposal for which the pre-application conference is requested; and
  - g. Signature(s) of the applicant(s), authorizing the filing of the pre-application request.
2. Additional information necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow County staff to review and comment; and
  3. Payment of the applicable fee, pursuant to Subsection 1307.15.
- D. Scheduling: Upon receipt of a complete application, the Planning Director will schedule the pre-application conference. The Planning Director will coordinate the involvement of other County departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.
- E. Summary: Subsequent to the pre-application conference, the Planning Director will provide the applicant with a written summary of the conference. The purpose of the written summary is to provide a preliminary assessment of the proposal, but shall not be deemed to be a recommendation by the County or any other outside agency or service provider on the merits of the proposal.
- F. Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences: A follow-up pre-application conference is required for those mandatory pre-application conferences that have already been held when:
1. A complete application relating to the proposed development has not been submitted within one year of the pre-application conference; or
  2. The proposed use, layout, or design of the proposed development has changed significantly.

1307.06 REVIEW OF MULTIPLE APPLICATIONS

When multiple land use permits for the same property are required or proposed by an applicant, all of the applications may be filed concurrently. Each application shall be processed separately using the procedure identified in Table 1307-1 for that application, except that applications filed concurrently shall be processed through a consolidated procedure if:

- A. One of the applications is a Type III application for a Comprehensive Plan map amendment, in which case the Type III Comprehensive Plan map amendment procedure shall be used;
- B. Multiple land use permit applications are subject to the same procedure type with the same initial decision and appeal review authorities. Applications for an interpretation of this Ordinance are excluded from this consolidation provision; or
- C. The applicant elects to process multiple applications through a consolidated procedure, if such consolidation is consistent with Subsection 1307.04(C).

1307.07 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

- A. Initiation of Applications: Type I, II, and III land use permit applications may be initiated by:
  - 1. The owner of the subject property;
  - 2. The contract purchaser of the subject property, if the application is accompanied by proof of the purchaser’s status as such;
  - 3. The agent of the owner or contract purchaser of the subject property, if the application is duly authorized in writing by the owner or the contract purchaser, and accompanied by proof of the agent’s authority; or
  - 4. If the application is for Comprehensive Plan designation or zoning of a Historic District or Historic Corridor, the owners or contract purchasers of at least 60 percent of the property within the area to be so designated or zoned.
- B. Initiation of Legislative Proposals: Type IV legislative land use proposals may be initiated by the Board of County Commissioners, the Planning Commission, or the Planning Director. However, initiation of a legislative proposal does not obligate the County to further processing of the proposal pursuant to Subsection 1307.11, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.
- C. Application Submittal: Type I, II, and III land use permit applications are subject to the following submittal requirements:
  - 1. The following shall be submitted for an application to be complete:
    - a. A completed application form, such form to be prescribed by the Planning



Director, and containing, at a minimum, the following information:

- i. The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - ii. The address of the subject property, if any, and its assessor's map and tax lot number;
  - iii. The size of the subject property;
  - iv. The Comprehensive Plan designation and zoning district of the subject property;
  - v. The type of application being submitted;
  - vi. A brief description of the proposal; and
  - vii. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.
- b. A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval criterion and standard and each item on the supplemental application form;
  - c. Any additional information required under this Ordinance for the specific land use permit sought; and
  - d. Payment of the applicable fee, pursuant to Subsection 1307.15.
2. The Planning Director, at his or her sole discretion, may waive a submittal requirement of Subsection 1307.07(C)(1)(b) or (c), if the Planning Director determines that the requirement is not material to the review of the application.
  3. Each application, when received by the Planning Director, shall be date-stamped with the date the application was received.
- D. Completeness of a Type I Application: If a Type I application is not complete when submitted, and the applicant does not make it complete within 30 days of submittal, the application is void.
- E. Completeness Review for Type II and III Applications: After it is submitted, a Type II or III land use permit application shall be reviewed for completeness, as follows:

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1. Except as otherwise provided under Oregon Revised Statutes 215.427, the Planning Director shall review an application for completeness within 30 days of its receipt.
2. Determination of completeness shall be based upon the submittal requirements of Subsection 1307.07(C)(1) and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.
3. If an application is determined to be complete, review of the application shall commence.

4. If an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:
  - a. All of the missing information;
  - b. Some of the missing information and written notice from the applicant that no other information will be provided; or
  - c. Written notice from the applicant that none of the missing information will be provided.
5. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(4), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
6. On the 181st day after first being submitted, the application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(4) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(4).

#### 1307.08 TYPE I MINISTERIAL PROCEDURES

Type I land use permit applications are subject to the following procedure:

- A. Notice of Application: Notice of application is not provided.
- B. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision.
- C. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof.
- D. Appeal: The review authority's decision is the final decision of the County.

#### 1307.09 TYPE II ADMINISTRATIVE PROCEDURES

Type II land use permit applications are subject to the following procedures:

- A. Notice of Application: Notice of application shall be provided as follows:
  1. A minimum of 20 days prior to the issuance of a decision, written notice of application shall be mailed to:

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- a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - b. All property owners of record, pursuant to Subsection 1307.16(C), within:
    - i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;
    - ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or
    - iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district;
  - c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.
  - d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
  - e. Cities, as prescribed in applicable urban growth management agreements;
  - f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
  - g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
  - h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and
  - i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
2. At a minimum, notice of application shall include:
- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;



- b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - e. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  - f. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and
  - g. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.
3. A minimum of 20 days prior to the issuance of a decision, a copy of the submitted application shall be mailed to those identified in Subsections 1307.09(A)(1)(d) through (i).
- B. Decision: The review authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:
1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
  2. The conditions of approval, if any;
  3. The street address or other easily understood geographical reference to the subject property;
  4. The name and telephone number of the County staff member to contact where additional information may be obtained;
  5. A statement that the complete application file is available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

6. The date the review authority's decision becomes effective, unless appealed;
  7. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;
  8. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Subsection 1307.09(C) may appeal the decision by filing a written appeal, and including the date and time by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and
  9. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- C. Notice of Decision: A copy of the decision shall be mailed to those identified in Subsection 1307.09(A)(1).
- D. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.13.

1307.10 TYPE III QUASI-JUDICIAL PROCEDURES

Type III land use permit applications are subject to the following procedures:

- A. Notice of Application and Public Hearing: Notice of application and public hearing shall be provided as follows:
1. Notice shall be provided to the Oregon Department of Land Conservation and Development (DLCD), if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.
  2. A minimum of 35 days prior to the first evidentiary hearing on the application, a copy of the submitted application shall be mailed to:
    - a. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
    - b. Cities, as prescribed in applicable urban growth management agreements;
    - c. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

- d. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
  - e. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and
  - f. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:
- a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - b. All property owners of record, pursuant to Subsection 1307.16(C), within:
    - i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;
    - ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or
    - iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district.
    - iv. If the application is for a zone change to apply the MAO District, the distances set forth in Subsections 1307.10(A)(3)(b)(i) through (iii) shall be increased to 1,000 feet from the outer boundary of the proposed impact area under Section 708;
  - c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.
  - d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
  - e. Cities, as prescribed in applicable urban growth management agreements;

- f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
  - g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
  - h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;
  - i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416; and
  - j. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.
4. At a minimum, notice of application and hearing shall include:
- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
  - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - e. Date, time, and location of the hearing;
  - f. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;
  - g. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - h. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

- i. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;
  - j. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and
  - k. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.10(E).
5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.
- B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.
- C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.
- D. Decision: The review authority shall consider the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:
1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
  2. The conditions of approval, if any;
  3. The street address or other easily understood geographical reference to the subject property;
  4. The date the review authority's decision becomes effective, unless appealed; and

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

E. Notice of Decision: A copy of the decision shall be mailed to:

1. Those identified in Subsections 1307.10(A)(3)(a) and (d) through (i);
2. Anyone who provided evidence, argument, or testimony as part of the record;
3. Anyone who made a written request for notice of decision; and
4. DLCD, if required pursuant to ORS 197.615. Procedures for the giving of the required notice to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.

F. Appeal: The review authority's decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.13(E). Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

#### 1307.11 TYPE IV LEGISLATIVE PROCEDURES

Type IV legislative land use proposals are subject to the following procedures:

A. Notice of Proposal and Public Hearing: Notice of proposal and hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.
2. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, a minimum of 35 days prior to the first public hearing, a copy of the text, showing proposed additions and deletions, shall be made available to the public for review. All active community planning organizations, hamlets, and villages that are recognized by the County shall be notified when it becomes available.
3. A minimum of 20 days prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:

- a. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, all active community planning organizations, hamlets, and villages that are recognized by the County;
  - b. For proposed Comprehensive Plan Land Use Plan map amendments and zone changes, any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
  - c. Cities, as prescribed in applicable urban growth management agreements; and
  - d. Those special districts and government agencies deemed by the Planning Director to have an interest in the proposal.
4. At a minimum, notice of proposal and hearing shall include:
- a. An explanation of the nature of the proposal;
  - b. Date, time, and location of the hearing;
  - c. The name and telephone number of the County staff member to contact where additional information may be obtained; and
  - d. For Comprehensive Plan Land Use Plan map amendments and zone changes, a copy of the proposed map change(s).
5. Notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first public hearing, by publication in a newspaper of general circulation in the County. However, if the legislative land use proposal applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.
- B. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the proposal, comments received to-date, and the relevant issues associated with the proposal. Each staff report shall make a recommendation to the review authority.
- C. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission, for the purpose of receiving testimony regarding the proposal.

- D. Planning Commission Recommendation: The Planning Commission shall consider the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission and no extension is granted by the Board of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.
- E. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the proposal.
- F. Decision: The Board of County Commissioners shall consider the record and may adopt, adopt with modifications, or decline to adopt the proposal; remand the matter back to the Planning Commission for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance.
- G. Notice of Decision: Notice of decision shall be provided as follows:
1. A maximum of 20 days after the decision is made it shall be submitted to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.
  2. On the same day the decision is submitted to DLCD, the County shall mail, or otherwise deliver, notice to persons who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change. The notice shall:
    - a. State how and where the materials described in Subsection 1307.11(G)(1)(a) through (d) may be obtained;
    - b. Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;
    - c. List the locations and times at which the public may review the decision and findings; and
    - d. Explain the requirements for appealing the land use decision under ORS 197.830 to 197.845.



- H. Appeal: The Board of County Commissioners' decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals or the Oregon Land Conservation and Development Commission, as determined by state law.

## 1307.12 PUBLIC HEARINGS

Subsection 1307.12 applies to public hearings held pursuant to Section 1307, except that only Subsections 1307.12(A), (B), (E) through (H), and (J) apply to public hearings in a Type IV proceeding.

- A. Procedure, Generally: Public hearings shall be conducted in accordance with Oregon Revised Statutes (ORS) 197.763, Subsection 1307.12, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.12 authorizes the Hearings Officer, Planning Commission, and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.
- B. Parties: Any interested party shall be entitled to participate in a public hearing.
- C. Order of Proceeding: The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted bylaws or rules of procedure of the review authority, as appropriate.
1. Jurisdictional Objections: Before receiving the staff report or testimony on the application, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the review authority has the discretion to proceed or terminate the hearing.
  2. Disclosure Statement: The review authority (or individual member thereof), or its designee, shall read the land use disclosure statement, which shall include:
    - a. A list of the applicable substantive criteria, or a reference to the staff report, where a list of the criteria can be found;
    - b. A statement that testimony, argument, and evidence must be directed toward the criteria described in Subsection 1307.12(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;
    - c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and
    - d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, he or she shall declare any ex parte contacts and state for the record the nature and content of the contact.
4. Call for Abstentions: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises. If the review authority is the Hearings Officer, he or she shall declare any potential conflicts of interest. The Hearings Officer shall state the nature of the conflict, and if the nature of the conflict is such that the Hearings Officer cannot fulfill his or her duty to be a fair and impartial decision maker, the Hearings Officer shall recuse himself or herself from hearing the matter.
5. Staff Report: The Planning Director shall present a report and recommendation concerning the proposal.
6. Presentation of the Application:
  - a. Applicant's case;
  - b. Community planning organizations, hamlets, and villages. Appearance by a representative from any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village, to present the organization's position on the proposal;
  - c. Public testimony; and
  - d. Rebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters that were introduced during the hearing.
7. Close of Hearing: No additional testimony, evidence, or argument shall be accepted after the close of the hearing unless the record is held open by the review authority.

8. Reopened Hearing: The hearing may be reopened by the review authority, prior to decision, to receive additional testimony, evidence, or argument. Notice shall be provided to the same persons who received notice of the original hearing and to anyone who provided evidence, argument, or testimony as part of the record.
9. Deliberations: If the review authority is the Planning Commission or Board of County Commissioners, deliberations shall immediately follow the hearing, except that deliberations may be delayed to a subsequent date and time certain. If the review authority is the Hearings Officer, deliberations will not occur, and the Hearings Officer will instead take the matter under advisement.
10. Remand: The Board of County Commissioners may remand any matter previously considered by the Planning Commission back to the Planning Commission for further review.
11. Recommendation or Decision: When the review authority is the Planning Commission or Board of County Commissioners, the recommendation or decision, as applicable, will be voted on and announced during a public meeting.

D. Ex Parte Contact:

1. The review authority shall not do any of the following:
  - a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;
  - b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular application, unless the parties are afforded an opportunity to contest the material so noted; or
  - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. Individuals representing the review authority may inspect the site alone but must put the circumstances of the inspection on record.
2. A party may challenge the review authority, or individual member thereof, on the grounds of Subsection 1307.12(D)(1), or that such individual has a legal conflict of interest as defined by ORS 244.020(1) or ORS 244.120. A challenge and the decision thereon by the review authority shall be entered in the record of the application.

3. While every effort must be made to avoid ex parte contact, no decision of the review authority shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1307.12(D)(1), if the review authority (or individual member thereof) receiving the contact:
  - a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and
  - b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
4. A communication between County staff and the review authority (or individual member thereof) shall not be considered an ex parte contact for purposes of Subsection 1307.12(D)(1).

E. Evidence and Exhibits:

1. All evidence may be received unless excluded by the review authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the approval of the land use permit or legislative land use proposal more or less probable than it would without the evidence. Evidence may be received subject to a later ruling regarding its admissibility.
2. The review authority may exclude cumulative, repetitious, or immaterial evidence, but erroneous admission of evidence by the review authority shall not preclude action by the review authority or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.
3. All evidence shall be offered and made a part of the record in the application or legislative proceeding; and, except for matters stipulated to and except as provided in Subsection 1307.12(E)(4), no other factual information or evidence shall be considered in the recommendation or decision.
4. The review authority may take notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within specialized knowledge. Except in a Type IV proceeding, interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The review authority may utilize experience, technical competence, and specialized knowledge in evaluation of the evidence presented.

5. All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.
- F. Time Limits: The review authority may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing. No person may speak more than once without obtaining permission from the review authority.
- G. Questioning: The review authority (or individual member thereof) or County staff may question any person who testifies. The applicant and other parties to the proceeding shall not have the right to question or cross-examine any person who testifies.
- H. Scope of Testimony: Except in a Type IV proceeding, testimony shall be directed towards the applicable standards and criteria that apply to the proposal. The review authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the review authority may call for those in favor and those in opposition to rise, and the review authority shall note the numbers of such persons for the record.
- I. Continuances and Open Record Periods:
  1. All documents or evidence relied upon by the applicant shall be submitted to the County and be made available to the public. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the review authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.427 and ORS 215.429.
  2. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. The review authority shall either continue the public hearing, pursuant to Subsection 1307.12(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.12(I)(2)(b).

- a. If the review authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, argument, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, argument, or testimony for the purpose of responding to the new written evidence. Only one continuance is available of right under Subsection 1307.12(I)(2)(a); provided, however, nothing in Subsection 1307.12(I)(2)(a) shall restrict the review authority, in its discretion, from granting additional continuances.
  - b. If the review authority leaves the record open for additional written evidence, argument, or testimony, the record shall be left open for at least seven days. The review authority may leave the record open for an additional period of at least seven days for any participant to respond to new evidence submitted during the prior open-record period. However, if the review authority has not provided for this additional open-record period, any participant may file a written request with the Planning Director for an opportunity to respond to new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is left open. If such a request is filed, the review authority may reopen the record pursuant to Subsection 1307.12(I)(4).
  - c. A continuance or extension granted pursuant to Subsection 1307.12(I)(2) shall be subject to the limitations of ORS 215.427 and ORS 215.429, unless the continuance or extension is requested or agreed to by the applicant.
3. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and place certain, in which case notice of the continued hearing shall be given as though it were the initial hearing.
  4. If the record is reopened to admit new evidence, argument, or testimony, any person may raise new issues which relate to the new evidence, argument, testimony, or criteria for decision-making which apply to the matter at issue. Notice of the reopened record shall be provided to any person who presented evidence, argument, or testimony as part of the record prior to the date the record was reopened.

5. Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written argument in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 and ORS 215.429.

J. Record of Hearing:

1. A verbatim record of the proceeding shall be made by written, mechanical, or electronic means, which record need not be transcribed except upon review on the record.
2. The record of proceedings is comprised of:
  - a. The Comprehensive Plan and this Ordinance, all of which shall be automatically incorporated into the record;
  - b. The application or legislative proposal that initiated the proceeding;
  - c. All testimony, argument, evidence, and exhibits submitted prior to the close of the record of the proceeding;
  - d. Any staff reports submitted prior to the close of the record of the proceeding;
  - e. Any electronic presentation used by either staff, applicant, or other participant in the proceeding;
  - f. The verbatim record, as provided in Subsection 1307.12(J)(1);
  - g. Minutes, if any, of the hearing;
  - h. A verbatim record, as provided in Subsection 1307.12(J)(1), of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority;
  - i. Minutes, if any, of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority; and
  - j. The written decision.

1307.13 APPEALS

Subsection 1307.13 applies to all appeals processed by the County of decisions issued under Section 1307. Table 1307-1 identifies those land use permit decisions that may be appealed at the County level and the applicable review authority for those appeals.

- A. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12<sup>th</sup> day falls on a day on which the County is not open for business, by the next day on which the County is open for business.
- B. Notice of Appeal: Notice of appeal shall be made on a form prescribed by the Planning Director and shall be accompanied by the appeal fee. The notice of appeal shall contain:
1. Identification of the decision sought to be appealed, including its assigned file number, the name of the applicant, and the decision date;
  2. The name, mailing address, and telephone number of the appellant;
  3. The nature of the decision being appealed and the grounds for appeal; and
  4. Signature(s) of the appellant(s), or the duly authorized representative(s) thereof, authorizing the filing of the appeal.
- C. Proper Filing of Notice of Appeal: The failure to file a timely and complete notice of appeal is a jurisdictional defect, and the Planning Director shall not accept a notice of appeal that does not comply with Subsections 1307.13(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.13(A) and (B) shall be final.
- D. Appeal Procedures; Scope: Appeals are subject to the following procedures:
1. De Novo Review: Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record of the appeal. For purposes of Subsection 1307.13(D)(1), the record of the initial proceeding consists of
    - a. Those items listed in Subsections 1307.12(J)(2)(a) through (d) and (j); and
    - b. Those items listed in Subsections 1307.12(J)(2)(e) through (i), to the extent that any prior hearing(s) or public meeting(s) were conducted in reaching the decision that is being appealed.
  2. Notice of Public Hearing: Notice of public hearing shall be provided as follows:
    - a. A minimum of 20 days prior to the first evidentiary hearing on the appeal, written notice of the appeal and hearing shall be mailed to:



- i. Those who were entitled to notice pursuant to Subsection 1307.09(A)(1);
      - ii. The appellant; and
      - iii. Anyone who previously provided evidence, argument, or testimony as part of the record.
    - b. At a minimum, notice of hearing shall include those elements identified in Subsection 1307.10(A)(4), except that 1307.10(A)(4)(i) will reference the appealed decision, rather than the staff report.
  3. Public Hearing: A public hearing shall be held before the appeal review authority, for the purpose of receiving testimony regarding the application.
  4. Decision: The appeal review authority shall consider the record and affirm the decision, affirm the decision with additional conditions or modifications, or reverse the decision. The appeal review authority shall issue a written decision in the form of an order, which shall be signed and dated, that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include the elements identified in Subsection 1307.10(D)(1) through (5).
  5. Notice of Decision: A copy of the written order shall be mailed to:
    - a. Those identified in Subsection 1307.10(E); and
    - b. The appellant.
  6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.13(E), the appeal review authority's decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.
- E. Review of an Interpretation by the Board of County Commissioners:
1. A second County-level appeal is provided for applications for an interpretation of the Comprehensive Plan, where the Board of County Commissioners shall review the decision of the Planning Commission on appeal. Processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given to:
    - a. Those identified in Subsections 1307.09(A)(1)(a), (d) through (f), and (i);
    - b. The appellant;

- c. Anyone who provided evidence, argument, or testimony as part of the record; and
  - d. Anyone who made a written request for notice of decision.
2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.
- a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.13(E)(1).
  - b. If the Board of County Commissioners denies a request for review, it shall do so in writing. Notice of the denial shall be given pursuant to Subsection 1307.13(E)(1). If the Board of County Commissioners denies a request for review, the decision of the Hearings Officer stands as the final decision of the County. The period for appeal to the Oregon Land Use Board of Appeals commences on the date of mailing of the Board of County Commissioners' denial of review.
- F. Effect of Judicial or Administrative Review: Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the County shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any development permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by County Counsel, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.
- G. Remand from the Land Use Board of Appeals: The County shall take final action on decisions remanded by the Oregon Land Use Board of Appeals (LUBA) within one year of the effective date of LUBA's final order, unless the applicant requests in writing that the County proceed with the application pursuant to Oregon Revised Statutes (ORS) 215.435(2)(a), in which case the provisions of ORS 215.435 shall apply. The effective date of LUBA's final order shall be determined pursuant to ORS 215.435(1).

## 1307.14 CONDITIONS OF APPROVAL

Approval of a Type I, II, or III land use permit may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

- A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.16(L).
- B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:
  - 1. Protection of the public from the potentially deleterious effects of the proposed use; or
  - 2. Fulfillment of the need for public services created by the proposed use.
- C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.
- D. A surety may be required from the applicant, in an amount sufficient to ensure compliance with one or more conditions of approval, subject to Section 1311, *Completion of Improvements, Sureties, and Maintenance*.

## 1307.15 FEES

Fees are for the purposes of defraying administrative costs and are subject to the following:

- A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.
- B. The failure to submit the required fee with an application or appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.

- D. Appeal fees shall be refunded if the appellant prevails. Any other fee refund policy shall be established by separate order of the Board of County Commissioners.
- E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.16 GENERAL PROVISIONS

- A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.
- B. Property Owner's Signature: When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.
- C. Property Owner Notice: Where notice to property owners of record is required by Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.
- D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.
- E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.

- F. Argument and Evidence: For the purposes of Section 1307:
1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not include facts.
  2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.
- G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.
- H. Final Action Deadline: Except as modified by ORS 197.763, the County shall take final action on a land use permit application that is subject to Oregon Revised Statutes (ORS) 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).
- I. Effective Date of Decision: The County's final decision on a Type I, II, or III land use permit application becomes effective on:
1. The day the final decision is issued, if no appeal at the County level is allowed;
  2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;
  3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or
  4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.13(E)(2)(b).

- J. Reissuing a Decision: The review authority may reissue a Type I, II, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.
- K. Re-filing an Application: If a Type II or III land use permit application is denied, or a Type II or III land use permit is revoked pursuant to Subsection 1307.16(L), an applicant may re-file for consideration of the same or substantially similar application only if:
1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or
  2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:
    - a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, “change” includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;
    - b. A mistake in facts, which was material to the application, was considered by the review authority;
    - c. There have been changes in circumstances resulting in new facts material to the application;
    - d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or
    - e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.
- L. Revocation of Approval: An approval of a Type II or III land use permit may be revoked, as follows:
1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.

2. Revocation of approval shall be reviewed using the Type III procedure. The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.
3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

M. Modifications: Except as permitted pursuant to Section 1309:

1. A modification to an approved Type I, II, or III land use permit, or conditions thereto, shall be processed as a new application; and
2. A modification to conditions of approval for a Type II or III land use permit shall be considered only if one or more of the circumstances identified in Subsection 1307.16(K)(2) apply.

[Added by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15]





**Ordinance ZDO-254**  
**Zoning and Development Ordinance Amendments**

Text to be added is underlined. Text to be deleted is ~~strikethrough~~.

**202**      **DEFINITIONS**

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

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

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

ACTIVE RECREATIONAL AREA: An area such as a park, sports field, or golf course, where turf 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 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 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 25 percent of showtime for presenting material (either live, closed circuit, or prerecorded) for 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 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 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.

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

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

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

ALLEY: A travel way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

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

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

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

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

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

BED AND BREAKFAST 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 two guest rooms for occasional bed and breakfast guests, not exceeding five 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.

**CANNABINOID:** Any of the chemical compounds that are the active constituents of marijuana.

**CANNABINOID CONCENTRATE:** A substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

**CANNABINOID EDIBLE:** Food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

**CANNABINOID EXTRACT:** A substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

**CANNABINOID PRODUCT:** A cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

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

**COGENERATION FACILITY:** A facility that produces, through the sequential use

of energy, electric energy and useful thermal energy including but not limited to heat or steam, used for industrial, commercial, heating, or cooling purposes; and is more than 50 percent owned by a person who is not an electric utility, an electric holding company, an affiliated interest, or any combination thereof.

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

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

COMMUNITY GARDEN: A site where any kind of plant, except marijuana, is grown, and several individuals or households cultivate the site. The site may be divided into individual allotments, or gardeners may work together to cultivate the entire property. The land may be publicly or privately owned. The plants are grown for personal use by the gardeners, or for donation, and sales are prohibited.

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

COMPOSTING FACILITY: A site or facility, excluding home composting 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 for composting, or two (2) acres, whichever is less subject to the provisions of Subsection 834.03 and 834.04.

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".

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

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

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

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

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

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

DRIP 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.

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



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

**FAMILY DAYCARE PROVIDER**: A daycare provider who regularly provides daycare to 16 or fewer 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 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 shall constitute the operation of a "daycare facility" and shall be subject to the requirements of this Ordinance for daycare facilities.

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

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

**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.

**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.

**GOVERNMENT CAMP**: The unincorporated community of Government Camp, as identified on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan, Land Use Plan & Boundary*.

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

**GREEN FEEDSTOCKS**: 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 or more people. A facility that is operated for the purpose of providing care beyond that of room and board is not a "hotel".

**HOUSEKEEPING UNIT:** A living arrangement within a dwelling unit in which the kitchen, living and dining rooms, and other general living areas of the dwelling unit are shared in common, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement. Such a living arrangement also may include the provision of food, shelter, personal services, care, and when appropriate, a planned treatment or training program of counseling, therapy, or other rehabilitative social service, for persons of similar or compatible conditions or circumstances who are members of the resident family.

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

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

**INDIRECT ILLUMINATION:** A nonelectric sign illuminated by an indirect or separate light source.

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

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

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

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

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

KITCHEN, ACCESSORY: A kitchen that complies with all of the following standards:

- It shall be incidental to a primary dwelling.
- It shall be located in a room that is approved for residential occupancy and used for a purpose in addition to that of a kitchen (e.g., a recreation room, a bedroom).
- It shall not be located in a detached accessory building.
- Any of the following features shall be located within a contiguous area that is no more than 30 inches deep and 10 feet long: cooking appliances, sinks, refrigerators, dishwashers, counters, and cabinets.

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

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

LIVESTOCK: One or more domesticated animals raised 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.

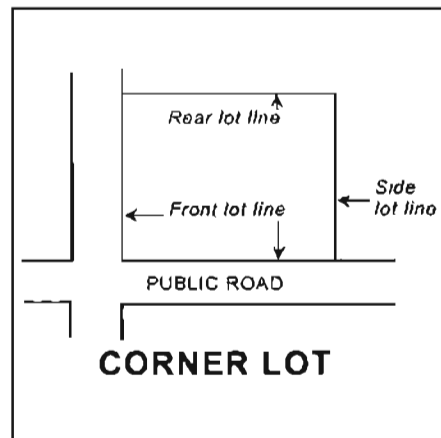
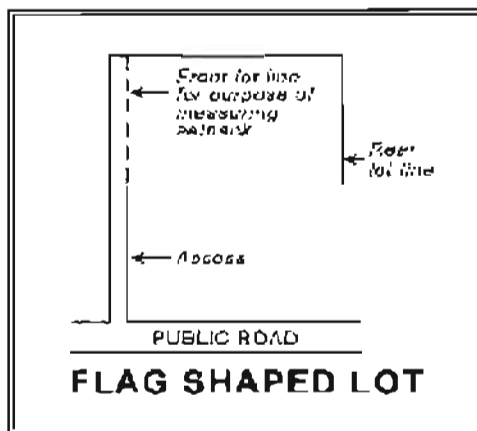
**LOT, CORNER:** A lot with street frontage on two streets intersecting at a corner of the lot. A lot within the radius curve of a single street is not a corner lot. A lot with access limited to, and frontage on, a state, County, public or private road and also with frontage on an intersecting private 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 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 STOP: A transit center, major bus stop, or light rail stop, as

identified on Comprehensive Plan Map 5-8a, *Transit, Urban*.

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

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

MANUFACTURED 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.

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

MARIJUANA ITEMS: Marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

MARIJUANA PROCESSING: The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

MARIJUANA PRODUCTION: The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a "person designated to produce marijuana by a registry identification cardholder."

MARIJUANA RETAILING: The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

MARIJUANA WHOLESALING: The purchase of marijuana items for resale to a

person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

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

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

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

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.

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 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 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. "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.

PERSON DESIGNATED TO PRODUCE MARIJUANA BY A REGISTRY IDENTIFICATION CARDHOLDER: A person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

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

PLAT, FINAL: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a partition or subdivision and recorded as required by Oregon Revised Statutes Chapter 92.

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

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

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

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

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

PRODUCE STAND: A table, bench (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 marijuana or processed foods such as jams or jellies, that are produced on the same site at which the produce stand is located.

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

PROPERTY LINE ADJUSTMENT: A relocation of a common property line between two abutting lots of record that does not create an additional lot of record.

As used in this definition, a property line is a boundary between two abutting lots of record.

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

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

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

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

RECREATIONAL VEHICLE: A vehicle licensed by the 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.

REPLAT: The act of platting the lots, parcels, tracts, or easements in a final plat to achieve a reconfiguration of the existing final plat or to increase or decrease the number of lots or parcels.

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

RESIDENTIAL TRAILER: A structure constructed 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.

RHODODENDRON: The unincorporated community of Rhododendron, as identified on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

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

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

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

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

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

SIGN, WINDOW: Any sign, pictures, symbol, or combination thereof, that is placed



inside a window or upon the window panes or glass and is visible from the exterior of the window.

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

SMALL POWER PRODUCTION FACILITY: A facility that produces energy primarily by use of biomass, waste, solar energy, wind power, water power, geothermal energy, or any combination thereof; is more than 50 percent owned by a person who is not an electric utility, an electric utility holding company, an affiliated interest, or any combination thereof; and has a power production capacity that, together with any other small power production facility located at the same site and owned by the same person, is not greater than 80 megawatts.

SNOW SLIDE AREA: The area around a building that may be subject to snow buildup as a result of snow sliding from the sloped roof of the building.

SOIL MOISTURE 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:

- 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.

**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 1002.05(B). The intent of the stream corridor area shall be to preserve natural environmental qualities and the function of land to purify water

before it reaches the stream but not to prohibit timber management activities pursuant to the State Forest Practices Act.

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

STREET: See "ROAD".

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

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

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

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

SUBDIVISION, MAJOR: A division of property creating 11 or more lots in the same calendar year.

SUBDIVISION, MINOR: A division of property creating four to 10 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 of record under the same ownership. Notwithstanding the preceding definition, as used in Sections 706, *Habitat Conservation Area District*, 709, *Water Quality Resource Area District*, 1013, *Planned Unit Developments*, and 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*, a tract is a unit of land (other than a lot or parcel) created by a subdivision, partition, or replat.

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

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

**TRANSIT STOP:** Any posted bus or light rail stop.

**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.

WEMME/WELCHES: The unincorporated community of Wemme/Welches, as identified on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

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

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; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]

**841 MARIJUANA PRODUCTION, PROCESSING, AND RETAILING**

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841.01 APPLICABILITY

Section 841 applies to:

- A. Marijuana production in the AG/F, EFU, FF-10, RRFF-5, and TBR Districts;
- B. Marijuana processing in the AG/F and EFU Districts; and
- C. Marijuana retailing in the C-2, C-3, CC, NC, OC, PMU, RC, RCC, RCO, RTC, RTL, and SCMU Districts.

841.02 PROCEDURE

Marijuana production, marijuana processing, and marijuana retailing require review as Type I applications pursuant to Section 1307, *Procedures*, except that in the AG/F and EFU Districts, marijuana processing requires review as a Type II application pursuant to Section 1307.

841.03 MARIJUANA PRODUCTION AND MARIJUANA PROCESSING

Marijuana production and marijuana processing shall be subject to the following standards and criteria:

- A. Minimum Lot Size. A minimum lot size standard shall apply as follows:
  - 1. In the FF-10 and RRFF-5 Districts, the subject property shall be a minimum of five acres, except that if the majority of abutting properties are equal to or greater than two acres, the subject property shall be a minimum of two acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.
  - 2. In the AG/F, EFU, and TBR Districts, the subject property shall be a minimum of two acres, except that if outdoor production is proposed, the subject property shall be a minimum of five acres. Outdoor production means producing marijuana:
    - a. In an expanse of open or cleared ground; or
    - b. In a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources. A mature marijuana plant is a marijuana plant that is flowering.

- B. Minimum Yard Depth/Distance from Lot Lines. In the FF-10 and RRFF-5 Districts, the minimum front, rear, and side yard depths for any structure used for marijuana production shall be 50 feet. In the AG/F, EFU, and TBR Districts, outdoor production, as defined in Subsection 841.03(A)(2), shall be a minimum of 100 feet from all lot lines.
- C. Indoor Production and Processing. In the FF-10 and RRFF-5 Districts, marijuana production shall be located entirely within one or more completely enclosed buildings. In the AG/F, EFU, and TBR Districts, marijuana processing shall be located entirely within one or more completely enclosed buildings.
- D. Maximum Building Floor Space. The following standards apply in the FF-10 and RRFF-5 Districts:
1. A maximum of 5,000 square feet of building floor space may be used for all activities associated with marijuana production on the subject property.
  2. If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production space and the remainder of the building.
- E. Access. The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. However, this standard will be waived if the property takes access via a private road or easement which also serves other properties and evidence is provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.
- F. Lighting. Lighting shall be regulated as follows:
1. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
  2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
  3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject property.



G. Odor. As used in Subsection 841.03(G), building means the building, or portion thereof, used for marijuana production or marijuana processing. However, Subsection 841.03(G) does not apply to a building approved as part of outdoor production pursuant to Subsection 841.03(A)(2)(b).

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
4. Negative air pressure shall be maintained inside the building.
5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
6. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.03(G).
7. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

H. Noise. The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that generators as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any lot line of the subject property, exceeds 50 dB(A).

I. Security Cameras. If used, security cameras shall be directed to record only the subject property and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC) or registration requirements of the Oregon Health Authority (OHA).

J. Water. The applicant shall submit:

1. A water right permit or certificate number for the proposed marijuana production or marijuana processing;

2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
  3. Proof from the Oregon Water Resources Department that the water to be used for marijuana production or marijuana processing is from a source that does not require a water right.
- K. Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
- L. Residency. In the FF-10 and RRFF-5 Districts, a minimum of one of the following shall reside in a dwelling unit on the subject property:
1. An owner of the subject property;
  2. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; ~~or~~
  3. A holder of an OLCC license for marijuana processing, provided that the license applies to the subject property; ~~or~~
  4. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property; or
  5. A person registered with the OHA as a person responsible for a marijuana processing site, provided that the registration applies to the subject property.
- M. Exceptions. Marijuana production or marijuana processing, provided such production or processing is done pursuant to registration with the OHA, is not required to comply with Subsections 841.03(F)(3) and (G) through (L), provided that the minimum front, rear, and side yard depths for any structure used for marijuana production or marijuana processing shall be 100 feet.

841.04 MARIJUANA RETAILING

Marijuana retailing shall be subject to the following standards and criteria:

- A. Hours. A marijuana retailer may only sell to consumers between the hours of 10:00 a.m. and 9 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 10:00 a.m. and 9 p.m.
- B. Odor. As used in Subsection 841.04(B), building means the building, or portion thereof, used for marijuana retailing.

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
  2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
  4. Negative air pressure shall be maintained inside the building.
  5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
  6. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.04(B).
  7. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.
- C. Window Service. The use shall not have a walk-up window or drive-thru window service.
- D. Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
- E. Minors. No one under the age of 21 shall be permitted to be present in the building space occupied by the marijuana retailer, except as allowed by state law.
- F. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
- G. Minimum Separation Distances. Minimum separation distances shall apply as follows:
1. The use shall be located a minimum of:

- a. 2000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
  - b. 1500 feet from a public park, public playground, government-owned recreational use, public library, licensed treatment center, light rail transit station, or a multifamily dwelling owned by a public housing authority.
  - c. 500 feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool;
  - d. 100 feet from a residentially zoned property; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial, as identified on Comprehensive Plan Map 5-4a, *Road Functional Classification Urban*.
2. If the use is licensed by the Oregon Liquor Control Commission (OLCC) pursuant to Section 22, Chapter 1, Oregon Laws 2015, it shall be located a minimum of 1,000 feet from any other marijuana retailer so licensed by the OLCC.
  3. If the use is registered with the Oregon Health Authority (OHA) pursuant to ORS 475.314, it shall be located a minimum of 1,000 feet from any other marijuana retailer so registered with the OHA.
  4. For purposes of Subsection 841.04(G)(1), distance shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For purposes of Subsections 841.04(G)(2) and (3), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.
  5. A change in use (including a zone change) to another property to a use identified in Subsection 841.04(G) after a complete Type I application for marijuana retailing has been filed shall not result in the marijuana retailer being in violation of Subsection 841.04(G).
  6. Subsection 841.04(G) does not apply to any marijuana retailer that obtained full, unconditional approval of a registration from the OHA on or before March 31, 2015, that is operating in a building space where marijuana retailing activities approved by the OHA have been continuously occurring in that building space since May 31, 2014, except during the effective dates of

the Medical Marijuana Facility Moratorium adopted pursuant to Clackamas County Ordinance 01-2014.

7. In case of a conflict under Subsection 841.04(G)(2) or (3), any person who has received approval of a Type I land use permit for marijuana retailing, shall be deemed to have established marijuana retailing at the approved location, so long as the marijuana retailer begins operation within one year of the date of the County's final decision on the Type I land use permit application. If more than one Type I application is in process with the County at one time, the County shall issue decisions in the order in which complete applications were filed.

841.05 APPROVAL PERIOD

- A. Approval of a permit under Subsection 841.03 is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
  1. Implemented means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
    - a. A building permit for a new primary structure that was part of the approved development; or
    - b. A permit issued by the County for parking lot or road improvements required by the approved development.
- B. Approval of a permit under Subsection 841.04 is valid for one year from the date of the County's final decision. During this one-year period, the approval shall be implemented, or the approval will become void. Implemented means that the marijuana retailer has begun operation. Notwithstanding this one-year implementation period, a complete application for a marijuana retailing license shall be filed with the Oregon Liquor Control Commission, or a complete application for a medical marijuana dispensary registration shall be filed with the Oregon Health Authority, within three months of the date of the County's final decision, or the approval will become void.



December 17, 2015

Board of County Commissioners  
Clackamas County

Members of the Board:

Second Reading of Ordinance No. 09-2015 Repealing the Moratorium on Medical Marijuana Dispensaries (Chapter 6.12 of the Clackamas County Code) and Repealing Medical Marijuana Facility Regulations (Chapter 8.09 Of the Clackamas County Code) and Declaring an Emergency

**Stephen L. Madkour**  
County Counsel

**Kathleen Rastetter**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Christina Thacker**  
Assistants

<b>Purpose/Outcomes</b>	Ordinance Repealing the Moratorium on Medical Marijuana Dispensaries and Repealing Medical Marijuana Facility Regulations in Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	N/A
<b>Duration</b>	N/A
<b>Previous Board Action</b>	The Board approved the moratorium on medical marijuana facilities on April 24, 2014. The Board modified the moratorium on January 8, 2015. The Board adopted time, place and manner regulations for marijuana vending facilities on April 16, 2015. This action is related to the adoption of ZDO-254, which the Board held a study session for on November 10, 2015, and public hearings on November 23 and December 2, 2015. The first reading took place on December 3, 2015.
<b>Strategic Plan Alignment</b>	1. N/A 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Nate Boderman, Assistant County Counsel – 503-655-8364
<b>Contract No.</b>	N/A

**BACKGROUND:**

On March 19, 2014, Senate Bill 1531 was signed into law which gave local governments the authority to impose “time, place and manner” regulations on medical marijuana dispensaries. The bill provided local governments the authority to impose up to a one-year moratorium on medical marijuana dispensaries, provided the moratorium was adopted by May 1, 2014. A number of local governments around the state imposed moratoriums under this law. The Board adopted Ordinance 01-2014 on April 24, 2014 which imposed a one-year moratorium on medical marijuana facilities in the County.

On November 4, 2014 voters approved Measure 91, which legalizes the consumption and sale of recreational marijuana in Oregon.

On January 8, 2015, the Board enacted Ordinance 01-2015 which modified Ordinance 01-2014 to exclude from the moratorium those medical marijuana dispensaries that had obtained approval from the Oregon Health Authority prior to the adoption of the original moratorium.

On April 16, 2015, the Board adopted Ordinance 04-2015 which regulated the time, place and manner of marijuana vending facilities.

In 2015, the State Legislature passed five bills related to the regulation and taxation of recreational and medical marijuana. The most significant of these five bills is House Bill 3400, which revised a number of the key elements of Measure 91 and clarified provisions related to local regulation of marijuana businesses.

In July, the Board directed staff to proceed with drafting new and amended land use regulations for recreational and medical marijuana facilities.

The Board is currently considering amendments to the Clackamas County Zoning and Development Ordinance (ZDO-254) to adopt regulations affecting recreational and medical marijuana-related land uses in the County. The Board recently held public hearings on ZDO-254 on November 23 and December 2, 2015.

A number of the substantive provisions that were adopted in Ordinance 04-2015 (Chapter 8.09 of the Clackamas County Code) are proposed to be relocated into Chapter 841 of the Zoning and Development Ordinance as part of the adoption of ZDO-254. ZDO-254 will also contain certain changes to the standards currently in place in Chapter 8.09 as a result of new state law requirements and certain changes resulting from the Board's consideration of time, place and manner regulations. Repeal of Chapter 8.09 will avoid conflicts and duplication of regulations across differing sections of the County Code in the event ZDO-254 is adopted.

The moratorium authorized by Senate Bill 1531, and adopted as Ordinance 01-2014 (Chapter 6.12 of the Clackamas County Code), terminated on May 1, 2015. There has been no further authorization to extend the moratorium. Repealing Chapter 6.12 will eliminate a section of the Code that is no longer operative.

The proposed ordinance contains an emergency clause which would set the effective date of the ordinance as January 4, 2016. This date corresponds to the effective date of the relevant portions of ZDO-254.

**RECOMMENDATION:**

Staff recommends the Board of County Commissioners read the proposed ordinance by title only and proceed to adoption.

Respectfully submitted,

Nate Boderman  
Assistant County Counsel

Attachment: Proposed Ordinance

## **ORDINANCE NO. 09-2015**

### **An Ordinance Repealing Chapters 6.12, Medical Marijuana Facility Moratorium and 8.09, Medical Marijuana Facility, of the Clackamas County Code and Declaring an Emergency**

WHEREAS, on April 24, 2015, under the authority granted in Senate Bill 1531 (2014) the Board of County Commissioners enacted Ordinance 01-2014, a moratorium prohibiting the siting and operation of medical marijuana dispensaries within the jurisdictional boundaries of unincorporated Clackamas County. An emergency was declared and the moratorium was effective immediately; and

WHEREAS, on January 8, 2015, the Board of County Commissioners enacted Ordinance 01-2015 which modified the moratorium described above to exclude from the moratorium those medical marijuana dispensaries that had obtained approval from the Oregon Health Authority prior to the adoption of the moratorium; and

WHEREAS, the moratorium authorized by Senate Bill 1531, and adopted as Ordinance 01-2014 (Chapter 6.12 of the Clackamas County Code), terminated on May 1, 2015; and

WHEREAS, repealing Chapter 6.12 will eliminate a section of the Code that is no longer operative; and

WHEREAS, on April 16, 2015, the Board enacted Ordinance 04-2015 which regulated the time, place and manner of marijuana vending facilities; and

WHEREAS, in 2015, the State Legislature enacted House Bill 3400 (2015) which included provisions related to local regulation of marijuana businesses; and

WHEREAS, certain provisions enacted in Ordinance 04-2015 will be inconsistent with state law if they remain in effect after January 4, 2016; and

WHEREAS, the Board is considering amendments to the Clackamas County Zoning and Development Ordinance (ZDO-254) whereby certain provisions located in Chapter 8.09 of the Clackamas County Code (Ordinance 04-2015) will be relocated into Chapter 841 of the Zoning and Development Ordinance as part of the adoption of ZDO-254 and certain changes to the standards currently located in Chapter 8.09 will be made as a result of new state law requirements and the Board's consideration of issues related to time, place and manner regulation; and



WHEREAS, repeal of Chapter 8.09 will avoid conflicts and duplication of regulations across differing sections of the County Code in the event ZDO-254 is adopted; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Chapter 6.12, Medical Marijuana Facility Moratorium, of the Clackamas County Code is hereby repealed.

**Section 2:** Chapter 8.09, Medical Marijuana Facility, of the Clackamas County Code is hereby repealed.

**Section 3:** Emergency Clause

The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this Ordinance shall be effective on January 4, 2016.

ADOPTED this 17th day of December, 2015.

BOARD OF COUNTY COMMISSIONERS

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Chair

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Recording Secretary



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
 2051 KAEN ROAD | OREGON CITY, OR 97045

**Stephen L. Madkour**  
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**Nathan K. Boderman**  
**Christina Thacker**  
 Assistants

December 17, 2015

Board of County Commissioners  
 Clackamas County

Members of the Board:

First Reading and Adoption of Ordinance No. -2015, Amending Chapter 9.01, Uniform Code for the Abatement of Dangerous Buildings, of the Clackamas County Code and Declaring an Emergency

<b>Purpose/Outcomes</b>	Amend Chapter 9.01 of the County Code governing dangerous buildings to clarify processes and make County response to dangerous buildings more efficient.
<b>Dollar Amount and Fiscal Impact</b>	No dollar amount requested or fiscal impact at this time.
<b>Funding Source</b>	No funding source required at this time.
<b>Duration</b>	Effective immediately upon adoption if passed by unanimous vote of the Board. Changes to remain effective until any future amendments are made.
<b>Previous Board Action</b>	The Board met in a November 24, 2015 study session on this matter and decided to proceed to a public hearing.
<b>Strategic Plan Alignment</b>	The ordinance amendments align with the County's goals and strategic plan by: Building public trust through good government; contributing to a vibrant economy; and by ensuring safe, healthy and secure communities.
<b>Contact Person</b>	Scott Caufield, Building Official – 503-742-4747 Scott Ciecko, Asst. Co. Counsel – 503-655-8362
<b>Contract No.</b>	No contract(s) effected.

## **BACKGROUND:**

In recent months an increasing amount of attention has been brought to nuisance houses within the County. These problem houses often include situations where ownership of the house is unclear or in flux, or the owner of the house is unable or unwilling to properly manage the home. These houses become chronic problems in their neighborhoods and are frequently inhabited by squatters, are havens for drug use and criminal activity, and accumulate vast amounts of solid waste. Moreover, these houses often pose significant and immediate risks to the health of their occupants and the public.

Resolving the problems associated with these houses is time consuming, labor intensive, expensive, and challenging. The County's dangerous buildings code, however, is one legal tool that is proving to be effective and efficient mitigating the impacts from problem houses. Currently before the Board are a number of proposed amendments to Chapter 9.01 of the Clackamas County Code governing dangerous buildings. These amendments would help to streamline the County's processes for responding to dangerous buildings. Thus, the County Building Official, along with the departments/divisions working to combat these nuisance houses, respectfully request the Board to amend Chapter 9.01 of the Clackamas County Code as shown in the materials submitted herewith.

## **OVERVIEW OF PROPOSED CODE CHANGES**

Many of the proposed changes to Chapter 9.01 are procedural and designed to clarify the processes for declaring a dangerous building. For example the current code requires a Board of Appeals to be available to review decisions to declare a building dangerous. The proposed amendments, however, replace the Board of Appeals with the County Hearings Officer in order to ensure efficiency and consistency with the hearings processes used for interpreting and enforcing other chapters of the County Code.

In addition, the proposed changes clarify the definitions of, and criteria for, dangerous buildings. For example, the proposed changes make certain that a building that lacks water, sewer, or septic is a *per se* dangerous building due to health risks created when human waste cannot be properly disposed.

Finally the proposed changes include numerous housekeeping items to clarify the chapter and make it more efficient. For example, the changes clarify the role of the County Health Officer in declaring dangerous buildings, explain when a notice of dangerous building can be recorded to give potential buyers notice of the dangerous conditions of the building, and clarify the situations when the Building Official can order a dangerous building to be vacated.

## **FINANCIAL IMPLICATIONS**

There is not expected to be any immediate financial implications as a result of this proposed code amendment. The amendment does, however, preserve the Board's ability to fund the

Repair and Demolition fund to be used for cleaning up problem houses in certain situations should funding become available at a later time. No particular source of funding has been identified at this time.

### **STRATEGIC PLAN ALIGNMENT**

Continuing to combat nuisance houses and dangerous buildings in Clackamas County is entirely consistent with the Performance Clackamas goal of ensuring safe, healthy, and secure communities. Dangerous buildings pose serious risks to any occupants and have negative impacts on their neighborhoods. The ordinance amendments also align with the County's goals and strategic plan by: Building public trust through good government and contributing to a vibrant economy.

### **EMERGENCY AND IMMEDIATE EFFECTIVE DATE:**

If the Board is inclined to make the suggested amendments to Chapter 9.01 of the County Code (dangerous buildings), such changes can be implemented on an emergency basis, effective immediately upon adoption, by approving an ordinance. Approval can occur at a single public meeting of the governing body, provided the vote in favor of the ordinance is unanimous. If the vote is not unanimous, then the ordinance must be adopted by conducting two votes at least 13 days apart.

### **OPTIONS**

As to the proposed amendments to the County Code the Board could (1) unanimously adopt the ordinance implementing the amendments on an emergency basis by a single reading; (2) adopt the ordinance implementing the amendments in the normal course by a majority vote at two readings at least 13 days apart; or (3) reject the proposed amendments and leave the County Code as it currently exists.

### **RECOMMENDATION**

Staff respectfully requests that the Board unanimously adopt the proposed ordinance changes to Chapter 9.01 of the Clackamas County Code, on an emergency basis making them effective immediately, in order to give County employees a more efficient and more effective tool in combating dangerous buildings and nuisance houses in the County. The ordinance may be read by title only if no member of the Board requests that the ordinance be read in full.

Respectfully submitted,



Scott Ciecko  
Assistant County Counsel

ORDINANCE NO. \_\_\_\_\_

**An Ordinance Amending Chapter 9.01, Uniform Code for the Abatement of Dangerous Buildings, of the Clackamas County Code and Declaring an Emergency**

WHEREAS, in recent months an increasing amount of attention has been brought to nuisance houses and dangerous buildings within the County; and

WHEREAS, the County's dangerous buildings code is one tool that is proving to be effective and efficient for dealing with nuisance houses that pose an immediate risk to the health and safety of the occupants and the public; and

WHEREAS, the Board of County Commissioners finds it in the best interest of the County to amend Chapter 9.01, effective immediately, to ensure that dangerous buildings can be dealt with in a fair and efficient manner, now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Chapter 9.01, Uniform Code for the Abatement of Dangerous Buildings, is hereby amended as shown on Exhibit A to this ordinance.

**Section 2:** Emergency Clause

The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this Ordinance shall be effective upon its adoption.

ADOPTED this 17th day of December, 2015.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## Chapter 9.01

### 9.01 ~~Uniform~~ Code for the Abatement of Dangerous Buildings and Structures

#### 9.01.010 Purpose

It is the purpose of this chapter to provide a just, equitable and practicable method, to be cumulative with addition to any other, remedy provided by the Building Code, Housing Code or otherwise available by law. Whereby buildings or structures which from any cause endanger the life, limb, health, ~~morals~~, property, safety, or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

- A. The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.
- B. The provisions of this chapter shall apply to all dangerous buildings and structures, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

[Codified by Ord. 05-2000, 7/13/00]

#### 9.01.020 Alterations, Additions and Repairs

All buildings or structures, which are required to be repaired, under the provisions of this chapter, shall ~~be remain~~ subject to ~~the all applicable~~ provisions of ~~Section 3403 the applicable of the Buildinglaw, including but not limited to the Oregon Specialty Code under which they are regulated.~~

[Codified by Ord. 05-2000, 7/13/00]

#### 9.01.030 Administration

- A. The building official and his or her authorized representatives are is hereby ~~authorized~~ delegated full authority to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter, ~~to~~ adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.
- B. The Compliance Hearings Officer appointed pursuant to Chapter 2.07.010, ~~Compliance Hearings Officer, of this code, is hereby appointed as the Board of Appeals~~ has the authority and jurisdiction to conduct hearings to enforce the provisions of ~~for~~ this chapter.
- C. The following Clackamas County employees are "Authorized Representatives" of the building official :
  - 1. The Deputy Building Codes Administrator;
  - 2. The Plan Review Supervisor; and
  - 3. The Structural/Mechanical Inspector Supervisor.



D. words, phrases, and provisions in this chapter shall be construed as specified herein or as specified in the Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language Unabridged; copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

1. BUILDING CODE is the Clackamas County Building Code, as defined in Section 9.02.040.
2. DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 9.01.100 of this chapter.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.040 Inspections**

The health officer, ~~the fire marshal, and~~ the building official, ~~and their staff~~ are hereby authorized to make any such inspections and take such actions as may be required to enforce the provisions of this chapter. Where provisions of the Oregon Fire Code may be at issue, the building office shall consult with a fire marshal prior to taking action under this chapter.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.050 Right of Entry**

~~When it is necessary to make an inspection to enforce the provisions of this chapter.~~ When the health officer, building official or the building official's ~~has~~ authorized representative has reasonable ~~cause suspicion~~ to believe that there exists in a building or upon premises a condition, which is contrary to or in violation of this chapter, ~~that,~~ ~~This~~ makes the building or premises unsafe, dangerous, or hazardous, ~~the building official,~~ the building official's authorized representatives, the health official and their staff may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, ~~provided that if such building or premises were occupied that credentials be presented to the occupant and entry requested.~~ If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry. ~~Authorized representative" shall include the officers named in Section 9.01.040 and their authorized inspection personnel.~~

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.060 Abatement Of Dangerous Buildings**

All buildings or portions thereof, which are determined after inspection or receipt of other verifiable information by the building official to be dangerous, ~~as~~ defined in this chapter, ~~are~~ hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in Section 9.01.100 of this



chapter. In addition to abatement as described herein, a dangerous building may be ordered to be vacated subject to the provisions of this chapter.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.070 Violations**

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, or structure, cause or permit the same to be done in violation of this chapter or any provision of the Building Code.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.080 Inspection Of Work**

All buildings or structures within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official or the building official's authorized representative in accordance with and in the manner provided by this chapter and ~~Sections 108 and 1701~~ of the Building Code.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.090 Board of Appeals Code Compliance Hearings Officer**

A. As authorized by Section 9.01.030 (B) of this code, and subject to Chapter 2.07 of this code, the Code Compliance Hearings Officer shall conduct hearings and render decisions to enforce the provisions of this chapter.

~~A. General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this chapter, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex-officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals, shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant, with a duplicate copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Section 9.01.150 of this chapter. Copies of all rules or regulations adopted by the board shall be delivered to the building official, who shall make them freely accessible to the public.~~

~~B. Limitations of Authority. The Code Compliance Hearings Officer board of appeals shall have no authority relative to interpretation of the administrative provisions of this chapter nor shall the Code Compliance Hearings Officer board be empowered to waive requirements of this chapter.~~

~~C. Definitions. For the purpose of this chapter, certain terms, phrases, words, and their derivatives shall be construed as specified in either this chapter or as specified in the Oregon Specialty Building Codes or the Housing Code. Where terms are not defined,~~



~~they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language Unabridged; copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. BUILDING CODE is the Uniform Building Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction. DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 9.01.100 of this chapter. HOUSING CODE is the Uniform Housing Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.~~  
[Codified by Ord. 05-2000, 7/13/00]

**9.01.100 Dangerous Building or Structure**

For the purpose of this chapter, any building, building system, or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building or structure, provided that such conditions or defects ~~exists to the extent that~~ endanger the life, health, property or safety of ~~the public or its occupants~~ or the public are endangered.

- ~~A. Whenever any door, aisle, passageway, stairway or other exists or is maintained in violation of any specific requirement or means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.~~
- ~~B. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.~~
- ~~C. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.~~
- ~~D. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.~~
- ~~E. Whenever any portion, member, or appurtenance thereof is likely to fail, or to become detached, dislodged, or to collapse and thereby injure persons or damage property.~~
- ~~F. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.~~
- ~~G. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.~~
- ~~H. Whenever the building or structure, or any portion thereof, because of~~
  - ~~1. dilapidation, deterioration or decay;~~



2. ~~faulty construction;~~
  3. ~~the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;~~
  4. ~~the deterioration, decay or inadequacy of its foundation; or~~
  5. ~~any other causes are likely to partially or completely collapse.~~
- I. ~~Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.~~
- J. ~~Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base,~~
- K. ~~Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls, or coverings.~~
- L. ~~Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:~~
1. ~~an attractive nuisance to children;~~
  2. ~~a harbor for vagrants, criminals or immoral persons; or as to~~
  3. ~~Enable persons to resort thereto for the purpose of committing unlawful or immoral acts.~~
- M. ~~Whenever any building or structure has been constructed, exists or maintained in violation of any specific requirement prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or chapter of this state or jurisdiction relating to the condition, location or structure of buildings.~~
- N. ~~Whenever any building or structure which, whether or not erected in accordance with all applicable laws and codes, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the:~~
1. ~~Strength,~~
  2. ~~fire resisting qualities or characteristics,~~
  3. ~~Weather resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.~~
- O. ~~Whenever a building or structure, used or intended to be used for dwelling purposes; because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.~~
- P. ~~Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.~~
- Q. ~~Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.~~
- R. ~~Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is~~



~~abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.~~

~~{Codified by Ord. 05-2000, 7/13/00}~~

- ~~A. Whenever a building or structure is determined to be structurally unsound or defective such that building collapse or other structural failure may occur or where such a structural condition exists that may be injurious to life, limb, or property.~~
- ~~B. Whenever a required door, aisle, passageway, stair, or other exit component or system is blocked or otherwise rendered unusable or is otherwise in violation of any applicable code.~~
- ~~C. Whenever a building or structure is being used or occupied contrary to the manner in which it was approved provided that such use creates a life or fire safety hazard, health hazard, or environmental hazard to the building occupants or adjacent property owners.~~
- ~~D. Whenever a building or structure containsis effected by one or more health hazards including but not limited to inadequate plumbing and/or sanitation, inadequate light and/or ventilation, chemical hazard, toxins, or is otherwise determined to be unfit for human habitation or use.~~
- ~~E. Whenever, for any reason, a building or structure or a portion thereof is manifestly unsafe for the purpose for which it is being used.~~
- ~~F. Whenever a building contains a fire hazard as defined in the most current edition of the Oregon Fire Code that creates an immediate threat to life or fire safety.~~
- ~~G. Whenever any building system (electrical, plumbing, heating, ventilation, air conditioning or other permanently installed system) is determined to be unsafe or otherwise in violation of any applicable code or ordinance.~~
- ~~H. Whenever permanently installed equipment or machinery creates a structural, life or fire safety hazard, health or other hazard.~~
- ~~I. Whenever the accumulation of solid and/or putrescible waste creates a structural, life or fire safety, health or other hazard.~~
- ~~J. Whenever an environmental hazard exists that poses an immediate danger to the occupants of a building or where the continued use of a building will cause the environmental hazard to worsen.~~
- ~~K. Whenever an occupied building lacks access to an operational, potable running water supply.~~
- ~~L. Whenever an occupied building lacks access to a functioning connection to public sewer or an approved and fully operational septic facilities.~~
- ~~M. Whenever any other condition exists that creates a significant structural, life or fire safety, health or other hazard that impacts the occupancy or continued use of buildings or structures. In such cases, the health officer or the building official shall cite the specific reason(s) that the building or structure has been determined to be unsafe.~~

#### 9.01.110 Notices And Orders Of Building Official

~~Commencement of Proceedings.~~—When the building official ~~or the building official's authorized representative~~ has inspected, ~~or~~ caused to be inspected, ~~or received a sufficient amount of verifiable information about~~ any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair,

vacation or demolition of the building.

A. Notice and Order

The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 9.01.100 of this chapter.
3. A statement of the action required to be taken as determined by the building official.
  - a. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits must be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
  - b. If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
  - c. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.
4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official;
  - a. Will order the building vacated and posted to prevent further occupancy until the work is completed, and
  - b. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.
5. Statements advising
  - a. that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the ~~board of appeals~~ Code Compliance Hearings Officer, provided the appeal is made in writing as provided in this chapter and filed with the building official within 30 days from the date of service of such notice and order; and
  - b. ~~that~~That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

B. Service of Notice and Order

The notice and order and any amended or supplemental notice and order, shall be served



upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: The holder ~~of any mortgage, or deed of trust or other legal interest holder; the owner or holder of any mortgage, or deed of trust or other lien or encumbrance of record; the owner or holder~~ of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate, any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

C. Method of Service

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

~~D. Proof of Service~~

~~Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.~~

[Codified by Ord. 05-2000, 7/13/00]

**9.01.120 Recordation Of Notice And Order**

~~A. Where the building official or an authorized representative has determined that a building or structure constitutes an immediate danger to the life, limb, property, or safety of the public, if compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall ~~may~~ file in the office of the county recorder ~~record with the County Clerk~~ a certificate describing the property and certifying that:~~

~~1.A. that the building is a dangerous building; and~~

~~2B. that the owner has been so notified.;~~

~~B. If the building or structure does not constitute an immediate danger to the life, limb, property, or safety of the public, and if the property owner does not obtain compliance with the order within the time specified therein, and no appeal has been properly and timely filed, the building official or an authorized representative may record with the County Clerk a certificate describing the property and certifying that:~~

~~1. the building is a dangerous building; and~~

~~2. the owner has been so notified.~~

~~C. Whenever the corrections ordered shall thereafter have been completed or the ~~h~~Building demolished so that it no longer exists as a dangerous building on the property described~~



in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

[Codified by Ord. 05-2000, 7/13/00]

### 9.01.130 **Repair, Vacation And Demolition**

The following standards shall be followed by the building official (and by the Code Compliance Hearings Officer~~board of appeals~~ if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

- A. Any building declared a dangerous building under this chapter shall be made to comply with one of the following:
1. The building shall be repaired in accordance with the ~~current B~~building ~~C~~code or other current code applicable to the type of substandard conditions requiring repair; or
  2. The building shall be demolished at the option of the building owner; or
  3. Where a building is not occupied If the building and does not otherwise constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured, and maintained against entry in a manner acceptable to the building official. Where a building cannot adequately be secured and maintained against entry, the building official shall have discretion to disallow the securing of the building against entry as an option for resolution of the dangerous condition.
- B. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated and such a building shall remain vacated until such time as the building official or an authorized representative determines the building no longer poses an immediate threat. Upon issuance and posting of an order to vacate a dangerous building it shall be unlawful for anyone to enter or remain in the building without obtaining the prior written permission of the building official or an authorized representative. A person who enters or remains in a duly ordered and posted dangerous building is subject to arrest, criminal prosecution, and any other remedy available at law.

[Codified by Ord. 05-2000, 7/13/00]

### 9.01.140 **Notice-Order To Vacate**

- A. Posting. Every ~~notice-order~~ to vacate shall, in addition to being served as provided in Section 9.01.110, be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER  
UNSAFE TO OCCUPY  
It is a misdemeanor to occupy this building,  
Or to remove or deface this notice.  
Building Official  
..... of .....

- B. Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 9.01.110, reciting the



emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant the provisions of the Building Code.

[Codified by Ord. 05-2000, 7/13/00]

**9.01.150 Appeal**

- A. ~~Form of Appeal.~~—Any person entitled to service under Section 9.01.1~~30~~ may appeal from any notice and order or any action of the building official under this chapter by filing at the office of the building official a written appeal containing:
  - 1. A heading in the words: “Before the ~~Code Compliance Hearings Officer board of appeals of Clackamas County~~ the.~~The . . . . . of . . . . .~~”
  - 2. ~~the~~.~~The . . . . . of . . . . .~~”
  - 3. A caption reading: “Appeal of. . . . .,” giving the names of all appellants participating in the appeal.
  - 4. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
  - 5. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
  - 6. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed modified or otherwise set aside.
  - 7. The signatures of all parties named as appellants and their official mailing addresses.
  - 8. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- B. The appeal shall be filed within 30 days from the date of the service of such order or action of the building official; ~~provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 9.01.140, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.~~
- ~~C. Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the board of appeals.~~
- ~~D.C. Scheduling and Noticing Appeal for Hearing.~~—As soon as practicable after receiving the written appeal, the ~~Code Compliance Hearings Officer board of appeals~~ shall fix a date time and place for the hearing of the appeal by the board. Such date shall not be less than ~~150~~ days and not for more than 60 days from the date. ~~(The appeal was filed with the building official. Written notice of the time and place of the hearing shall be provided in the manner set forth in Section 2.07.050 given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such~~



~~notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.~~

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.160 Effect Of Failure To Appeal**

Failure of any person to file an appeal in accordance with the provisions of Section 9.01.150 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.170 Scope Of Hearing On Appeal**

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.180 Staying Of Order Under Appeal**

Except for vacation orders made pursuant to Section 9.01.140, enforcement of any notice and order of the building official issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.190 Procedures For Conduct Of Hearing Appeals**

- ~~A. — Hearing Examiners. The board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board for decision.~~
- ~~B. — Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.~~
- ~~C. — Reporting. The proceedings at the hearing shall also be reported by a phonographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the board, but shall in no event be greater than the cost involved.~~
- ~~D. — Continuances. The board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.~~
- ~~E. — Oaths — Certification. In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.~~
- ~~F. — Reasonable Dispatch. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience~~



~~and necessity of any parties or their representatives.  
[Codified by Ord. 05-2000, 7/13/00]~~

**9.01.20190 ~~Form Of Notice Of Hearing, Conduct of Hearing, and the Form of Decision on Appeal~~**

~~The notice of hearing, the conduct of the hearing and the form of decision shall be provided in the manner set forth in Section 2.07.050-2.01.100. to appellant shall be substantially in the following form, but may include other information:~~

~~"You are hereby notified that a hearing will be held before (the board of appeals or name of hearing examiner) at . . . . . on the . . . . . Day of . . . . ., 19. . . . at the hour upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with (board of appeals or name of hearing examiner)."~~  
~~[Codified by Ord. 05-2000, 7/13/00]~~

**Subpoenas**

~~Filing of Affidavit. The board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired to things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.~~

~~Case Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.~~

~~Penalties. Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor.~~

~~[Codified by Ord. 05-2000, 7/13/00]~~

**Conduct Of Hearing**

~~Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.~~

~~Oral Evidence. Oral evidence shall be taken only on oath or affirmation.~~

~~Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.~~



~~Admissibility of Evidence.—Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.~~

~~Exclusion of Evidence.—Irrelevant and unduly repetitious evidence shall be excluded.~~

~~Rights of Parties.—Each party shall have these rights, among others:~~

~~To call and examine witnesses on any matter relevant to the issues of the hearing;~~

~~To introduce documentary and physical evidence;~~

~~To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;~~

~~To impeach any witness regardless of which party first called the witness to testify;~~

~~To rebut the evidence; and~~

~~To be represented by anyone who is lawfully permitted to do so.~~

#### ~~Official Notice~~

##### ~~What may be noticed~~

~~In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and codes of the city or rules and regulations of the board.~~

##### ~~Parties to be notified~~

~~Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.~~

##### ~~Opportunity to refute~~

~~Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.~~

##### ~~Inspection of the premises~~

~~The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that notice of such inspection shall be given to the parties before the inspection is made, the parties are given an opportunity to be present during the inspection, and the board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board or hearing examiner.~~

~~[Codified by Ord. 05-2000, 7/13/00]~~

#### ~~Method And Form Of Decision~~

~~Hearing before Board Itself.—When a contested case is heard before the board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.~~

~~Hearing before Examiner.—If a contested case is heard by hearing examiner alone, the examiner shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions, and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiner's reports filed with the board shall be matters of public record. A copy~~



~~of each such report and proposed decision shall be mailed to each party on the date they are filed with the board.~~

~~Consideration of Report by Board Notice. The board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.~~

~~Exceptions to Report. Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the board, any party may present oral argument to the board.~~

~~Disposition by the Board. The board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.~~

~~Proposed Decision Not Adopted. If the proposed decision is not adopted as provided in Section 9.01.230, the board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the examiner shall prepare a report and proposed decision as provided in Section 9.01.230 hereof after any additional evidence is submitted. Consideration of such proposed decision by the board shall comply with the provisions of this section.~~

~~Form of Decision. The decision shall be in writing and shall contain findings of facts, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.~~

~~Effective Date of Decision. The effective date of the decision shall be as stated therein.  
[Codified by Ord. 05-2000, 7/13/00]~~

## **9.01.2400 Compliance**

After any order of the building official or the ~~board of appeals~~Code Compliance Hearings Officer made pursuant to this chapter ~~shall have become~~ final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. ~~Any such person who fails to comply with any such order is guilty of a misdemeanor.~~

A. ~~Failure to Obey Order to Vacate. If, after any order of the building official or board of appeals made pursuant to this chapter has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may;~~

~~1. cause such person to be prosecuted under Section 9.01.240; or~~

A. ~~institute any appropriate action to abate such building as a public nuisance. Any person who fails to comply with an order to vacate a dangerous building is subject to arrest and criminal prosecution, as well as fines, fees, and civil penalties permitted by law.~~

B. ~~Failure to Obey Order to Commence Work/Repair or Demolish Building. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this chapter becomes effective effective person fails to comply with an order to repair or demolish a dangerous building, the building official may:~~

~~1. order the building to be vacated, and by posting at each entrance thereto a notice reading:~~

~~1. DANGEROUS BUILDING DO NOT OCCUPY~~



~~2. It is a misdemeanor to occupy this building,~~

~~3. Or to remove or deface this notice.~~

~~4. Building Official~~

~~5. . . . . of . . . . .~~

~~1. order that nNo person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removals ordered by the building official have been completed, and a certificate of occupancy issued pursuant to the provisions of the Building Code;~~

2. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this chapter. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.2510 Extension Of Time To Perform Work**

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant ~~an extensions~~ of time, in increments of 60 additional days not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.2620 Interference With Repair Or Demolition Work Prohibited**

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this chapter, or in performing any



necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.2730 Performance Of Work Of Repair Or Demolition**

~~Procedure.~~—When any work of repair or demolition is to be done pursuant to Section 9.01.2040, of this chapter, the building official shall issue an order therefor to the director of ~~public works~~the Department of Transportation and Development and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

~~C. — Costs.~~—~~The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.~~

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.2840 Repair And Demolition Fund**

~~The Board of County Commissioners hereby creates a Repair and Demolition fund to be used for the purpose of repairing, demolishing, and taking steps to mitigate dangerous buildings that pose an immediate threat to the health and safety of the occupants or the public. Expenditures from the fund may be made by the County Building Official, upon advising the Department Director.~~

~~A. — General.~~—~~The legislative body of this jurisdiction shall establish a special revolving fund to be designated as the repair and demolition fund. Payments shall be made out of said fund upon the demand of the director of public works to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.~~

~~Maintenance of Fund.~~—~~The legislative body may at any time transfer to the repair and demolition fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of a jurisdiction who shall credit the same to the repair and demolition fund.~~

[Codified by Ord. 05-2000, 7/13/00]

#### **9.01.2950 Recovery Of Cost Of Repair Or Demolition**

The director of ~~public works~~the Department of Transportation or his or her designee shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any



building done pursuant to the provisions of Section 9.01.240, of this chapter. Upon the completion of the work of repair or demolition, said director shall prepare and ~~file-record~~ with the clerk of this jurisdiction a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 9.01.110.

Thereafter the Building Official shall make all reasonable efforts to recover the amounts spent and costs of said work shall become a lien on the property and a debt for which the record owner(s) and interest holders are personally liable until paid in full. Said lien shall be enforceable in any manner provided by law.

[Codified by Ord. 05-2000, 7/13/00]

### ~~9.01.300~~ — ~~Notice Of Hearing~~

~~Upon receipt of said report, the clerk of this jurisdiction shall present it to the legislative body of this jurisdiction for consideration. The legislative body of this jurisdiction shall fix a time, date and place for hearing said report and any protests or objections thereto. The clerk of this jurisdiction shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Such notice shall be given at least 10 days prior to the date set for the hearing and shall specify the day, hour and place when the legislative body will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.~~

~~[Codified by Ord. 05-2000, 7/13/00]~~

### ~~9.01.310~~ — ~~Protests And Objections~~

~~Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of this jurisdiction at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of this jurisdiction shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the legislative body of this jurisdiction at the time set for the hearing, and no other protests or objections shall be considered.~~

~~[Codified by Ord. 05-2000, 7/13/00]~~

### ~~9.01.320~~ — ~~Hearing Of Protests~~

~~Upon the day and hour fixed for the hearing, the legislative body of this jurisdiction shall hear and pass upon the report of the director together with any such objections or protests. The legislative body may make such revision, correction or modification in the report or the charge as it may deem just; and when the legislative body is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the legislative body of this jurisdiction on the report, the charge, and on all protests or objections shall be final and conclusive.~~



~~{Codified by Ord. 05-2000, 7/13/00}~~

~~9.01.330 — Personal Obligation Or Special Assessment~~

- ~~A. — The legislative body of this jurisdiction may thereupon order that said charge should be made a personal obligation of the property owner or assess said charge against the property involved.~~
- ~~B. — Personal Obligation. If the legislative body of this jurisdiction orders that the charge shall be a personal obligation of the property owner, it shall direct the attorney for this jurisdiction to collect the same on behalf of this jurisdiction by use of all appropriate legal remedies.~~
- ~~C. — Special Assessment. If the legislative body of this jurisdiction order that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.~~

~~{Codified by Ord. 05-2000, 7/13/00}~~

~~9.01.340 Contest~~

~~The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.~~

~~{Codified by Ord. 05-2000, 7/13/00}~~

~~9.01.350 Authority For Installment Payment Of Assessments With Interest~~

~~The legislative body of this jurisdiction, in its discretion, may determine that assessments in amounts of \$500.00 or more shall be payable in not to exceed five equal annual installments. The legislative body's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment. [Codified by Ord. 05-2000, 7/13/00]~~

~~9.01.360 Lien Of Assessment~~

- ~~A. — Priority. Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property cases with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.~~
- ~~B. — Interest. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date.~~



~~{Codified by Ord. 05-2000, 7/13/00}~~

~~**9.01.370 Report To Assessor And Tax Collector: Addition Of Assessment To Tax Bill**~~

~~After confirmation of the report, certified copies of the assessment shall be given to the assessor and the tax collector for this jurisdiction, who shall add the amount of the assessment to the past regular tax bill levied against the parcel for municipal purposes. {Codified by Ord. 05-2000, 7/13/00}~~

~~**9.01.380 Filing Copy Of Report With County Auditor**~~

~~If the county assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the county auditor on or before August 10. The descriptions of the parcels reported should be those used for the same parcels on the county assessor's map books for the current year.~~

~~{Codified by Ord. 05-2000, 7/13/00}~~

~~**9.01.390 Collection Of Assessment: Penalties For Foreclosure**~~

~~A. — The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection, and enforcement of property taxes shall be applicable to such assessment.~~

~~B. — If the legislative body of this jurisdiction has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.~~

~~{Codified by Ord. 05-2000, 7/13/00}~~

~~**9.01.400 Repayment Of Repair And Demolition Fund**~~

~~All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this jurisdiction, who shall credit the same to the repair and demolition fund.~~

~~{Codified by Ord. 05-2000, 7/13/00}~~

9.01.260 Remedies not Exclusive

None of the remedies described in this chapter are exclusive and the County may pursue any other remedies available to it including, but not limited to, commencing a civil action in a court of competent jurisdiction.





6

Water Quality Protection  
Surface Water Management  
Wastewater Collection & Treatment

Gregory L. Geist  
Director

December 14, 2015

Board of County Commissioners  
Clackamas County

Members of the Board:

Authorization for Clackamas County Service District No.1 to enter into Phase I of an Agreement  
for Professional Engineering Services between the District and  
**MWH AMERICAS, INC.**

For the  
Tri-City Water Pollution Control Plant Solids Handling Improvements Project

<b>Purpose/Outcomes</b>	This project is the first of a four phase project. Phase I will confirm need, evaluate alternatives and define facilities for expanding the capacity of the solids processing facilities to provide adequate capacity and stable operation at the best value to rate payers.
<b>Dollar Amount and Fiscal Impact</b>	Funding for Phase I of the professional engineering services is available in the FY2015-16 budget and funding will be requested in the FY2016-17 budget. The agreement is for an amount not to exceed \$528,862.95 for CCSD No.1 and \$310,602.05 for the Tri-City Service District. Total agreement amount not to exceed \$839,465.
<b>Funding Source</b>	Clackamas County Service District No.1 and Tri-City Service District FY 2015-16 annual budgets
<b>Safety Impact</b>	None
<b>Duration</b>	Project Duration: Phase 1: November 2015 to June 2016 Estimated Project Completion: June 2019
<b>Previous Board Action</b>	None
<b>Contact Person</b>	Randy Rosane PE, Project Manager – Water Environment Services – 503-742-4573
<b>Contract No.</b>	P112162 & P202162

**BACKGROUND:**

The Tri-City Water Pollution Control Plant (WPCP) was placed into operation in 1986 with a design capacity based on an average dry weather flow of 8.4-million gallons per day (mgd), a maximum month influent load to the treatment plant of 18,095-lbs/day of BOD and 18,785-

lbs/day of TSS. The liquid capacity of the Tri-City WPCP was expanded in January 2011. The expansion was scheduled to be followed with the expansion and upgrade of the solids handling facilities with startup in 2013. Due to the economic downturn in 2012 the solids expansion was postponed. The solids handling process is now at capacity and is currently operating with no process redundancy. The Tri-City Service District and Clackamas County Service District No. 1 (The Districts) will share the cost 37% Tri-City, 63% Clackamas County Service District No.1. The solids handling improvements project cannot be delayed any longer and the Districts must move forward with design and construction.

On May 4, 2015 the Districts issued a Request for Qualifications soliciting statements of qualifications (SOQ) from interested consultants to provide engineering and consulting services to assist the Districts in developing and implementing a plan for refurbishing and expanding the existing solids handling process facilities at the Tri-City WPCP.

Proposals were received on June 11, 2015 and were reviewed and scored by members of the selection committee that consisted of representatives from both Districts including: West Linn, Oregon City, Happy Valley and WES staff.

After scoring written SOQs, the two highest scoring firms were invited to give an oral presentation. After scoring both the written and oral presentations the selection committee selected MWH Americas, Inc. as the most qualified candidate.

The agreement for services will be negotiated in four phases. Phase I (Conceptual Design) will project current and future flows and loads, define existing facilities capacity and future capacity needs, screen technologies for solids handling facilities and prepare a 15% conceptual design and a planning level cost estimate.

Once this phase is complete, agreements will be negotiated for subsequent phases to include design and construction services.

This agreement has been reviewed and approved by county counsel.

The scope for this agreement was provided to members of the Regional Wastewater Treatment Capacity Advisory Committee ("Regional Committee") and the public works staff of stakeholder cities for their review. WES staff had several meetings with city staff to discuss the scope and receive feedback. The scope was discussed at the December 10th meeting of the Regional Committee, and work products from this agreement will support the further work and deliberations of the Regional Committee in making a recommendation to the BCC for a course of action regarding solids handling.

#### **RECOMMENDATION:**

For these reasons, staff recommends:

The Board of County Commissioners, acting as the governing body of Clackamas County Service District No.1, approve Phase I of the agreement between the District and MWH Americas, Inc. for an amount not to exceed \$528,862.95.

Respectfully submitted,



Greg Geist  
Director, WES



Water Quality Protection  
Surface Water Management  
Wastewater Collection & Treatment

Gregory L. Geist  
Director

December 14, 2015

Board of County Commissioners  
Clackamas County

Members of the Board:

Authorization for the Tri-City Service District to enter into Phase I of an Agreement for Professional Engineering Services between the District's and MWH AMERICAS, INC.

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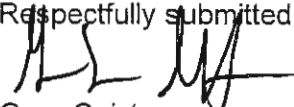
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#### **RECOMMENDATION:**

For these reasons, staff recommends:

The Board of County Commissioners, acting as the governing body of the Tri-City Service District, approve Phase I of the agreement between the District and MWH Americas, Inc. for an amount not to exceed \$310,602.05

Respectfully submitted,



Greg Geist  
Director, WES



**AGREEMENT TO FURNISH PROFESSIONAL SERVICES  
FOR  
CONSULTING SERVICES FOR THE CLACKAMAS COUNTY SERVICE DISTRICT  
NO.1 AND TRI-CITY SERVICE DISTRICT WASTE WATER POLLUTION CONTROL  
PLANT SOLIDS HANDLING IMPROVEMENTS PROJECT**

THIS AGREEMENT to furnish Consulting Services (this "Agreement"), made and entered into on this \_\_\_\_ day of \_\_\_\_\_ in the year 2015 by and between CLACKAMAS COUNTY SERVICE DISTRICT NO. 1, TRI-CITY SERVICE DISTRICT county service districts formed under ORS 451 (hereinafter referred to as the "District") and MWH Americas, Inc. a California Corporation(the "Consultant").

**RECITALS**

WITNESSETH: That whereas the District intends to engage the Consultant to perform the professional services described in the Request for Proposal, the Proposal Response and Exhibit A ("Services"), on the schedule set forth on Exhibit B ("Schedule"), each as attached hereto and incorporated by reference, hereinafter called the "Project."

NOW, THEREFORE, the District and the Consultant for the considerations hereinafter set forth agree as follows:

**ARTICLE 1 - SERVICES OF THE CONSULTANT**

The Consultant agrees to perform, in accordance with applicable District, local, state and federal laws, statutes, ordinances, rules and regulations, professional services in connection with the Project. The Services to be provided under this Project are described above.

**ARTICLE 2 - DISTRICT'S RESPONSIBILITIES**

Unless otherwise specifically modified in Exhibit A, the District will:

- 2.1 Provide adequate information to the Consultant regarding the District's requirements for the Project.
- 2.2 Assist the Consultant by making available all reasonably available information and technical data pertinent to the Project including previous reports and any other data relative to design and construction of the Project.
- 2.3 In accordance with applicable District, local, state or federal laws or statutes, ordinances, rules or regulations, provide access upon reasonable notice and make all necessary provisions for the Consultant to enter upon public and private property as required for the Consultant to perform services under this Agreement.
- 2.4 Acquire all the necessary land, easements and rights-of-way required for the Project.
- 2.5 Furnish to the Consultant, prior to the Consultant's preparation of the work product, a copy of any design and construction standards the District shall require the Consultant to follow in the preparation of the work product.



- 2.6 Obtain approvals and permits from governmental authorities having jurisdiction over the Project, and such approvals and consents from others as may be necessary for completion of the Project (excepting any personal qualifications or certifications required for the Consultant to perform the work contemplated hereunder).
- 2.7 Give prompt notice to the Consultant whenever the District observes or otherwise becomes aware of any defect or delay in the Project.

### **ARTICLE 3 – CONSULTANT’S RESPONSIBILITIES**

3.1 The Consultant agrees to complete the project tasks described in Exhibit A. If the District has requested significant modifications or changes in the scope of the Project pursuant to Section 3.4, the time of performance of the Consultant’s services shall be adjusted accordingly.

#### **3.2 Standards of Performance**

- 3.2.1 The standard of care for all professional and related services performed or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the Consultant’s profession.
- 3.2.2 The Consultant shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the District shall not be responsible for discovering deficiencies therein. The Consultant shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in District-furnished information.
- 3.2.3 The Consultant and the District shall comply with applicable Laws or Regulations and District-mandated standards. Any changes to these requirements during the term of this Agreement shall not be the basis for any modifications to the Consultant’s scope of services, times of performance, or compensation.

#### **3.3 Quality Assurance**

The District will conduct a full review of products produced under this Agreement when first submitted for review and comments. The review may be done by several people. These comments will be provided to the Consultant within a reasonable time. The Consultant shall consider each comment and respond to the District within fifteen (15) days regarding the disposition of the issue. The method of disposition can be any of the following actions: (i) submittal corrected per the comment, (ii) comment was not accepted for the following reason: \_\_, or (iii) comment was resolved in combination with other issues as described. The revised product shall include a response to each comment on a comment form as approved by the District. The District shall have the option to conduct another full review or to spot check the document to see that the documents reflect the changes indicated on the review report. If any comment was ignored, neglected, or the District disagrees with the Consultant regarding their refusal to accept a comment, the District may stop any further review and return the document to

the Consultant marked as incomplete. The Consultant shall correct the documents to the District's satisfaction and then declare the documents complete. If all comments are not resolved to the District's satisfaction in its sole discretion, the District shall declare the documents incomplete and the Consultant agrees to pay any change orders, cost of additional staff time, and all related administrative costs arising out of any inconsistencies, omissions, or errors in the incomplete reports, plans or specifications, including resulting delay and disruption costs. The first full review of any document or submittal will be done by the District at the District's cost. Any subsequent review beyond a spot check will be completed at the Consultant's cost and will be back-charged on an hourly basis at the average billing rate of the Consultant's work under this Agreement.

### 3.4 Changes

In the normal course of administering the work under this Agreement, the District may give directives to the Consultant, either written or verbal, which may constitute a change to the Scope of Work or Schedule. If an instruction, directive or decision is given that the Consultant believes is a change in scope or schedule, the Consultant shall notify the District within seven (7) calendar days of receiving such directive or instruction. The notice shall state the general nature of the change, but need not include a detailed cost or impact estimate. Failure to give timely written notice relieves the District from any obligation to adjust the Agreement amount, scope or schedule as an amendment to the Agreement for Services. Proposed amendments described in such notices to the Scope of Work or Schedule, as well as changes to other terms and conditions, shall be processed as provided in Paragraph 6.25 hereof.

### 3.5 Consultant's Project Manager

The Consultant shall assign the following key personnel to do the work in the capacities and amounts designated below. The following also lists an estimated range of effort the key personnel will spend on the Project based on the Services, Schedule and Compensation amount in this Agreement.

Person/Firm	Position	Level Of Effort Range (Hours)
Steve Hyland/MWH	Project Manager	512-624
Dick Talley	Principal in Charge	20-28
Don Spiegel	QA/QC Advisor	40-48
Dr. Art Umble	Technical Lead	66-80
Dr. John Kabouris	Technical Lead	76-96
Mark Graham	Design Manager	144-176
Josh Papp	Electrical Engineer	135-165

The Consultant shall not change these personnel assignments without the prior written consent of the Project Manager, which consent shall not be unreasonably withheld.

## **ARTICLE 4 - AUTHORIZATION, SCHEDULES AND COMPLETION**

**4.1** Specific authorization to proceed with the Services shall be granted in writing by the District within a reasonable time after the execution of this Agreement. The Consultant shall not proceed with the work without such authorization. The District's Project Manager, as defined in Paragraph 4.5, shall have authority to give such authorizations.

**4.2** This Agreement shall be effective as of the Consultant's receipt of the written authorization to proceed and shall be completed as set forth in the attached Exhibit B, as amended (the "Schedule").

**4.3** As part of the Services, within ten (10) days after receipt of the authorization to proceed, the Consultant shall submit for the District's approval a detailed time schedule for all Services showing how these services will be carried out within the general schedule set forth on Exhibit B. This detailed supplement to the Schedule shall be prepared in a form approved by the District. This Schedule shall include allowance for periods of time required for the District's review and approval of submissions and for approvals of other authorities having jurisdiction over the Project. This Schedule shall be brought up to date and submitted to the District at the end of each month, along with payment requests and the Engineer's written monthly progress reports. If progress lags by two weeks or more, the schedule shall be updated weekly.

### **4.4 Progress Schedule Submittal**

The updates shall indicate the actual start and finish dates of each activity that has been completed prior to the update data date. Actual start dates and the remaining duration shall be posted for each activity that is in progress on the data date. Estimates of percent complete will not be an acceptable substitute for a remaining duration figure. All work remaining to be completed shall be scheduled after the Schedule's progress data date.

### **4.5 District's Project Manager**

The District's Project Manager is authorized to approve work and billings hereunder, approve sub consultants, give notices referred to herein, terminate this Agreement as provided herein and carry out any other District actions referred to herein. The District's Project Manager shall be Randy Rosane, P.E.

## **ARTICLE 5 - PAYMENTS TO CONSULTANT**

In accordance with the terms and conditions of this Agreement, the District shall compensate the Consultant as follows:

### **5.1 Compensation**

- 5.1.1 The District agrees to pay Consultant an amount not to exceed \$839,465 (the "Maximum Amount") for services as billed monthly. Notwithstanding anything else to the contrary herein, no changes in the Maximum Amount shall be made without prior written approval of the District.
- 5.1.2 The Consultant is entitled to no compensation for the correction or revision of any errors or deficiencies in any designs, drawings, specification or other services.
- 5.1.3 The District may withhold from payments due the Consultant such sums as are necessary, in the District's sole and absolute discretion, to protect the District against any loss or damage which may result from negligence or unsatisfactory work by the Consultant, the failure of the Consultant to perform as required under this Agreement, or claims filed against the Consultant or the District relating to the Consultant's services or work under this Agreement.

### **5.2 Billing and Payment Procedure**

- 5.2.1 The Consultant will provide monthly percentage complete invoices to the District for work performed during the preceding month. The invoices will be accompanied by a monthly progress report for each Services Task listed in Exhibit A (Task"), which shall be a narrative of work accomplished, tied to the milestones indicated in the Schedule. For each Task, the progress report will include: budgeted hours, actual hours spent, dollars spent, dollars remaining, percent spent and estimate of percent complete. The Consultant shall maintain detailed records to support these charges and such records shall be available to the District for audit and copying. The District shall pay monthly payments to the Consultant within thirty (30) days of the District's receipt of the Consultant's monthly statement. Interest on unpaid payments due shall accrue at the rate of 1% per month beginning the 60th day after the District's receipt of the Consultant's statement. No interest shall be paid on disputed amounts.

## **ARTICLE 6 - GENERAL CONDITIONS**

### **6.1 Early Termination of Agreement**

- 6.1.1 The District and the Consultant, by mutual written agreement, may terminate this Agreement at any time.
- 6.1.2 The District, on thirty (30) days' prior written notice to the Consultant, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

6.1.3 Either the District or the Consultant may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving a written notice of termination stating the effective date of the termination.

## **6.2 Payment on Early Termination**

6.2.1 In the event of termination under Paragraphs 6.1.1 or 6.1.2, hereof, the District shall pay the Consultant for work performed in accordance with the Agreement prior to the termination date.

6.2.2 In the event of termination under Paragraph 6.1.3 hereof by the Consultant due to a breach by the District, then the District shall pay the Consultant as provided in Paragraph 6.2.3.

6.2.3 In the event of termination under Paragraph 6.1.3 hereof by the District due to a breach by the Consultant, then the District shall pay the Consultant as provided in Paragraph 6.2.1, subject to set off of excess costs, as provided for in Paragraphs 5.1.3 and 6.3.

6.2.4 In the event of early termination, all of the Consultant's work product will become and remain property of the District.

## **6.3 Remedies**

6.3.1 In the event of termination under Paragraph 6.1.3 by the District due to a breach by the Consultant, then the District may complete the work either itself, or by agreement with another Consultant, or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the compensation provided under Paragraph 5.1.1 hereof then the Consultant shall pay to the District the amount of the excess.

6.3.2 The remedies provided to the District under Paragraph 6.1, Paragraph 6.2, and Paragraph 6.3 hereof, for a breach by the Consultant shall not be exclusive. The District also shall be entitled to any other equitable and legal remedies that may be available.

6.3.3 In the event of breach of this Agreement by the District, then the Consultant's remedy shall be limited to termination of the Agreement and receipt of payment as provided in Paragraphs 6.1 and 6.2 hereof.

## **6.4 Indemnification and Insurance**

- 6.4.1 The Consultant agrees to indemnify, hold harmless and defend the District, its officers, commissioners, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof (including attorney's fees), arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Consultant or the Consultant's employees or agents.
- 6.4.2 The Consultant agrees to furnish the District evidence of commercial general liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence / \$2,000,000 general annual aggregate for personal injury and property damage for the protection of the District, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof in any way related to this Agreement. The District, at its option, may require a complete copy of the above policy.
- 6.4.3 If the Consultant has the assistance of other persons in the performance of this contract, and the Consultant is a subject employer, the Consultant agrees to qualify and remain qualified for the term of this Agreement as an insured employer under ORS 656. The Consultant shall maintain employer's liability insurance with limits of \$100,000 each | accident, \$100,000 disease each employee, and \$500,000 each policy limit.
- 6.4.4 If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Agreement for a duration of thirty-six (36) months or the maximum time period the Consultant's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Agreement.
- 6.4.5 The Consultant agrees to furnish the District evidence of business automobile liability insurance in the amount of not less than \$1,000,000 combined single limit for bodily injury and property damage for the protection of the District, its officers, commissioners, and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Agreement. The District, at its option, may require a complete copy of the above policy.
- 6.4.6 If the services to be provided pursuant to the Proposal Response are professional and/or consultative, the Consultant shall furnish the District evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for personal injury and property damage and malpractice or error and omission coverage for the protection of the District, its officers, commissioners, agents and employees against liability for damages because of personal injury, bodily injury, death, damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to the

performance of the Consultant or the Consultant's agents or employees under this Agreement. The District, at its option, may require a complete copy of the above policy.

- 6.4.7 The insurance, other than the Professional Liability and Workers' Compensation insurance, shall include the District as a scheduled additional insured. Proof of insurance must include a copy of the endorsement showing the District as a scheduled insured. Such insurance shall provide thirty (30) days written notice to the District in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the District under this insurance. This policy(s) shall be primary insurance as respects to the District. Any insurance or self-insurance maintained by the District shall be excess and shall not contribute to it.
- 6.4.8 The Consultant shall require that all of its subconsultants of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Consultant under this Agreement, unless this requirement is expressly modified or waived by the District in writing.

## **6.5 Oregon Law and Forum**

- 6.5.1 This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 6.5.2 Any litigation between the District and the Consultant arising under this Agreement or | out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.

## **6.6 Workers' Compensation Coverage Requirements**

The Consultant is an independent contractor for purposes of the Oregon Workers' Compensation Law, as set forth in ORS Chapter 656 ("Workers' Comp Law") and is solely liable for any Workers' Compensation coverage under this Agreement. If the Consultant hires sub consultants for the performance of this Agreement, the Consultant agrees to require that the sub consultant(s) shall comply with ORS Chapter 656. The signing of this Agreement shall constitute the declaration of independent contractor status by the Consultant.

- 6.6.1 The Consultant will be solely responsible for payment of any local, state or federal taxes required as a result of this Agreement.
- 6.6.2 This Agreement is not intended to entitle the Consultant to any benefits generally granted to the District, officers, commissioners, agents or employees. Without limitation, but by way of illustration, the benefits not intended to be extended by this Agreement to the Consultant are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime pay, Social Security, workers' compensation, unemployment compensation, or retirement benefits (except so far as benefits are required by law if the Consultant is presently a member of the Public





## **6.10 Severability**

If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

## **6.11 Integration**

This Agreement contains the entire agreement between the District and the Consultant and supersedes all prior written or oral discussions or agreements.

## **6.12 Funds**

The District certifies that sufficient funds are available and authorized for expenditure pursuant to this Agreement in Fiscal Years 2014-2015. The funds needed for the balance of the Agreement are subject to appropriation by the Board of County Commissioners, acting as the governing body of the District, during the budget processes. If the District Board does not appropriate funds for subsequent fiscal years for the balance of this Agreement, the District may immediately terminate this Agreement by giving written notice of termination to the Consultant. The Consultant shall not be entitled to compensation for any work performed after the date of such written termination notice. The District shall also have the right to accelerate or decelerate the work to match funding limitations. Any termination for lack of funds shall not constitute an "Early Termination" as such term is used in Paragraph 6.1.

## **6.13 Estimates of Cost**

The estimates of cost for a Project provided for herein are to be prepared by the Consultant through exercise of experience and judgment in applying currently available cost data. It is recognized that the Consultant has no control over cost of labor and materials, or over competitive bidding procedures and market conditions, so the Consultant cannot warrant that Project construction costs will not vary from cost estimates. However, the Consultant will keep the District apprised of changes throughout the Project that significantly impact the estimated construction costs provided.

## **6.14 Ownership of Documents**

6.14.1 All work the Consultant performs under this Agreement shall be considered work made for hire and shall be the sole and exclusive property of the District. The District shall own any and all data, documents, plans, copyrights, specifications, working papers and any other materials the Consultant produces in connection with this Agreement. On completion or termination of the Agreement the Consultant shall promptly deliver these materials to the Project Manager.

- 6.14.2 The Consultant may retain for its own records and at its own cost copies of the materials referred to in subsection (a) of this section.
- 6.14.3 Any use the District makes of the materials referred to in subsection (a) of this section, except for purposes of the work contemplated by this Agreement, shall be at the District's risk.
- 6.14.4 The District shall not reuse the sealed plans and specifications for construction of any subsequent projects without the Consultant's knowledge and approval.

### **6.15 Commencement of Work**

The Consultant agrees that work being done pursuant to this Agreement will not be commenced until after:

- 6.15.1 All Insurance is obtained, as specified in Paragraph 6.4 and 6.6.
- 6.15.2 This Agreement is fully executed by all parties and approved by the Board of County Commissioners and/or Director when applicable.
- 6.15.3 The receipt of a written authorization to proceed from the Project Manager.

### **6.16 Release of Information**

No information relative to the Project shall be released by the Consultant for publication, advertising, communication with the media, or for any other purpose, without prior written approval of the District.

### **6.17 Maintenance of Records**

The Consultant shall maintain books and accounts of payroll costs, travel, subsistence, field contracted services of others and reimbursable expenses pertaining to each Project in accordance with generally accepted professional practices, appropriate accounting procedures and applicable local, state or federal laws, statutes, ordinances, or rules and regulations. The District or its authorized representative shall have the authority to inspect, audit and copy, on reasonable notice and from time to time, any records of the Consultant regarding its billings or any record arising from or related to this Agreement. Records shall be maintained and available until three (3) years after the date of final Project billing or until three (3) years after the date of resolution of any litigation or claim.

### **6.18 Audit of Payments**

- 6.18.1 The District, either directly or through a designated representative, may audit the records of the Consultant at any time during the three (3) year period established by Paragraph 6.17.

6.18.2 If an audit discloses that payments to the Consultant were in excess of the amount to which the Consultant was entitled, then the Consultant shall immediately repay the amount of the excess to the District.

## **6.19 Public Contracting Law**

Pursuant to the requirements of ORS Chapters 279A and 279C, the following terms and conditions are made a part of this Agreement:

6.19.1 The Consultant agrees that he or she shall:

- a. Make payments promptly, as due, to all persons supplying to the Consultant labor or materials for the performance of work contemplated by this Agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund incurred in the performance of this Agreement.
- c. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167 or its successor statutes.
- d. Not permit any lien or claim to be filed or prosecuted against the State of Oregon, Clackamas County, the District, any municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

6.19.2 If the Consultant fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Consultant by any person in connection with this Agreement, as such claim becomes due, the proper office representing District may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Consultant by reason of this Agreement. Further, the Consultant or any first-tier subconsultant under this Agreement fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Consultant by any person in connection with this Agreement within thirty (30) days after receipt of payment from District or the Consultant, as applicable, then such person shall owe the unpaid person the amount due plus interest charges commencing at the end of the ten (10) day period under ORS 279C.580(4) and ending upon final payment unless subject to a good faith dispute as defined in ORS 279C.580. The rate of interest shall be as set forth in ORS 279C.515(2).

6.19.3 No person shall be employed for more than eight (8) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100(5) or as defined in the District's Contract Review Board Rules, the laborer shall be paid at least time and a half pay for all overtime in excess of eight (8) hours a day and for work performed on Saturday and on any legal holiday, as specified in ORS 279C.

- 6.19.4 If this Agreement is for personal services as defined in ORS 279C or as defined in the District's Contract Review Board Rules, the laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.
- 6.19.5 The Consultant shall promptly, as due, make payment to any person, partnership, association, corporation, or other entity furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of the Consultant, of all sums which the Consultant agrees to pay for such services and all moneys and sums which the Consultant collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.
- 6.19.6 The Consultant and all employers working under this Agreement are subject employers under ORS 656.017.
- 6.19.7 The Consultant shall demonstrate that an employee drug testing program is in place before commencing work on the Project.

## **6.20 Equal Employment Opportunity**

During the performance of this Agreement, the Consultant agrees as follows:

- 6.20.1 The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, age, mental or physical handicap or a national origin. The Consultant agrees that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, marital status, age, mental or physical handicap, or national origin. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided setting forth the provisions of this Equal Opportunity Clause.
- 6.20.2 The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, marital status, age, physical or mental handicap or national origin.
- 6.20.3 The Consultant will send to each labor union or representative of workers with which Consultant has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers' representative of the Consultant's commitments under this Equal Opportunity Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

## 6.21 Tax Laws

6.21.1 The Consultant represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Agreement, has faithfully complied with:

- a. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- b. Any tax provisions imposed by a political subdivision of this state that applied to Consultant, to Consultant's property, operations, receipts, or income, or to Consultant's performance of or compensation for any work performed by Consultant;
- c. Any tax provisions imposed by a political subdivision of this state that applied to Consultant, or to goods, services, or property, whether tangible or intangible, provided by Consultant; and
- d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

6.21.2 Consultant must, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Agreement. Further, any violation of Consultant's warranty in this Agreement that Consultant has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Agreement. Any violation shall entitle District to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

- a. Termination of this Agreement, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Consultant, in an amount equal to District's setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. District shall be entitled to recover any and all damages suffered as the result of District's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and District may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

## **6.22 Survival**

All express representations, indemnifications or limitations of liability included in this Agreement shall survive its completion and/or termination for any reason.

## **6.23 Headings**

The headings used in this Agreement are for general reference only and are not part of the Agreement language. This Agreement should be construed without giving any meaning to any headings included herein.

## **6.24 Dispute Resolution**

Any controversy or claim arising out of or relating to this Agreement or any related agreement shall be settled by arbitration in accordance with the following provisions:

- 6.24.1 Disputes Covered. The parties agree to arbitrate all disputes of every kind relating to or arising out of this Agreement. Disputes include actions for breach of contract with respect to this Agreement, as well as any claim based upon tort or any other causes of action relating to the Agreement or the Project, such as claims based upon an allegation of fraud or misrepresentation and claims based upon a federal or state statute. In addition, the arbitrators selected according to procedures set forth below shall determine the arbitrability of any matter brought to them, and their decision shall be final and binding on the parties.
- 6.24.2 Forum. The forum for the arbitration shall be Clackamas County, Oregon.
- 6.24.3 Law. The governing law for the arbitration shall be the law of the State of Oregon, without reference to its conflicts of laws provisions.
- 6.24.4 Selection. There shall be three arbitrators, unless the parties are able to agree on a single arbitrator. In the absence of such agreement within ten (10) days after the initiation of an arbitration proceeding, the District shall select one arbitrator and the Consultant shall select one arbitrator, and those two arbitrators shall then select, within ten (10) days, a third arbitrator. If those two arbitrators are unable to select a third arbitrator within such ten (10)-day period, a third arbitrator shall be appointed by the commercial panel of the American Arbitration Association. The decision in writing of at least two of the three arbitrators shall be final and binding upon the parties.
- 6.24.5 Administration. The arbitration shall be administered by the American Arbitration Association.



- 6.24.6 Rules. The rules of arbitration shall be the Commercial Arbitration Rules of the American Arbitration Association, as modified by any other instructions that the parties may agree upon at the time, except that each party shall have the right to conduct discovery in any manner and to the extent authorized by the Federal Rules of Civil Procedure as interpreted by the federal courts. If there is any conflict between those Rules and the provisions of this section, the provisions of this section shall prevail.
- 6.24.7 Substantive Law. The arbitrators shall be bound by and shall strictly enforce the terms of this Agreement and may not limit, expand or otherwise modify its terms. The arbitrators shall make a good faith effort to apply substantive applicable law, but an arbitration decision shall not be subject to review because of errors of law. The arbitrators shall be bound to honor claims of privilege or work-product doctrine recognized at law, but the arbitrators shall have the discretion to determine whether any such claim of privilege or work product doctrine applies.
- 6.24.8 Decision. The arbitrators' decision shall provide a reasoned basis for the resolution of each dispute and for any award. The arbitrators shall not have power to award damages in connection with any dispute in excess of actual compensatory damages and shall not multiply actual damages or award consequential or punitive damages.
- 6.24.9 Expenses. Each party shall bear its own fees and expenses with respect to the arbitration and any proceeding related thereto and the parties shall share equally the fees and expenses of the American Arbitration Association and the arbitrators.
- 6.24.10 Remedies; Award. The arbitrators shall have power and authority to award any remedy or judgment that could be awarded by a court of law in the State of Oregon. The award rendered by arbitration shall be final and binding upon the parties, and judgment upon the award may be entered in any court of competent jurisdiction in the United States.

## **6.25 Amendments**

The District and the Consultant may amend this Agreement at any time only by written amendment executed by the District and the Consultant. Any amendment that increases the amount of compensation payable to the Consultant in excess of the amounts authorized in prior Board approvals shall be subject to approval by the Board of County Commissioners, acting as the governing body of the District. The Director or person designated in the Board order approving or amending this Agreement may execute amendments to the Agreement to increase compensation within the limits of the authority established by the District's Contract Review Board Rules and within the limits authorized by prior Board approvals. The Project Manager may agree to and execute any other amendment on behalf of the District.

## **6.26 Waiver**

The District and the Consultant shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even

though the other breach be of the same nature as that waived.

**6.26** Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

NWH AMERICAS  
806 SW BROADWAY Ste 200  
Portland OR 97205

COMPANY  
ADDRESS

Board of County Commissioners Acting as  
Governing Body for Clackamas County  
Service District No.1 and Tri-City Service  
District

CLACKAMAS COUNTY SERVICE  
DISTRICT NO. 1

*Richard Talley*

Authorized Signature  
Richard Talley/ Oregon Area Manager

Chair

Name / Title (Printed)

TRI-CITY SERVICE DISTRICT

November 24, 2015

Date

Chair

503-220-5423

Telephone Number / Fax Number  
95-1878805

Recording Secretary

Federal Tax ID Number

Date

192933

APPROVED AS TO FORM

Oregon Business Registry Number  
C Corporation / California

Entity Type / State of Formation

County Counsel

# EXHIBIT A

**SCOPE OF SERVICES**  
**PHASE 1**  
**Conceptual Design of the**  
**Tri-City WPCP Solids Handling Improvements Project**  
**No: P112162 / P202162**

**GENERAL**

Clackamas County Service District No. 1 and the Tri-City Service District have identified the need for engineering and consulting services to assist with the planning and engineering for expanding and refurbishing the solids handling processes at the Tri-City Water Pollution Control Plant (TCWPCP).

The expansion and refurbishments that will be considered include new sludge stabilization and dewatering facilities, electrical upgrades, sludge blend tank, liquid sludge storage; cake storage and loadout facility. Biogas utilization, sidestream storage/treatment and septage receiving will be evaluated.

Phase 1 will consist of the Conceptual Design to define project components (15% complete) and shall include the following tasks:

- Task 1 – Project Management
- Task 2 – Population Forecast
- Task 3 – Project Future Flows and Loads
- Task 4 – Define Existing Facilities Capacity and Future Capacity Needs
- Task 5 – Screen Technologies for Solids Handling Facilities
- Task 6 – Identify Additional Digestion Feedstock
- Task 7 – Inventory Available Septage Volume
- Task 8 – Evaluate Alternative Biogas Utilization Technologies (optional task)
- Task 9 – Evaluate Alternative Side Stream Treatment Technologies (optional task)
- Task 10 – Prepare Conceptual Design (15% Complete)
- Task 11 – Groundwater Monitoring Program

- Task 12 – Public Meetings
- Task 13 - Quality Assurance/Quality Control

### **ASSUMPTIONS:**

1. For purposes of the scope of work, it is assumed that Clackamas County Service District 1 and Tri City Service District will remain in partnership.
2. All capital cost estimates will be in 2016 dollars.
3. O&M costs will be projected for a 20-year period.
4. Inflation rates, utility and labor rates and hauling costs will be provided by WES.
5. Flow and load data for influent wastewater, septage, and return streams from 2010 to present will be provided by WES.
6. All deliverables in PDF and MS Word and MS Excel format, unless noted otherwise.
7. Drawings will be created in Microstation.
8. Review materials will be provided to the District no later than 5 work days prior to review meetings.
9. Meeting summaries will be delivered within a week of the meeting.

### **SCOPE OF WORK**

#### **Task 1 – Project Management**

The objective of this task is to:

- Provide administrative and financial management activities associated with performing and completing the work for this project.
- Provide and maintain clear communication with the District to produce deliverables on schedule and within budget.

#### **1.1 Develop Project Management Plan**

Consultant shall prepare a Project Management Plan (PMP). The PMP shall describe Consultant's method to control cost, scope, and schedule and establish lines of communication and team member roles. The draft Project Management Plan shall be submitted for District

comments no later than 14 calendar days following Notice to Proceed. A final Project Management Plan shall address District comments and be submitted to the District no later than 7 calendar days following receipt of comments.

### **1.2 Prepare Invoices and Scope Management**

Invoices shall be submitted on a monthly basis. Each monthly invoice shall be accompanied by a monthly progress report. Progress report shall contain a narrative of work accomplished. For each task the progress report will include:

- Budgeted and actual hours spent
- Budgeted and actual dollars spent
- Percent dollars spent and estimated percent complete
- Estimated hours and dollars to complete
- Updated schedule reflecting estimated completion dates

### **1.3 Prepare and Maintain Decision Log**

Consultant shall document key project decisions in a decision log. For each decision, log will include date and reference to documentation such as meeting summary, email, or conversation log. Decision log will be maintained on the project website and updates provided with project submittals.

### **1.4 Create and Maintain Project Website**

Consultant shall create and maintain a project website with access provided to WES staff. The website shall include meeting materials and summaries, decision log, budget status and current schedule, and project deliverables.

***Task 1 Deliverables:*** *Monthly invoices and companion progress reports in pdf format. Decision log, project website.*



## **Task 2 – Population Forecast**

Consultant shall:

- Develop a range for population and employment forecasts for the two Districts for the next 20 years in 5-year increments beginning in 2015.
- Document the results in a report understandable to a non-technical audience.

Detailed scope is included in Appendix A.

***Task 2 Deliverables:*** Draft and final Technical Memorandum 2: Population Forecast

## **Task 3 – Project Future Flows and Loads**

The capacity required to meet future service needs will be based on projected residential population growth and projected industrial and commercial growth in the service areas (as determined in Task 2). Population growth will be used to determine the future capacity requirements for treatment.

Consultant shall determine the future influent flows and loads for the next 20 years in 5-year increments beginning in 2015 based on the population growth projections.

Consultant shall identify future influent flows and loads by city/service district.

Consultant shall determine the primary sludge and TWAS production for the next 20 years in 5-year increments beginning in 2015 using the calibrated BIOWIN model developed in Task 4. Sludge production shall be broken down by service district.

### **Assumptions:**

1. The influent loads will be provided by WES.
2. WES will provide solids loading from Kellogg Creek WPCP.

***Task 3 Deliverables:*** Draft and Final Technical Memorandum 3: Projected Flows and Loads

## **Task 4 – Define Existing Facilities Capacity and Future Capacity Needs**

The purpose of this task is to determine the capacities of the existing liquid treatment and solids handling facilities at the Tri-City WPCP and compare existing capacities with projected flows and loads, then define additional capacity needs and triggers for adding required capacity.

Consultant shall:

- Utilize the existing plant-wide steady state process model (BIOWIN) to conduct a model run with a flow and loading scenario that is representative of existing plant conditions. The outcomes of this model run will be compared to the results of the existing Excel based process model conducted by Richwine Environmental for the same flow and loading scenario.
- Determine the effective capacity of the existing biological liquid treatment and solids handling unit processes based on current operation and define and include redundancy requirements.
- Define the return flow and loads from dewatering solids from Kellogg Creek WPCP at the Tri-City WPCP and the corresponding impact on the Tri-City WPCP biological treatment capacity.
- Compare projected flows and loads to existing unit process capacities and identify additional capacity needs identified. Capacity needs shall include redundancy requirements.
- Allocate additional capacity needs to cities/service districts.
- Define triggers for unit process capacity expansion and estimate schedule for expansion.

**Assumptions:**

1. Unit process capacities shall be based on historical performance data furnished by the District and standard industry practice.
2. Redundancy requirements shall be per EPA standards.
3. Original Plant Design Capacity will be based on 1986 CH2M HILL Record Drawings, 2002 Brown & Caldwell Dewatering and Thickening Improvement Drawings, 2012 CH2M HILL Backup Centrifuge Dewatering Drawings, and 2013 Brown & Caldwell Digester Heating and Feed System Improvement Drawings.
4. Capacity requirements for dewatering Kellogg Creek WPCP liquid biosolids shall be based on liquid sludge volumes and characteristics as defined in the 2013 Master Plan Update.
5. Septage characteristics will be assumed to be consistent with available data.

**Task 4 Deliverables:** *Biowin data and modeling files. Draft and Final Technical Memorandum 4: Existing Facilities Capacities and Future Capacity Needs.*

## **Task 5 – Screen Technologies for Solids Handling Facilities**

The purpose of this task is to screen potential technologies for the solids handling facilities and reach consensus on viable solids handling technologies to be advanced for unit process alternatives evaluation. The selected stabilization technology must provide for future Class A biosolids production.

### **5.1 Identify and Define Potential Solids Handling Technologies**

Consultant shall identify and describe potential solids handling technologies. Each potential technology will be summarized in 2 to 3-page general description including basis of process, advantages, disadvantages, and industry experience.

Solids stabilization technologies to be evaluated shall include the following:

- Anaerobic Digestion
- Aerobic Digestion
- Autothermal Thermophilic Aerobic Digestion
- Cannibal
- Composting
- Alkaline Stabilization
- Drying
- Incineration
- Omniprocessor

Solids dewatering technologies to be evaluated shall include the following:

- Centrifuges
- Screw Presses
- Belt Filter Presses
- Hydraulic Piston Presses

Biogas utilization alternatives to be evaluated shall include the following:

- Hot Water Boilers and Flare
- Beneficial Use

Side stream management alternatives to be evaluated shall include the following:

- No management
- Flow equalization
- Side stream treatment

Screening shall be conducted with a qualitative assessment that addresses proven performance history, process reliability, applicability to the site/process conditions/client, ease of operation

Consultant shall summarize the evaluation in a draft technical memorandum for submittal to the WES staff for review in preparation for a technology screening workshop.

## **5.2 Technology Screening Workshop**

The Consultant shall conduct a one-day workshop with WES staff to review potential solids handling improvements and discuss the array and inter-relationships of potential solids handling options. The basis of evaluation and the draft results of the screening will be presented for review. The objective is to reach consensus for the appropriate solids handling technologies that are advanced for unit process evaluation.

The workshop shall be supplemented with a technical committee consisting of wastewater treatment specialists from up to three engineering consultants, a neighboring facility's representative and member cities' technical staff. Workshop participants will review the evaluation of each potential solids handling technologies and the screening of those solids handling technologies that were deemed not suitable for the Tri-City Solids Handling Improvement Project.

Technologies that are to be evaluated for each unit process will be initially screened to no more than three viable alternatives (with associated sub-options where applicable).

The intent of this workshop is to confirm or refine the screening of potential solids handling alternatives through a consensus effort by WES staff, technical committee, and Consultant. The expected outcome of the workshop is selection of technology for the Solids Handling Facilities and direction for evaluation of unit process alternatives.

Consultant shall format this workshop to conform with Oregon Department of Environmental Quality requirements and recommendations for State Revolving Loan Funding.

Consultant attendees shall include Project Manager, Design Manager, TAC Lead and Process Technical Leads.

### **Assumption:**

- Technical committee members will be contracted through WES.

**Task 5 Deliverables:** Draft and Final Technical Memorandum 5: Identify and Screen Solids Handling Technologies; Technology Screening Workshop meeting materials and meeting summary.

## **Task 6 – Identify Additional Digestion Feedstock**

The objective of this task is to develop an inventory of the amount, type, and availability of various alternative feedstocks for anaerobic digestion such as brown grease, high strength wastes (HSW) and private septage for purposes of revenue enhancement at the TCWPCP.

Consultant shall review previous brown grease studies conducted by others including but not limited to Energy Trust of Oregon, Clean Water Services, Portland Bureau of Environmental Services, City of Gresham and Clackamas County and summarize the findings. Estimate the available volume of brown grease in the metropolitan Portland area. Assuming brown grease characteristics consistent with previous studies, estimate potential biogas production from the brown grease.

Working with WES staff, Consultant shall contact up to ten High Strength Waste (HSW) generators within Clackamas County. Estimate quantity of available waste and compatibility with anaerobic digestion. Note special considerations such as seasonality. Summarize physical and chemical characterization of HSW sources as provided by WES. Estimate potential biogas production from the HSW. Characterization will include:

- Biological Oxygen Demand (BOD, soluble BOD)
- Chemical Oxygen Demand (COD, soluble COD)
- Volatile Fatty Acids
- Solids Analysis (TS, TSS, and VSS)
- Physical properties (Specific Gravity, Viscosity, pH, water content)
- Fats, Oils and Grease (FOG)
- Metals

**Assumption:**

- HSW sampling and analysis will be performed by WES

**Task 6 Deliverables:** *Draft and Final Technical Memoranda 6: Availability of and Characterization of Additional Digestion Feedstocks*

**Task 7: Inventory Available Septage Volume**

Consultant shall identify potential septage volumes (greater than 10,000 gpd) that may be available within Clackamas County, existing regional septage receiving facilities and tipping fees.

Consultant shall summarize the predicted quantities (gallons per day) and typical characteristics (COD, DS content, VS/DS, TKN, H2S) of septage that are expected to be received at the Tri-City WPCP upon start up and in 2035.

**Task 7 Deliverables:** *Draft and Final Technical Memoranda 7: Available Septage Volume.*

### **Task 8: Evaluate Alternative Biogas Utilization Technologies (optional task):**

If the facilities alternatives evaluation performed in Task 5 results in a recommendation for biogas utilization, Consultant shall prepare an analysis of two biogas utilization technologies. Consultant shall integrate the findings of Task 6 into the analysis:

- Combined Heat and Power (cogeneration)
- Conversion to Compressed Natural Gas (CNG)
  - o Vehicle Fuel
  - o Pipeline Quality

The evaluation shall include a comparison of life cycle costs, a non-financial analysis and an overview of potential funding.

**Task 8 Deliverables:** *Draft and final Technical Memorandum 8: Alternative Biogas Utilization Technologies.*

### **Task 9: Evaluate Alternative Side Stream Treatment Technologies (optional task):**

If the facilities alternatives evaluation performed in Task 5 results in a recommendation for treatment of the return stream from the dewatering process, Consultant shall prepare an analysis of up to four side stream treatment technologies:

- IDI Cleargreen™
- Annamox™
- Demon™
- AnitaMox™

The evaluation shall include a comparison of life cycle costs and a non-financial analysis.

**Task 9 Deliverables:** *Draft and final Technical Memorandum 9: Alternative Side Stream Treatment Technologies.*

### **Task 10 – Prepare Conceptual Design (15% complete)**

The objective of this task is to advance the design to a conceptual level design and document the findings in a report.

#### **Task 10.1 Develop Conceptual Solids Handling Improvements**

Consultant shall advance the design of the preferred solids handling technologies selected in previous tasks, providing a financial and non-financial analysis for unit process alternatives,

summarize major equipment and site and ancillary system impacts. The work shall include development of the following processes:

- Raw sludge and feedstock monitoring, pretreatment, equalization, blending, and feeding
- Existing digester modifications
- Sludge stabilization
- WAS thickening
- Dewatered sludge conveyance, storage, and truck loading
- Odor control
- Electrical service
- Sitework
- Instrumentation and Control
- Utilities

Consultant's Level of Effort assumes the following facilities:

- Blend tanks for WPCP sludges, septage, and potential feedstocks
- Mesophilic digesters convertible to thermophilic digesters
- Sludge dewatering with centrifuges
- Dewatered sludge conveyance, storage, and loading
- Biogas Utilization with Cogeneration (optional)
- Septage Receiving
- Side stream treatment (optional)

Consultant shall prepare a life cycle cost analysis for alternatives for the following unit processes:

- Anaerobic digesters: Alternatives to include hydrolysis and up to three configurations including recuperative thickening)
- Sludge dewatering with centrifuges: Alternatives to include two centrifuge sizes.

### **Task 10.2 Biogas Utilization (optional)**

For the technology selected in Task 8, Consultant shall provide a technical description, design criteria, and configuration for the processes.

#### **10.2.1 Supplemental Digester Feedstock**

- Traffic routing
- Pretreatment (debris removal)
- Storage and mixing
- Digester Feeding



### 10.2.2 Biogas Storage

Consultant shall prepare an analysis of required biogas storage volume and technology for cogeneration.

### 10.2.3 Biogas Cleaning

Consultant shall review existing digester gas quality (H<sub>2</sub>S, sulfur compounds, siloxanes, VOC) provided by WES and develop design criteria and configuration for a digester gas cleaning system that would be suitable for biogas utilization. The digester gas cleaning system would consist of the removal of hydrogen sulfide (H<sub>2</sub>S), water, and siloxane.

### 10.2.4 Hot Water System

Consultant shall develop design criteria and schematics for a hot water supply and return system associated with the CHP system. Consultant shall integrate the existing hot water systems at the plant into the design.

### 10.2.5 Combined Heat and Power (CHP) System

Consultant shall develop the design criteria and configuration for a CHP system that would utilize digester gas to produce hot water and electrical energy. Consultant will work with WES staff to determine the type of technology and quantity and size of units.

### **Task 10.3 Side Stream Treatment (optional)**

Consultant shall develop the design criteria and configurations for sidestream treatment of sludge dewatering centrate. Consultant shall work with WES staff to determine configuration of treatment basins and equipment, including odor control

### **Task 10.4 Septage**

Consultant shall work with WES to evaluate receiving septage into the liquid stream upstream of the headworks or into digesters. The evaluation shall include location of receiving station, truck route, pretreatment, thickening, and odor control.

### **Task 10.5 Prepare Draft and Final Conceptual Design Report**

Consultant shall prepare a Conceptual Design Report that summarizes selected solids handling improvements, the design concepts and criteria, process configurations, and major equipment selection. The report shall include the following:

Description. Prepare report that summarizes the work conducted for each task in a narrative format that provides the basis of development, evaluation, and selection of the recommended solids handling improvements. The report will be supplemented with work products outlined below and include a high-level executive summary.

Preliminary Design Criteria. Summary of process flows, loads, and process equipment performance criteria will be prepared.

Process Flow Schematics. Prepare process flow schematics for each solids handling unit process.

Major Equipment Selection and Arrangement. Prepare general site layouts and conceptual arrangement drawings extracted from a 3-D model of the selected solids handling improvements.

Construction Access and Staging. Develop requirements and project limits for on-site construction activities.

Sequence of Construction. Develop preliminary sequence of construction to define project constraints to minimize the disruption to existing operations and maintenance during construction of the solids handling improvements.

Operations and Maintenance Cost. Estimate of annual costs associated with labor, equipment, chemicals, consumables, power and heat for unit processes where alternatives are evaluated.

Life Cycle Costs. Estimate of combined capital costs and O&M costs assessed over a 20 year period for unit processes where alternatives are evaluated.

Permit and Land Use Considerations. Review of current land use documents, permits and authorizations as well as identifying other potential permits and authorizations that will be required will be summarized.

Non-economic Assessment. Summary of anticipated staffing needs, solids handling consequences, and a project implementation schedule will be developed.

#### **Task 10.6 Prepare Construction Cost Estimate**

Consultant shall prepare an opinion of probable construction cost (OPCC – Class 5) at completion of conceptual design. Estimated construction costs will be prepared in accordance with AACE recommended practices.

#### **Task 10.7 Conceptual Design Workshop**

The Consultant shall conduct a one-day workshop with WES staff to review the draft Conceptual Design Report. The objective is to reach consensus for the unit processes to move forward to preliminary design.

The workshop shall be supplemented with a technical committee consisting of wastewater treatment specialists from up to three engineering consultants, a neighboring facility's representative and member cities' technical staff who will review and comment on the draft Conceptual Design Report.

The intent of this workshop is to confirm or refine the conceptual design through a consensus effort by WES staff, technical committee, and Consultant. The expected outcome of the workshop is finalization of the unit processes and related systems that comprise the solids handling facilities.

Comment logs shall be maintained that document review comments from reviewers and documentation of the action taken to address each comment. District comments shall be addressed in the final Conceptual Design Report.

Consultant attendees shall include Project Manager, Design Manager, and Process Technical Leads.

**Assumption:**

- Technical committee members will be contracted through WES.

**Task 10 Deliverables:** *Draft and final Conceptual Design Report in MS WORD and MS EXCEL format and drawings in PDF format. Cost estimate. Workshop Materials and Meeting Summary*

**Task 11 – Groundwater Monitoring Program**

Consultant shall develop and implement a groundwater monitoring program to measure and record groundwater elevations within one month after Notice to Proceed is issued. The objective is to capture the anticipated seasonal variations in groundwater elevations for construction.

**Assumption:**

- Consultant shall install no more than three groundwater monitoring wells, finished with piezometers and will conduct systematic and routinely monitor the water levels in the wells through Spring of 2017.

**Task 11 Deliverables:** *Draft and final well monitoring plan and routine monitoring results.*

**Task 12 – Public Meetings**

The objective of this task is to provide effective coordination and communication with external stakeholders.

Consultant shall prepare materials for and attend up to three (3) meetings of external stakeholder committees to present, with WES staff, the conceptual and preliminary planning process, technical deliverables, and decision making at timely intervals.

Consultant attendees shall include Project Manager, Design Manager and no more than one additional technical specialist.

### **Task 13. Quality Assurance and Quality Control**

Consultant shall provide for quality assurance and control services by respective senior level technical discipline leads for all produced-documents prior to delivery.

Senior members of Consultant staff with task or discipline appropriate experience shall provide quality control reviews of all technical memorandums, work products and deliverables prior to submittal to the District. Reviews shall be for technical content, accuracy and appropriateness, and fulfillment of the desired objectives. The reviews will vary in level of complexity, level of effort and timing with respect to draft and final documents. The reviews shall consist of self-review checklists for the primary author of the documents and a content checklist prepared by each reviewer. Comment logs shall be maintained for each submittal that document review comments from the QC reviewer and documentation of the action taken to address each comment.

**APPENDIX A**  
**EcoNorthwest Scope of Services**

# ECONorthwest

DATE: 20 November 2015  
TO: Dick Talley  
FROM: Carl Batten  
SUBJECT: WES: POPULATION FORECASTS  
REVISED SCOPE OF WORK: EXHIBIT TO CONTRACT

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Attached to this memorandum is another draft of a Scope of Work that could become an Exhibit to a subcontract between MWH and ECO.

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## Exhibit X

### Scope of Work

This scope of work describes the tasks, products, schedule, and budget that apply to ECONorthwest (ECO) as it creates population forecasts for Water Environment Services (WES) of Clackamas County and its consulting engineers. It has three sections:

- **Project understanding:** what WES wants from the research.
- **Approach:** overview of methods and products.
- **Work plan:** the chronological steps to create those products.

#### I. Project Understanding

The Clackamas County Board of County Commissioners act as the governing Board of Directors for wastewater districts in the County. They set policy for those districts and that policy is carried out by Clackamas County Water Environment Services.

The two largest wastewater collection and treatment districts in the County are:

- Tri-City Service District, serving Gladstone, Oregon City, and West Linn. These cities provide their own collection systems and the service district provides transmission, treatment, and disposal.
- Clackamas County Service District #1 (CCSD1), providing wastewater collection for the unincorporated areas of Clackamas County, the City of Happy Valley, the western edges of Damascus, and communities of Hoodland, Boring, and Fischer's Forest Park. In addition, the district provides wastewater treatment services to the City of Milwaukie, parts of Gladstone and Johnson City under wholesale contract agreements. The district also provides surface water management services with the City of Happy Valley and in unincorporated Clackamas County.

In addition to operating collection and treatment facilities, WES must plan for and eventually construct new or expanded facilities to serve growth in demand. Growth in demand related to changes in water use per capita is insignificant: per capita use is relatively stable and may have actually fallen with efforts at water conservation. Rather, growth in demand will come almost exclusively from the fact that there will be more households (population) and businesses (employment) in the WES boundaries.

Thus, WES wants to have good information about potential future population and employment within its largest wastewater districts. That information will allow it to better: (1) estimate and plan for expansions of capital facilities, and (2) make and explain its decisions about how to allocate the costs of facilities common to several districts among those districts.



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## II. Approach

### Products

- ECO will assist with obtaining information about current and potential future industrial loads
- ECO will provide model results at the TAZ level to MWH and CH2M-Hill as soon as they are finalized.
- ECO will deliver a report describing population and employment forecasts for the service districts over the next 20 years in five-year increments, the methods used to produce those forecasts, and the assumptions underlying them.
- ECO will deliver GIS data files that map 2015 estimates as well as each forecast of households and employment by five-year increment. These will allow overlaying city limits, service district boundaries, and monitoring basin boundaries.
- After the report is finalized, ECO will deliver a presentation to the County Board of Commissioners
- ECO may, at WES's request and subject to remaining budget, deliver presentations to other stakeholders after the report is finalized

### Technical Analyses

Differences in population growth rates between the service districts and the rest of the Portland metropolitan area are unlikely to be noticeably affected by differences in fertility or mortality among existing residents. Instead, it is likely that the distribution of new residents within the metropolitan area will determine how fast each subarea grows.

We will develop and propose specific methods for forecasting population and employment in WES's service districts during Phase I of the project. It is likely that we will use existing, adopted forecasts of region-wide population, households, and employment and focus our efforts on the determinants of their location within the region. Those determinants include:

- Capacity for new development given current and expected future zoning and physical constraints
- Likely new development given accessibility (to jobs, schools, shopping, etc.), development costs (SDCs, utilities, streets, etc.), and expected market demand
- Capacity for redevelopment and infill given current development and current and expected future zoning
- Likely redevelopment and infill given accessibility (to jobs, schools, shopping, etc.), development costs (demolition, SDCs, etc.), and expected market demand.

One way to do forecasting consistent with these potential determinants is to start with and improve on the work Metro did for its Urban Growth Report (UGR). Metro developed and parameterized a UGR scenario for its Metroscope model, which distributes households and

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employment among 2,147 Transportation Analysis Zones that cover the region every five years into the future.

The Urban Growth Report sought to make the case that the urban growth boundary need not be expanded now. To make that case, they made some assumptions that led to conservative projections of future growth. For this project, we propose re-running the MetroScope model with some different assumptions:

- The committee that forecasted region-wide population, households, personal income, and employment produced “low”, “base”, and “high” forecasts. Metro used a point between “low” and “base” that they called “mid-low”. We would use the “base” forecasts, which were judged to be the most likely. This will lead to the model showing more new development.
- Neighborhood attributes determine how desirable new residents will find an area, but those attributes change when an area is developed. We would change the “neighborhood scores” for currently-undeveloped areas to match those of recently-developed areas to better reflect what new residents would actually find.
- Metro assumed substantial subsidies, plus waivers of SDCs, for multi-family development near central Portland. We would review those and eliminate those that are unlikely to actually occur. This likely will result in the model showing more development outside of Portland.
- The assumed transportation network can have significant effects on where people and employers locate. We would use Metro’s “financially-constrained” network (no major new sources of highway funding).
- Metro has developed alternative scenarios with different assumptions about how Damascus will develop. We would work with WES and CCSD1 staff to define base-case assumptions about how and where Damascus will develop, whether it will remain incorporated, how much, if any, of the existing and new development would be served by CCSD1.
- If the revised assumptions described above lead to available land inside the UGB being used up too quickly, we would change the schedule for bringing in urban reserves and rerun the model.

Once we have refined and re-run the model, we will have forecasts of households by household type (including single- and multi-family) and employees by transportation analysis zone. These will be delivered to CH2M-Hill and will be mapped back to service district boundaries and existing city limits with GIS. We will start with the assumption that land in unincorporated areas, such as Urban Reserve Areas, will be annexed into a proximate city before being developed. We will work with WES staff to determine which city the unincorporated areas that are expected to develop would be incorporated into. At the same time, we will develop one or two scenarios for the future of currently-incorporated lands in Damascus.

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## III. Work Plan

### Overview

The work plan provides a chronological overview of how ECONorthwest will complete its research. It has three phases:

- Phase 1: Preliminary Assessment
- Phase 2: Forecasts and Report
- Phase 3: Presentations of Report Findings

In Phase 1 ECO assembles most of the data and refines forecasting methods. In Phase 2 ECO does most of the analysis, prepares a preliminary draft report, and creates a final draft report based on comments from WES. In Phase 3 ECO creates a presentation based on the draft report, presents to one or several groups, and creates a final report based on comments received and direction from WES.

The desired *outcome* is clear: a report understandable to a non-technical audience that documents an evaluation leading to conclusions about a likely range for population and employment growth in the two districts.

The specifics of *technical approach* are still to be determined, but it is clear that they will be some logical and generally accepted method for making forecasts of future population. Phase 1 will describe and evaluate methodological options and recommend one to WES.

The *stakeholder process* is quite modest. In Phases 1 and 2, the communication will be mainly between ECO, MWH, and WES staff. ECO may do some informal interviews if WES desires. The bulk of the engagement, however, occurs in Phase 3: ECO will make one or, if budget allows, several presentations of findings (to the County Commission, to staff, to advisory committees, to affected Cities, etc.).

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## **Phase 1: Preliminary Assessment**

ECO will carry out the reconnaissance, data collection, and work with WES staff to ensure that the research will answer the right questions. WES will provide shape files and other relevant data. We will work with Portland State University, Metro, and Clackamas County to gather necessary forecasts, models, data, and context. ECO will deliver a memo on proposed methods and data, which will include an outline of the final report. WES will respond to the memo and we will agree on a detailed scope of work for Phase 2. ECO also will assess the best sources of data about lands zoned to allow industrial uses and about current industrial customers and assist with obtaining and organizing that data.

Products: Methods memo with outline of final report; scope of work for Phase 2  
Meetings: One, with WES staff  
Budget: \$15,000  
Schedule: December

## **Phase 2: Forecasts and Report**

ECO will follow the work plan agreed upon in Phase 1 (which we expect to be similar to the one we described in II, Approach, Technical Analysis above) to produce a forecast and preliminary draft report. After review by WES staff, we will produce a draft final report and presentation. After delivering the presentation and receiving comments, we will prepare and deliver a final report.

Products: Preliminary draft, draft final, and final reports.  
Meetings: Two, with WES staff  
Budget: \$30,000  
Schedule: Preliminary draft report with all data ready for use by engineering consultants by mid-January; final draft by the end of January; final report in February

## **Phase 3: Presentations of Report Findings**

ECO will produce and deliver a presentation of the forecast as requested and arranged for by WES.

Products: Presentation(s) as requested by WES  
Budget: \$10,000  
Schedule: February

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## Summary of Items Required from the WES

WES will provide:

- Copies of relevant reports, memos, etc.
- Data, including relevant GIS layers
- Review, comment, and (ultimately) sign-off on interim products.
- Timely responses to questions and data requests from the consultant team.
- A single, consolidated set of comments on the draft report.

## Budget

ECONorthwest will bill monthly for time and expenses incurred. Total billing for the project may not exceed \$55,000 without a contract amendment. This not-to-exceed amount may limit the number of presentations ECO can deliver.

 <b>LEVEL OF EFFORT</b>		Task	1	2	3	4	5	6	7	8	9	10	11	12	13					
			Project Management	Population Forecasts	Project Future Flows and Loads	Define Existing Facilities Capacity and Future Capacity Needs	Screen Technologies for Solids Handling Facilities	Identify Additional Digestion Feedstock	Inventory Available Septage Volume	Evaluate Alternative Biogas Utilization Technologies (optional)	Evaluate Alternative SideStream Treatment Technologies (optional)	Prepare Conceptual Design (15%)	Groundwater Monitoring	Public Meetings	QAQC		Hours	Cost		
		Title	Name	Rate																
MWH Labor Hours		Project Manager	Steve Hyland	\$ 250		16	40	40	80	16	16	24	24	184	8	24		472	\$ 118,000	
		Technical Lead	Don Spiegel	\$ 250								2	2	40				44	\$ 11,000	
		Technical Lead	Art Umble	\$ 250				8	24			8	8	24				72	\$ 18,000	
		Technical Lead	John Kabouris	\$ 220				16	40			16	8	8				88	\$ 19,360	
		Principal in Charge	Dick Talley	\$ 220	20										4			24	\$ 5,280	
		Senior Engineer	Ryan Gorton	\$ 153	80	8	30	60	140	40	40	24	24	180	8			634	\$ 97,103	
		Project Engineer	Jeff Covne	\$ 112			60	60	120			24	24	180				488	\$ 52,416	
		Senior Engineer - I&C	Victor Ferrante	\$ 203														150	\$ 30,513	
		Senior Engineer - Electrical	Josh Papp	\$ 154														150	\$ 23,126	
		Project Engineer - Structural	Matt Perkins	\$ 116														60	\$ 6,969	
		Project Engineer	Andrew Nishihara	\$ 113				60										210	\$ 23,738	
		Senior Engineer	Aaron Eder	\$ 192					0	0	0	0						80	\$ 15,385	
		Project Engineer	Adam Odell	\$ 127		16	40	40	104	40	40	26	26	240	8	36		616	\$ 78,238	
		Supervising Designer	Vince Ewert	\$ 146	120													168	\$ 24,530	
		Design Manager	Mark Graham	\$ 204														160	\$ 32,706	
		Construction Estimator	James Ward	\$ 187					40			16	16	80				152	\$ 28,426	
		Designer	Chris Kitts	\$ 131					40			16	16	240		24		336	\$ 43,989	
	QAQC	Tech Leads	\$ 220					0									160	\$ 35,200		
	Administrative Assistance	TBD	\$ 73	40	8			40									80	\$ 12,242		
	Total Hours			260	48	170	284	628	96	96	156	148	2,042	24	132	160	4,244			
	Labor Cost			\$ 37,089	\$ 7,840	\$ 26,395	\$ 43,292	\$ 98,523	\$ 15,207	\$ 15,207	\$ 26,773	\$ 25,013	\$ 327,756	\$ 4,241	\$ 20,723	\$ 35,200		Total Labor Cost	\$ 683,260	
		Multiplier																		
Subcontractor		Shannon & Wilson	1.05															\$ 25,100	\$ 27,405	
		ECONorthwest	1.05		\$ 65,000														\$ 57,750	
		Portland Engineering Inc	1.05										\$ 10,000						\$ 10,500	
		Interface Engineering	1.05										\$ 10,000						\$ 10,500	
		Greenworks	1.05										\$ 5,000						\$ 5,250	
		MVA Architects	1.05										\$ 10,000						\$ 10,500	
		SIR	1.05										\$ 10,000						\$ 10,500	
		Multiplier																	Total Subcontractor Cost	\$ 132,405
ODCs		Travel (Airfare, Lodging and Rental Cars Only)	1.00	\$ 18,800				\$ 2,500					4,000						\$ 23,800	
																			Total ODCs Cost	\$ 23,800
	Task Cost			\$ 53,889	\$ 65,590	\$ 26,395	\$ 43,292	\$ 101,023	\$ 15,207	\$ 15,207	\$ 26,773	\$ 25,013	\$ 379,506	\$ 31,646	\$ 20,723	\$ 35,200			Total Cost	\$ 839,465

## **EXHIBIT B**





# CERTIFICATE OF LIABILITY INSURANCE

10/1/2016

DATE (MM/DD/YYYY)

11/20/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000	<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext):</b> <b>E-MAIL ADDRESS:</b>	<b>FAX (A/C, No):</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> 1347682 MWH AMERICAS, INC. 370 INTERLOCKEN BLVD. STE. 300 BROOMFIELD CO 80021	<b>INSURER A:</b> Lloyd's of London (AF Beazley)		
	<b>INSURER B:</b>		
	<b>INSURER C:</b>		
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		
	<b>INSURER F:</b>		

**COVERAGES** MWHGL05 **CERTIFICATE NUMBER:** 13776933 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX DAMAGE TO RENTED PREMISES (Ea occurrence) \$ XXXXXXXX MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ XXXXXXXX GENERAL AGGREGATE \$ XXXXXXXX PRODUCTS - COMP/OP AGG \$ XXXXXXXX \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
	<b>UMBRELLA LIAB</b> <b>EXCESS LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A	NOT APPLICABLE			<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
A	<b>PROFESSIONAL LIABILITY</b>	N	N	GLOPR1501286	10/1/2015	10/1/2016	EACH CLAIM: \$1,000,000 AGGREGATE: \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 PROJECT: TRI CITY WPCP SOLIDS HANDLING PROJECT.

**CERTIFICATE HOLDER**

13776933  
 CLACKAMAS COUNTY  
 TRI-CITY SERVICE DISTRICT  
 CLACKAMAS COUNTY SERVICE DISTRICT NO. 1  
 150 BEAVERCREEK ROAD  
 OREGON CITY OR 97045

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*James M. Amello*

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MWHGLOB-01

NEALDO

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/25/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Willis of Texas, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 37230-5191	<b>CONTACT NAME:</b> Willis Certificate Center <b>PHONE (A/C, No, Ext):</b> (877) 945-7378 <b>FAX (A/C, No):</b> (888) 467-2378 <b>E-MAIL ADDRESS:</b> certificates@willis.com
<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURER A:</b> Travelers Indemnity Company	<b>NAIC #</b> 25658
<b>INSURER B:</b> Travelers Property Casualty Insurance Company	<b>NAIC #</b> 36161
<b>INSURER C:</b> Travelers Property Casualty Company of America	<b>NAIC #</b> 25674
<b>INSURER D:</b>	
<b>INSURER E:</b>	
<b>INSURER F:</b>	

**INSURED**  
 MWH Global Inc., MWH Americas, Inc.,  
 MWH Constructors, Inc., Hawksley Consulting, Inc.  
 380 Interlocken Crescent, Ste 200  
 Broomfield, CO 80021

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
<b>A</b>	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	X		VTC2K-CO-5643B790-15	08/31/2015	08/31/2016	EACH OCCURRENCE	\$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person)	\$
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC						PERSONAL & ADV INJURY	\$ 1,000,000
	OTHER:						GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
<b>B</b>	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY	X		VTC2JCAP5643B808-15	08/31/2015	08/31/2016	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						<b>Comp &amp; Coll</b>	\$ 1,000
	<input type="checkbox"/> UMBRELLA LIAB	<input type="checkbox"/> OCCUR					EACH OCCURRENCE	\$
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE	\$
	<input type="checkbox"/> DED	<input type="checkbox"/> RETENTION \$						\$
<b>C</b>	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		N/A	VTC2JUB5643B81A-15	08/31/2015	08/31/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	\$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Re: Tri City WPCP Solids Handling Project  
 Clackamas County, Clackamas County Service District and Tri City Service District No. One are included as Additional Insureds as respects to General Liability and Auto Liability.

General Liability and Auto Liability policies shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by Clackamas County, Clackamas County Service District and Tri City Service District No. One.

<b>CERTIFICATE HOLDER</b>  Clackamas County, Clackamas County Service District Tri City Service District No. One. Attn: Randy Rosane, PE 150 Beaver Creek Road Oregon City, OR 97045	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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POLICY NUMBER: VTC2K-CO-5643B790-15

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## CONTRACTORS XTEND ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>A. Aircraft Chartered With Pilot</li> <li>B. Damage To Premises Rented To You</li> <li>C. Increased Supplementary Payments</li> <li>D. Incidental Medical Malpractice</li> <li>E. Who Is An Insured – Newly Acquired Or Formed Organizations</li> <li>F. Who Is An Insured – Broadened Named Insured – Unnamed Subsidiaries</li> <li>G. Blanket Additional Insured – Owners, Managers Or Lessors Of Premises</li> </ul> | <ul style="list-style-type: none"> <li>H. Blanket Additional Insured – Lessors Of Leased Equipment</li> <li>I. Blanket Additional Insured – States Or Political Subdivisions – Permits</li> <li>J. Knowledge And Notice Of Occurrence Or Offense</li> <li>K. Unintentional Omission</li> <li>L. Blanket Waiver Of Subrogation</li> <li>M. Amended Bodily Injury Definition</li> <li>N. Contractual Liability – Railroads</li> </ul> |
|--|---|

### PROVISIONS

#### A. AIRCRAFT CHARTERED WITH PILOT

The following is added to Exclusion **g.**, **Aircraft, Auto Or Watercraft**, in Paragraph 2. of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

#### B. DAMAGE TO PREMISES RENTED TO YOU

1. The first paragraph of the exceptions in Exclusion **j.**, **Damage To Property**, in Paragraph 2. of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY is deleted.
2. The following replaces the last paragraph of Paragraph 2., **Exclusions**, of SECTION I – COVERAGES – COVERAGE A. BODILY

### INJURY AND PROPERTY DAMAGE LIABILITY:

Exclusions **c.** and **g.** through **n.** do not apply to "premises damage". Exclusion **f.(1)(a)** does not apply to "premises damage" caused by:

- a. Fire;
- b. Explosion;
- c. Lightning;
- d. Smoke resulting from such fire, explosion, or lightning; or
- e. Water;

unless Exclusion **f.** of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by another endorsement to this Coverage Part that has Exclusion – All Pollution Injury Or Damage or Total Pollution Exclusion in its title.

A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of SECTION III – LIMITS OF INSURANCE.

3. The following replaces Paragraph 6. of **SECTION III – LIMITS OF INSURANCE:**

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will apply to all "property damage" proximately caused by the same "occurrence", whether such damage results from: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water; or any combination of any of these causes.

The Damage To Premises Rented To You Limit will be:

- a. The amount shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part; or
- b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part.

4. The following replaces Paragraph a. of the definition of "insured contract" in the **DEFINITIONS** Section:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";

5. The following is added to the **DEFINITIONS** Section:

"Premises damage" means "property damage" to:

- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
- b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.

6. The following replaces Paragraph 4.b.(1)(b) of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

- (b) That is insurance for "premises damage"; or

7. Paragraph 4.b.(1)(c) of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted.

**C. INCREASED SUPPLEMENTARY PAYMENTS**

1. The following replaces Paragraph 1.b. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGE:**

- b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

2. The following replaces Paragraph 1.d. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGES:**

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

**D. INCIDENTAL MEDICAL MALPRACTICE**

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

"Occurrence" also means an act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person.

2. The following is added to Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED:**

Paragraph (1)(d) above does not apply to "bodily injury" arising out of providing or failing to provide:

- (i) "Incidental medical services" by any of your "employees" who is a nurse practitioner, registered nurse, licensed practical nurse, nurse assistant, emergency medical technician or paramedic; or
- (ii) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following is added to Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

**Sale Of Pharmaceuticals**

"Bodily injury" or "property damage" arising out of the willful violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of, the insured.

5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The insurance is excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" or "volunteer workers" for "bodily injury" that arises out of providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

**E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS**

The following replaces Paragraph 4. of **SECTION II – WHO IS AN INSURED:**

4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, of which you are the sole owner or in which you maintain the majority ownership interest, will qualify as a Named Insured if there is no other insurance which provides similar coverage to that organization. However:

- a. Coverage under this provision is afforded only:

- (1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

- (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it, and we agree in writing that it will continue to be a Named Insured until the end of the policy period;

- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

**F. WHO IS AN INSURED – BROADENED NAMED INSURED – UNNAMED SUBSIDIARIES**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any of your subsidiaries, other than a partnership, joint venture or limited liability company, that is not shown as a Named Insured in the Declarations is a Named Insured if you maintain an ownership interest of more than 50% in such subsidiary on the first day of the policy period.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal injury" or "advertising injury" caused by an offense committed after the date, if any, during the policy period, that you no longer maintain an ownership interest of more than 50% in such subsidiary.

**G. BLANKET ADDITIONAL INSURED – OWNERS, MANAGERS OR LESSORS OF PREMISES**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal injury" or "advertising injury" caused by an offense that is committed, subsequent to the execution of that contract or agreement; and
- b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

- a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits which you agreed to provide in the written contract or agreement, or the limits shown on the Declarations, whichever are less.
- b. The insurance provided to such premises owner, manager or lessor does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or "personal injury" or "advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
  - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, lessor or manager.
- c. The insurance provided to such premises owner, manager or lessor is excess over any valid and collectible other insurance available to such premises owner, manager or lessor, whether primary, excess, contingent or on any other basis, unless you have agreed in the written contract or agreement that this insurance must be primary to, or non-contributory with, such other insurance, in which case this insurance will be primary to, and non-contributory with, such other insurance.

**H. BLANKET ADDITIONAL INSURED – LESSORS OF LEASED EQUIPMENT**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal injury" or "advertising injury" caused by an offense that is committed, subsequent to the execution of that contract or agreement; and
- b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the minimum limits which you agreed to provide in the written contract or agreement, or the limits shown on the Declarations, whichever are less.
- b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal injury" or "advertising injury" caused by an offense that is committed, after the equipment lease expires.
- c. The insurance provided to such equipment lessor is excess over any valid and collectible other insurance available to such equipment lessor, whether primary, excess, contingent or on any other basis, unless you have agreed in the written contract or agreement that this insurance must be primary to, or non-contributory with, such other insurance, in which case this insurance will be primary to, and non-contributory with, such other insurance.

**I. BLANKET ADDITIONAL INSURED – STATES OR POLITICAL SUBDIVISIONS – PERMITS**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any state or political subdivision that has issued a permit in connection with operations performed by you or on your behalf and that you are required

by any ordinance, law or building code to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of such operations.

The insurance provided to such state or political subdivision does not apply to:

- a. Any "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of operations performed for that state or political subdivision; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

**J. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE**

The following is added to Paragraph 2., **Duties In The Event of Occurrence, Offense, Claim or Suit**, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

- e. The following provisions apply to Paragraph a. above, but only for the purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:

- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture or limited liability company) or any "employee" authorized by you to give notice of an "occurrence" or offense.
- (2) If you are a partnership, joint venture or limited liability company, and none of your partners, joint venture members or managers are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
  - (a) Any individual who is:
    - (i) A partner or member of any partnership or joint venture;

- (ii) A manager of any limited liability company; or
  - (iii) An executive officer or director of any other organization;
- that is your partner, joint venture member or manager; or

- (b) Any "employee" authorized by such partnership, joint venture, limited liability company or other organization to give notice of an "occurrence" or offense.
- (3) Notice to us of such "occurrence" or of an offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraphs e. (1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.

However, if this Coverage Part includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.

**K. UNINTENTIONAL OMISSION**

The following is added to Paragraph 6., **Representations**, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

**L. BLANKET WAIVER OF SUBROGATION**

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:



## COMMERCIAL GENERAL LIABILITY

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal injury" or "advertising injury" caused by an offense that is committed;

subsequent to the execution of that contract or agreement.

### M. AMENDED BODILY INJURY DEFINITION

The following replaces the definition of "bodily injury" in the **DEFINITIONS** Section:

3. "Bodily injury" means bodily injury, mental anguish, mental injury, shock, fright, disability, humiliation, sickness or disease sustained by a person, including death resulting from any of these at any time.

### N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
  - c. Any easement or license agreement;
2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

POLICY NUMBER: VTC2K-C0-5643B790-15

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY**

## **BLANKET ADDITIONAL INSURED (CONTRACTORS)**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. WHO IS AN INSURED – (Section II) is amended to include any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:
  - a) Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
  - b) If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.
  - c) The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.
2. The insurance provided to the additional insured by this endorsement is limited as follows:
  - a) In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
  - b) The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
    - i. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
    - ii. Supervisory, inspection, architectural or engineering activities.
3. The insurance provided to the additional insured by this endorsement is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement. However, if the "written contract requiring insurance" specifically requires that this insurance apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But the insurance provided to the additional insured by this endorsement still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under such "other insurance".
4. As a condition of coverage provided to the additional insured by this endorsement:
  - a) The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

COMMERCIAL GENERAL LIABILITY

- i. How, when and where the "occurrence" or offense took place;
  - ii. The names and addresses of any injured persons and witnesses; and
  - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b) If a claim is made or "suit" is brought against the additional insured, the additional insured must:
- i. Immediately record the specifics of the claim or "suit" and the date received; and
  - ii. Notify us as soon as practicable.
- The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c) The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d) The additional insured must tender the defense and indemnity of any claim or "suit" to

any provider of "other insurance" which would cover the additional insured for a loss we cover under this endorsement. However, this condition does not affect whether the insurance provided to the additional insured by this endorsement is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured as described in paragraph 3. above.

5. The following definition is added to SECTION V. – DEFINITIONS:

"Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After the signing and execution of the contract or agreement by you;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DESIGNATED ENTITY – NOTICE OF  
CANCELLATION/NONRENEWAL PROVIDED BY US**

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

**SCHEDULE**

**CANCELLATION:** Number of Days Notice of Cancellation: 60  
**NONRENEWAL:** Number of Days Notice of Nonrenewal: 60  
**PERSON OR ORGANIZATION:**

Any person or organization that is a certificate holder of a certificate of insurance issued for you that:

- 1) Refers to this policy and states that notice of cancellation or nonrenewal of this policy will be provided to that person or organization, and
- 2) Is in effect, and is on file at the office of your agent or broker for this policy, at the time of the cancellation or nonrenewal.

**ADDRESS:**

The address shown for that person or organization in that certificate of insurance.

**PROVISIONS:**

- A. If we cancel this policy for any statutorily permitted reason other than nonpayment of premium, and a number of days is shown for cancellation in the schedule above, we will mail notice of cancellation to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for cancellation in the schedule above before the effective date of cancellation.
- B. If we decide to not renew this policy for any statutorily permitted reason, and a number of days is shown for nonrenewal in the schedule above, we will mail notice of the nonrenewal to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for nonrenewal in the schedule above before the expiration date.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

### **SCHEDULE**

**Name Of Person(s) Or Organization(s):**

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED TO INCLUDE AS ADDITIONAL INSURED ON THIS COVERAGE FORM IN A WRITTEN CONTRACT OR AGREEMENT THAT IS SIGNED AND EXECUTED BY YOU BEFORE THE "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURS AND THAT IS IN EFFECT DURING THE POLICY PERIOD.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II – Cov-

ered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I – Covered Autos Coverages of the Auto Dealers Coverage Form.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DESIGNATED ENTITY – NOTICE OF  
CANCELLATION/NONRENEWAL PROVIDED BY US**

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

**SCHEDULE**

**CANCELLATION:** Number of Days Notice of Cancellation: 60

**NONRENEWAL:** Number of Days Notice of Nonrenewal: 60

**PERSON OR  
ORGANIZATION:**

ANY PERSON OR ORGANIZATION THAT IS A CERTIFICATE HOLDER OF A CERTIFICATE OF INSURANCE ISSUED FOR YOU THAT:

1. REFERS TO THIS POLICY AND STATES THAT NOTICE OF CANCELLATION OR NONRENEWAL OF THIS POLICY WILL BE PROVIDED TO THAT PERSON OR ORGANIZATION, AND:
2. IS IN EFFECT, AND IS ON FILE AT THE OFFICE OF YOUR AGENT OR BROKER FOR THIS POLICY, AT THE TIME OF THE CANCELLATION OR NONRENEWAL.

**ADDRESS:**

THE ADDRESS SHOWN FOR THAT PERSON OR ORGANIZATION IN THAT CERTIFICATE OF INSURANCE.

**PROVISIONS:**

- A. If we cancel this policy for any statutorily permitted reason other than nonpayment of premium, and a number of days is shown for cancellation in the schedule above, we will mail notice of cancellation to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for cancellation in the schedule above before the effective date of cancellation.
- B. If we decide to not renew this policy for any statutorily permitted reason, and a number of days is shown for nonrenewal in the schedule above, we will mail notice of the nonrenewal to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for nonrenewal in the schedule above before the expiration date.



COPY

Richard Swift  
Director

December 17, 2015

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Revenue Agreement with Oregon Department of Education  
for Medicaid Reimbursement

<b>Purpose/Outcomes</b>	Funding is reimbursement for Medicaid administrative activities in connection with the delivery of Healthy Families services. Activities improve health services access and availability of children and family participants of Healthy Families who are eligible for medical assistance under Medicaid.
<b>Dollar Amount and Fiscal Impact</b>	\$24,674.29 for Medicaid earnings of the Healthy Families program from July 1 to September 30, 2015. No county general funds are involved.
<b>Funding Source</b>	Oregon Department of Education Early Learning Division
<b>Duration</b>	Effective as of signature
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>Individuals and families in need are healthy and safe</li> <li>Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Korene Mather x5683
<b>Contract No.</b>	H3S/CYF - 7515

**BACKGROUND:**

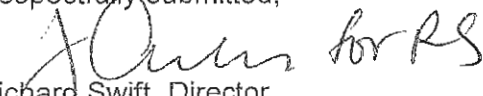
The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of a revenue agreement with Oregon Department of Education Early Learning Division for Medicaid earnings of the Healthy Families program. Funding is earned as a result of Medicaid administrative activities that support administration of the State Medicaid Plan including outreach to families about health services and benefits, case planning, referral, wellness activities and preventive health care services.

This agreement has been reviewed and approved by County Counsel. No County General funds are involved.

**RECOMMENDATION:**

Staff recommends the Board approval of this contact and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

  
Richard Swift, Director  
Health Housing & Human Services





Early Learning Division | 775 Summer St NE, Suite 300, Salem, OR 97301

Phone: 503-373-0066 | Fax: 503-947-1955

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November 12, 2015

The Oregon Department of Education is issuing Clackamas County a grant in the amount of **\$24,674.29** for the Medicaid reimbursement earned by your Healthy Families Oregon program during Quarter 1 (July 1, 2015 – September 30, 2015) of the 2015 – 2017 biennium. Please sign the last page of this Grant Letter that outlines the Medicaid Claiming Requirements, scan and email back to Linda Jones at [linda.p.jones@state.or.us](mailto:linda.p.jones@state.or.us)

Thank you,  
Erin Deahn  
Healthy Families Oregon, Statewide Coordinator  
Early Learning Division

**1. Medicaid Administrative Claiming Requirements:**

Under Title XIX of the Social Security Act (“the Act”), the federal government and states share the cost of funding the Medicaid program, which provides medical assistance to certain low-income individuals. Federal Financial Participation (“FFP”) is the federal government’s share for states’ Medicaid program expenditures. The State is required to share in the cost of medical assistance expenditures, and the Act permits both state and local governments to participate in the financing of the non-Federal portion of medical assistance expenditures (“State Share”). States may claim FFP for providing administrative activities that are found to be necessary by the Secretary of the U.S. Department of Health and Human Services (“DHHS”), Centers for Medicare and Medicaid Services (“CMS”) for proper and efficient administration of the Title XIX Medicaid Oregon State Plan (the “State Medicaid Plan”).

The Oregon Medicaid program is administered by the Oregon Health Authority (“OHA”), pursuant to ORS 409.010(3). OHA has an interagency agreement with ODE that authorizes ODE to provide for the delivery of Medicaid administrative activities in connection with the delivery of Healthy Families Services under ORS 417.795 and to claim FFP for such activities. ODE provides for the delivery of those Medicaid administrative activities in the Service Delivery Area through this Contract.

ODE and Contractor desire to improve health services access and availability for children and families eligible for medical assistance under Medicaid who reside in the Service Delivery Area and, accordingly, in connection with the delivery of Healthy Families Services, Contractor shall during the term of this Contract, either directly or through subcontracted Providers, perform Medicaid administrative activities in the Service Delivery Area as follows:

**OREGON DEPARTMENT OF EDUCATION**

Kate Brown, Governor

- a. **Training Requirements:** All Contractor and subcontracted Provider staff that will perform Medicaid administrative activities under this Contract must attend training provided by or coordinated through ODE prior to performing such activities and annually thereafter.
- b. **Service Requirements:**
- (1) Contractor, to the extent it is providing Healthy Families Services under this Contract directly, and subcontracted Providers of Healthy Families Services under this Contract must:
- A. Enroll with the OHA, Division of Medical Assistance Programs (“DMAP”), to provide Medicaid services;
  - B. In connection with its delivery of Healthy Families Services under this Contract, perform Medicaid administrative activities that support administration of the State Medicaid Plan including:
    - i. Outreach activities to inform families about health services and benefits;
    - ii. Case Planning/Referral/Interagency Coordination; and
    - iii. Wellness activities and preventative health care services.
  - C. Participate in required time studies during the four days each quarter designated by ODE, using the form (paper and electronic) provide by ODE and including all employees performing Medicaid administrative activities during the quarter in connection with the delivery of Healthy Families Services under this Contract.
  - D. Utilize the Activity Codes in Attachment 1 and time study methodology designated by ODE to document the time spent on all activities performed during the designated four-day period.
  - E. Comply with all requirements of 42 CFR 434.6 as applicable.
  - F. Counsel Medicaid eligible families that they are free to accept or reject Medicaid services and to receive such service from an enrolled provider of their choice unless otherwise restricted to a provider of the Oregon Health Plan by OHA.
- (2) Contractor shall notify subcontracted Providers of the time study dates for each quarter. Time study dates are randomly determined by ODE.

2. **Reporting:**

- a. Contractor shall submit reports to ODE in accordance with the QA Calendar. QA Calendar can be found at <http://oregonearlylearning.com/healthy-family-providers-page/>
- b. Contractor must report to ODE yearly on the use of Medicaid Administrative Claiming (Title XIX) funds disbursed to Contractor.

3. **Data Requirements:**

- a. Contractor must maintain and provide to ODE upon request, the following information:
  - (1) The following information on Contractor employees who perform Medicaid administrative activities under this Contract and subcontracted Provider employees who perform Medicaid administrative activities under Contractor's contract with Provider: the name, title, job description, education level, salary, and other personnel expenses for each employee;
  - (2) Cost information: records to indicate the nature and extent of cost of Medicaid administrative activities performed, and other resources that have been applied to offset costs;
  - (3) Time study records; and
  - (4) Any other information applicable to the Medicaid administrative activities performed under Contractor's contract with a subcontracted Provider.
  - (5) Provide, upon request, to ODE, OHA, the Oregon Department of Justice, the Oregon Secretary of State, or federal officials, all records that support Medicaid claims for Medicaid administrative activities.

4. **Fiscal Requirements:**

- a. **Medicaid Administrative Claiming:** As set forth below, and otherwise in accordance with procedures designed by ODE, Contractor, to the extent it is providing Healthy Families Services under this Contract directly, and subcontracted Providers of Healthy Families Services under this Contract must participate in federal Medicaid (Title XIX) Administrative Claiming for Medicaid administrative activities performed in connection with the delivery of Healthy Families Services, as follows:
  - (1) Contractor must submit to ODE within the designated time period after the close of each calendar quarter during the term of this Contract, information necessary for developing a Medicaid claim for Medicaid administrative activities performed during the prior quarter, including:
    - A. A list of the Contractor and subcontracted Provider employees identified as performing Medicaid administrative activities during the quarter in connection with the delivery of Healthy Families Services under this Contract;
    - B. Salary and other personnel expenses for each identified employee;
    - C. The actual four-day time study record, of all activities performed by each employee identified as performing Medicaid administrative activities during the quarter in connection with the delivery of Healthy Families

Services under this Contract.

- D. The costs of Medicaid administrative activities performed by Contractor and subcontracted Providers during the quarter, as determined by Contractor's time study and related information and by the time study and related information submitted by Providers to Contractor.
- (2) Subject to the limitations and exclusions set forth elsewhere in this Contract, Contractor may include in the information it submits to ODE for developing the quarterly Medicaid claim for Medicaid administrative activities, Medicaid indirect costs incurred during the quarter. Medicaid indirect costs include costs associated with administering the delivery of Medicaid administrative activities authorized under this Contract with subcontracted Providers, such as implementation of the time study requirements. Contractor's actual Medicaid indirect costs must be documented and justifiable.
- (3) Allowable costs of Medicaid administrative activities are separate from any other direct Medicaid or other services that may be provided pursuant to separate Medicaid funding agreements or authorizations.
- (4) Based on the information submitted by Contractor, ODE will calculate after the end of each quarter the allowable costs of Medicaid administrative activities performed during preceding quarter ("Allowable Administrative Costs") and send the Contractor a copy of the Allowable Administrative Claim.

**b. Invoicing and Payments:**

- (1) Subject to the conditions set forth below, ODE shall disburse to Contractor within 30 days after the end of the quarter, the amount of the Allowable Administrative Claim (the "Medicaid Earnings"). The Medicaid Earnings, except as described in 423-010-0023(3), must be used to maintain or expand Healthy Families program core services, as defined in the Healthy Families Program Policy and Procedure Manual.

ODE's quarterly payment obligation is conditioned on ODE receiving payment from OHA of the FFP for the Allowable Administrative Claim (ODE will provide the State Share).

**5. Fiscal Restrictions:**

As described in greater detail in Attachment 1, the allowable costs of Medicaid administrative activities are limited as follows:

- a. Medicaid does not pay for administrative expenditures related to, or in support of, services that are not included in the State Medicaid Plan, the Oregon Health Plan, or services which are not reimbursed under Medicaid.
- b. Medicaid does not pay for health care services that are rendered free of charge to the general population. Thus, any administrative activity which supports the referral, coordination, planning of screening or services that are provided free to the general population would not be considered as Medicaid administration.

- c. Duplicate payments are not allowable when determining administrative costs under Medicaid. Payments for allowable activities must not duplicate payments that have been or should have been included and paid as part of a rate for services, part of a capitation rate, or through some other local, State or federal program. Medicaid administrative costs may not be claimed for activities that are integral parts or extensions of medical services. Furthermore, in no case shall Contractor be reimbursed more than the actual cost of the activities claimed by Contractor under this Contract.

## Attachment 1

### ACTIVITY CODES

#### **A1. Medicaid/OHP Outreach Activities and Facilitating Medicaid /OHP Eligibility**

This code should be used when performing activities that inform eligible or potentially eligible individuals about Medicaid/OHP/Oregon Healthy Kids. This code should also be used when describing the range of services covered under Medicaid/OHP/Oregon Healthy Kids, how to access and obtain them, and the benefits of Medicaid/OHP preventative services. Use this code when assisting children and their families in applying for and becoming eligible for Medicaid/OHP. Activities for obtaining and sharing information for Medicaid/OHP outreach and facilitating Medicaid/OHP eligibility can be written or verbal and may occur during meetings, home visits or over the phone. This includes related paperwork, clerical activities, and staff travel required to perform these activities. Please note it is not necessary that the child/family actually receive Medicaid/OHP in order for this code to be used.

#### **Examples:**

- Informing Medicaid eligible and potential Medicaid eligible children and families about the benefits and availability of services provided by Medicaid (including preventative treatment and screening) including services provided through Enter Periodic Screening Diagnosis and Treatment (EPSDT) program.
- Developing and/or compiling materials to inform individuals about the Medicaid program (including EPSDT) and how and where to obtain those benefits. Note: this activity should not be used when Medicaid-related materials are already available to the children and families served in your target population (such as through the Medicaid agency). As appropriate, obtain prior approval from Medicaid when creating/developing outreach materials.
- Distributing literature about the benefits, eligibility requirements, and availability of the Medicaid program, including EPSDT.
- Assisting the Medicaid agency to fulfill the outreach objectives of the Medicaid program by informing individuals, children and their families about health resources available through the Medicaid program.
- Providing information about Medicaid EPSDT screening (e.g., dental, vision) available that will help identify medical conditions that can be corrected or improved by services offered through the Medicaid program.
- Contacting pregnant and parenting women and teens about the availability of Medicaid-covered prenatal and well-baby care programs, immunizations, birth control options and services.
- Providing information regarding Medicaid managed care programs and health plans such as Oregon Healthy Kids to individuals and families, including how to access the system.
- Encouraging families to access medical/dental/mental health services provided by the Medicaid program.
- Verifying an individual's current Medicaid eligibility status for purposes of the Medicaid eligibility process. (This may be accomplished by performing an eligibility check on-line, by reviewing the medical card, or contacting a local DHS/OHA facility to verify status of eligibility.)
- Reminding or assisting families to reapply for OHP to keep it current.
- Explaining Medicaid eligibility rules and the Medicaid eligibility process to prospective applicants.

- Assisting individuals or families complete a Medicaid eligibility application.
- Gathering information related to the application and eligibility determination process for an individual, including resource information and third party liability (TPL) information, as a prelude to submitting a formal Medicaid application.
- Providing necessary forms and/or packaging forms in preparation for Medicaid eligibility determination.
- Referring an individual or family to a local assistance office to make application for Medicaid benefits.
- Assisting an individual or family in collecting/gathering required information and documents for the Medicaid application.
- Identifying enrolled providers to provide Medicaid covered services, such as: immunizations, well child exams, dental services, mental health services.
- Participating as a Medicaid eligibility outreach outstation. NOTE: excludes determining eligibility.
- Preparing, presenting and disseminating child health related materials identifying Medicaid-covered services and how to access such services including preventative health care and substance abuse prevention programs, related staff travel and paperwork.
- Informing parents/families on how to appropriately access/use Medicaid-covered medical care/services.

**A2. Outreach and Application Assistance for Non-Medicaid/OHP Programs:**

Activities that assist the child/family in gaining access to non-Medicaid/OHP services and effectively utilize social services and community wellness programs. (Included are housing, commodities, food banks, Women’s Infant and Children Program (“WIC”), foster care, financial assistance, exercise and weight loss programs, energy assistance, child care, after school programs, friendly visitor and vocational services). Providers that are not enrolled with Medicaid or part of Medicaid Managed care of network providers and activities that assist the child/family in applying for these services, including form preparation, related staff travel, clerical, and paperwork.

**Examples:**

- Informing families about general health education programs or campaigns and how to access them, conducting, scheduling or promoting these programs.
- Scheduling and promoting activities which educate individuals about the benefits of healthy lifestyles, home safety and accident prevention.
- Non-Medicaid/OHP outreach directed toward encouraging persons to access social, educational, legal, or other services not covered by Medicaid/OHP.
- Explaining eligibility rules and the eligibility process to prospective applicants for NON-OHP programs, providing the necessary forms and packaging all forms in preparation for such NON-OHP services.
- Informing individuals and families about NON-OHP programs, such as housing, food banks, foster care, financial assistance for needy families, TANF, food stamps, Women’s Infant and Children (WIC) program, childcare, legal aid and other NON-OHP social or educational programs, and referring them to the appropriate agency to make application for such services.
- Providing outreach, developing and verifying initial and continuing eligibility for the Free and Reduced Lunch Program.



## **B1. Referral, Coordination, Monitoring and Training of Medicaid/OHP Covered Services**

Staff should use this code when making referrals for coordinating, and/or monitoring the delivery of Medicaid-covered services. This code may also be used when coordinating or participating in training events and seminars for outreach staff regarding the benefits of the Medicaid/OHP program, how to assist families to access Medicaid-covered services and how to more effectively refer participants for services. Activities that are an integral part of or an extension of a direct medical service are not claimable as an administrative activity and must be reported as E. NOTE: Targeted case management is also not claimable as an administrative activity and must be reported as E. Claimable activities reported include related staff travel, clerical, and paperwork.

\*\*\*If medically licensed staff provide these activities they are considered integral to Medical services they provide whether they are actively billing Medicaid for direct medical services or not, must report under E for Direct Healthcare Services.

### **Examples:**

- Monitoring, coordination, and training of Medicaid/OHP services: for vulnerable children and families, including agency staffing to coordinate Medicaid/OHP services for child health and development (does not include Individualized Family Services Goal Plan meetings), arranging for Medicaid-covered services, coordinating child specific Medicaid –covered services in coordination with services identified (i.e. psychological counseling, health, substance abuse counseling and consultation), related staff travel and paperwork.
- Referral and Coordination: Gathering information in advance of a referral for a Medicaid-covered service utilizing questionnaires (i.e. New Baby Questionnaire or Family Update). Making referrals for and coordinating Medicaid covered screenings, examinations, assessments and evaluations for health, vision, dental, developmental, mental health, substance abuse, and other Medicaid-covered medical services. Contacts with parents regarding their child’s Medicaid covered healthcare needs. Gathering background information and supportive data such as social history and medical history. Helping families meet goals related to Medicaid covered services and coordinating medical care with partnering agencies also serving the family such as Early Intervention and/or Community Healthy Nurses, and related staff travel and paperwork.
- Immunization: Scheduling immunizations, coordination of immunizations for children, related staff travel and paperwork.
- Maternal Care Services: Referring for Medicaid-covered prenatal, postpartum and newborn care, pre-pregnancy risk prevention, family planning and related staff travel and paperwork.
- Developmental Delay: Gathering information in advance of a referral for a Medicaid-covered service utilizing Ages and Stages Questionnaire (ASQ) and ASQ Social Emotional Questionnaire for early identification of age appropriate child development and/or delays to assure health and developmental problems are found, diagnosed and treated. Coordinating or referring for early Medicaid-covered medical consultation and evaluations, related staff travel and paperwork. Participating in or coordinating training which improves the delivery of Medicaid/OHP services, enhances early identification, intervention, screening and referral of children with special health needs.

**B2. Case Planning, Monitoring, Coordination, Referral and Training of Non-Medicaid/OHP Covered Services**

- Assessing and monitoring of the home learning environment using standardized forms, creating and disseminating information on positive and interactive learning environments, providing or arranging for reading material for the child, providing or arranging for age appropriate toys.
- Classroom instruction or presentations, preparation, related paperwork and travel, attendance at conferences, providing educational or career guidance or consultation. Includes related staff travel, clerical, and paperwork.
- Case management of social services and community wellness programs (including housing, commodities, food banks, WIC, foster care, financial assistance, exercise and weight loss programs, energy assistance, child care, after school programs, friendly visitor and vocational services). Arranging transportation for these services coordinating or participating in training events and seminars for these services. Includes related staff travel, clerical, and paperwork.
- Making direct referrals to social services such as housing, energy assistance, educational and/or special education, childcare, education and Early Intervention, vocational and transportation to these services, etc., monitoring and follow-up. Includes related staff travel, clerical and paperwork.
- Participating in or coordinating training which improves the delivery of non-Medicaid/OHP services.

**Examples:**

- Helping families meet non-Medicaid covered related goals.
- General education and referrals about topics like nutrition, normal breastfeeding, exercise, wellness, attachment, infant development.
- Sharing toys, making toys.
- Literacy.
- Parent child interactions.

**C1. Medicaid/OHP Transportation and Translation:**

Assisting an individual to obtain transportation to services covered by OHP, arranging for or providing translation services to facilitate access to OHP services. This does not include the provision of the actual transportation services, but rather the administrative activities involved in arranging or scheduling transportation to a Medicaid covered service. Translation services must be provided by an employee whose role is performing translation functions to facilitate access to Medicaid-covered services. Include related paperwork, clerical activities or staff travel required to perform these activities.

**Examples:**

- Arranging for or providing translation services (oral and signing) that assist the individual to access and understand necessary care or treatment covered by Medicaid.
- Developing translation materials that assist individuals to access and understand necessary care or treatment covered by Medicaid.
- Scheduling or arranging transportation to Medicaid/OHP covered services.
- Related staff travel and paperwork.

**C2. Non-Medicaid/OHP Transportation and Translation** means:

Assisting an individual to obtain transportation to services not covered by Medicaid/OHP, or arranging for or providing translation services related to social, vocational, or educational programs. Include related paperwork, clerical activities or staff travel time required to perform these activities.

**Special Note:** Use this code when accompanying an individual to non-Medicaid/OHP services.

**D1. Program Planning, Policy Development, and Interagency Coordination Related to Medicaid/OHP Services**

Performing activities associated with the development of strategies to improve the coordination and delivery of medical/dental/mental health services, and when performing collaborative activities with other agencies and/or providers. Planning and developing procedures to track requests for services; the actual tracking of requests for Medicaid services would be coded under B1 Referral, Coordination and Monitoring of Medical Services. Working internally and with other agencies to improve services, expand health and medical services and their utilization to specific target populations, gathering information about their functions, to improve early identification of health and developmental problems, related staff travel, clerical and paperwork.

**Examples:**

- Identifying gaps or duplication of medical/dental/mental services and developing strategies to improve the delivery and coordination of these services.
- Developing strategies to assess or increase the capacity of medical/dental/mental health programs.
- Monitoring medical/dental/mental health delivery systems.
- Developing procedures for tracking families; requests for assistance with medical/dental/mental services and providers, including Medicaid (this does not include the actual tracking of request for Medicaid services).
- Evaluating the need for medical/dental/mental services in relation to specific populations or geographic areas.
- Analyzing Medicaid data related to a specific program, population, or geographic area.
- Working with other agencies and/or providers that provide medical/dental/mental services to improve the coordination and delivery of services, to expand access to specific populations of Medicaid eligibles and to increase provider participation and improve provider relations.
- Working with other agencies and/or providers to improve collaboration around the early identification of medical/dental/mental problems.
- Developing strategies to assess or increase the cost effectiveness of medical/dental/mental health programs.
- Defining the relationship of each agency's Medicaid services to one another.
- Working with Medicaid resources, such as the Medicaid agency and Medicaid managed care plans, to make good faith efforts to locate and develop EPSDT health services referral relationships.
- Developing advisory or work groups of health professionals to provide consultation and advice regarding the delivery of health care services.

- Working with the Medicaid agency to identify, recruit and promote the enrollment of potential Medicaid providers.
- Developing medical referral sources such as directories of Medicaid providers and managed care plans who will provide services to targeted population groups, e.g., EPSDT children.
- Coordinating with interagency committees to identify, promote and develop EPSDT services.
- System coordination, community meetings to improve services, expand access to OHP, improve system of care.
- Developing a family planning, education, counseling and service program compatible with community norms, locating or developing family planning information and materials and methods of distribution, developing a family planning service referral network.
- Notifying medical providers of Healthy Start/Healthy Families Oregon services and coordination opportunities.
- Recruitment of enrolled providers to provide Medicaid covered services, such as: immunizations, well child exams, dental services, and mental health services.
- System coordination to improve delivery of immunizations.
- Related supervision, travel, case conferences, team meetings and paperwork.

## **D2. Coordination Related to Non-Medicaid/OHP Services**

Working internally and with other agencies to improve social services, identify gaps in services, expand and improve capacity to engage in non-Medicaid/OHP activities, expand access and linkage to non-Medicaid/OHP services, their utilization by specific target populations; related staff travel, clerical, and paperwork.

## **E. Direct Health Care Services**

Providing medical care, treatment, and/or counseling to an individual. This code also includes administrative activities that are an integral part of or extension of a medical service (e.g., patient follow-up, patient assessment, patient counseling, patient education, parent consultations, billing activities). This code also includes related paperwork, clerical activities, or staff travel required to perform these activities.

### **Examples:**

- Providing health/mental health services.
- Medical/health assessment and evaluation.
- Conducting medical/health assessments/evaluations and diagnostic testing and preparing related reports.
- Providing personal aide services.
- Providing speech, occupational, physical and other therapies.
- Administering first aid or prescribed injection or medication.
- Providing direct clinical/treatment services.
- Performing developmental assessments.
- Providing counseling services to treat health, mental health, or substance abuse conditions.
- Developing a treatment plan (medical plan of care) for a student if provided as a medical service.
- Performing routine or mandated child health screens including but not limited to vision, hearing, dental, scoliosis, and EPSDT screens.
- Providing immunizations.

**F. Other Services**

General administrative functions such as: payroll, maintaining inventories, developing budgets, executive direction, lunches, paid leave, educational or professional development conferences, staff meetings, and personnel issues.

**Examples:**

- Paid lunches, breaks, or other time not at work.
- Paid time off (vacation, sick).
- Most trainings, conferences and meetings (not related to Medicaid covered services).
- Personnel issues.
- Emails and phone messages, general office work, filing.
- Establishing goals and objectives of health-related programs as part of an annual or multi-year plan.
- Reviewing agency procedures and rules.
- Attending or facilitating staff or board meetings.
- Performing administrative or clerical activities related to general building or agency functions or operations.
- Providing general supervision of staff, including assistants or volunteers, and evaluation of employee performance.

Authorized Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

COPY

December 17, 2015

Board of County Commissioner  
 Clackamas County

Members of the Board:

Approval of Professional Services Agreement with Estacada School District, for the  
School Based Health Centers (SBHC) Building Mental Health Capacity

<b>Purpose/Outcomes</b>	This Agreement provides the basis for building Mental Health Services capacity at the Estacada School District SBHC.
<b>Dollar Amount and Fiscal Impact</b>	Contract maximum value is \$163,400.
<b>Funding Source</b>	Public Health Fund is receiving Grant funding from the State Public Health Authority – No County General Funds will be used.
<b>Duration</b>	Effective July 1, 2015 and terminates on June 30, 2017
<b>Previous Board Action</b>	No Previous Board Action
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
<b>Contact Person</b>	Dana Lord, Public Health Director – 503-655-8479
<b>Contract No.</b>	7448

**BACKGROUND:**

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Agreement with Estacada School District to build mental health services capacity. This Agreement is for the provision of a mental health specialist at the SBHC's. This agreement will allow earlier access to mental health services, reducing the number of crisis incidents. This agreement is funded with grant money received through the Local Public Health Authority (LPHA).

This contract is effective July 1, 2015 and continues through June 30, 2017. The agreement is retro-active due to late receipt of funding approval by the State.

**RECOMMENDATION:**

Staff recommends the Board approval of this contract and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

  
 Richard Swift, Director  
 Health, Housing & Human Services

**PROFESSIONAL SERVICES CONTRACT DOCUMENTS**

for

**School Based Health Center Building Mental Health Services Capacity**

**Estacada School District**

**BOARD OF COUNTY COMMISSIONERS**

Commissioner John Ludlow, Chair

Commissioner Jim Bernard

Commissioner Paul Savas

Commissioner Martha Schrader

Commissioner Tootie Smith

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Don Krupp  
County Administrator

Lane Miller  
Purchasing Manager

Jeanne Weber  
Contract Analyst



## PROFESSIONAL SERVICES CONTRACT

### Contract # 7448

This contract for professional services (this "Contract") is entered into by and between Clackamas County acting by and through its Health, Housing, and Human Services Department, Public Health Division, a political subdivision of the State of Oregon, hereinafter referred to as COUNTY, and Estacada School District hereinafter called CONTRACTOR, to provide the services described below at the rates included in Attachment "A", which by this reference is hereby made a part hereof and incorporated herein. The following provisions shall comprise this Contract:

#### I. SCOPE:

This Contract covers the services as described in Attachment "A" inclusive. CONTRACTOR shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. Work shall be performed in accordance with a schedule approved by the COUNTY. The term of the contract shall be effective July 1, 2015 and continue through June 30, 2017.

#### II. COMPENSATION:

- A. COUNTY agrees to compensate CONTRACTOR on a fee-for-services basis as provided for in Attachment "A" inclusive. Invoices submitted for payment in connection with this contract shall be properly documented and shall indicate pertinent County contract number #7448. All charges shall be billed monthly and will be paid net 30 days from receipt of invoice. The maximum annual compensation authorized under this Contract shall be \$163,400.
- B. CONTRACTOR is engaged hereby as an independent contractor and will be so deemed for purposes of the following:
1. CONTRACTOR will be solely responsible for payment of any Federal or State taxes required as a result of this contract.
  2. This contract is not intended to entitle CONTRACTOR to any benefits generally granted to COUNTY employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this contract to CONTRACTOR are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the CONTRACTOR is presently a member of the Oregon Public Employees Retirement System).
  3. If CONTRACTOR has the assistance of other persons in the performance of this contract and the CONTRACTOR is a subject employer, the CONTRACTOR shall qualify and remain qualified and pay employees for the term of work in accordance with this contract as an insured employer under Oregon Revised Statutes ("ORS") 279B.020 and ORS 279B.235, which are incorporated herein by this reference.
- C. CONTRACTOR certifies that, at present, he or she, if an individual is not a program, County, or Federal employee.
- D. CONTRACTOR, if an individual, certifies that he or she is not a member of the Oregon Public Employees Retirement System.

#### III. CONSTRAINTS

CONTRACTOR agrees:

- A.** If the services to be provided pursuant to Section I Scope are professional and/or consultative, the CONTRACTOR shall not delegate the responsibility for providing those services to any other individual or agency.
- B.** Pursuant to the requirements of state law, the following terms and conditions are made a part of this contract:
  - 1.** CONTRACTOR shall:
    - a.** Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the prosecution of the work provided for in this contract.
    - b.** Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in the performance of this contract.
    - c.** Not permit any lien or claim to be filed or prosecuted against the COUNTY on account of any labor or material furnished.
  - 2.** If CONTRACTOR fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this contract.
  - 3.** CONTRACTOR shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which are incorporated herein by this reference.

All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
  - 4.** CONTRACTOR shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of CONTRACTOR, of all sums which CONTRACTOR agrees to pay for such services and all moneys and sums which CONTRACTOR collected or deducted from the wages of CONTRACTOR's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.
  - 5.** This contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
  - 6.** CONTRACTOR shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work as described in Attachment A under this contract.
  - 7.** To the extent CONTRACTOR is negligent, CONTRACTOR shall indemnify, hold harmless and defend the COUNTY, its officers, commissioners, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof (including but not limited to attorney's fees), arising out of or based upon damage

or injuries to persons or property caused by the negligent acts, errors, omissions, or fault of the CONTRACTOR or the CONTRACTOR'S employees or agents.

8. CONTRACTOR'S failure to perform the scope of work identified or failure to meet established performance standards shall be subject to consequences that include but are not limited to any or all of:
  - a. Reducing or withholding payment;
  - b. Requiring CONTRACTOR to perform, at CONTRACTOR'S expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or
  - c. Declaring a default, terminating the contract and seeking damages and other relief under the terms of the Contract or other applicable law.

**IV. INSURANCE REQUIREMENTS**

**A. Commercial General Liability**

- Required by COUNTY                       Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of commercial general liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for personal injury and property damage for the protection of COUNTY, its officers, commissioners, agents and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this contract. COUNTY, at its option, may require a complete copy of the above policy.

**B. Automobile Liability**

- Required by COUNTY                       Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of business automobile liability insurance in the amount of not less than \$500,000 combined single limit for bodily injury and property damage for the protection of COUNTY, its officers, commissioners, agents and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this contract. COUNTY, at its option, may require a complete copy of the above policy.

**C. Professional Liability**

- Required by COUNTY                       Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners, agents and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this contract. COUNTY, at its option, may require a complete copy of the above policy.

- D. If CONTRACTOR has the assistance of other persons in the performance of this contract, and the CONTRACTOR is a subject employer, the CONTRACTOR agrees to qualify and remain

**ESTACADA SCHOOL DISTRICT**

*Professional Services Contract # 7448*

Page 5 of 9

qualified for the term of this contract as an insured employer under ORS 656. The CONTRACTOR shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

- E. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period CONTRACTOR'S insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided the coverage's retroactive date is on or before the effective date of this contract.
- F. The insurance, other than the professional liability and workers compensation insurance, shall include COUNTY as an expressly scheduled additional insured. Proof of insurance must include a copy of the endorsement showing COUNTY as a scheduled insured. Such insurance shall provide sixty (60) days written notice to COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to COUNTY under this insurance. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
- G. CONTRACTOR shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the CONTRACTOR under this contract, unless this requirement is expressly modified or waived by COUNTY in writing.

**V. SUBCONTRACTS:**

CONTRACTOR shall be responsible to COUNTY for the actions of persons and firms performing subcontract work. CONTRACTOR certifies that the CONTRACTOR has not discriminated and will not discriminate against any minority, women or emerging small business enterprise that is owned or controlled by or that employs a disabled veteran, in obtaining any subcontract.

CONTRACTOR shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the CONTRACTOR under this contract, unless this requirement is expressly modified or waived by COUNTY in writing.

**VI. TERMINATION-AMENDMENT:**

- A. This contract may be terminated by either party upon at least ten (10) days written notice to the other.
- B. This contract and any amendments to this contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County.
- C. This contract supersedes and cancels any prior contracts between the parties hereto for similar services.

The undersigned, by its signature, agrees to perform the scope of work as described in the Contract documents and meet the performance standards set forth therein. By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

**ESTACADA SCHOOL DISTRICT**  
255 NE 6<sup>TH</sup> AVENUE  
ESTACADA, OR 97023]

\_\_\_\_\_  
Entity Type/State of Formation  
*Donna C.*  
\_\_\_\_\_  
Authorized Signature  
*Executive Dir, Adm. Svcs.*  
\_\_\_\_\_  
Name / Title Printed  
*Donna Carcio*  
\_\_\_\_\_  
Date  
*12/8/15*  
\_\_\_\_\_  
Telephone / Fax Number  
*(503) 630-6871 / 503 630-8513*  
\_\_\_\_\_  
Oregon Business Registry #

**CLACKAMAS COUNTY BOARD OF  
COUNTY COMMISSIONERS by:**

\_\_\_\_\_  
Richard Swift, Director  
Health, Housing, and Human Services Department

\_\_\_\_\_  
Date

**ATTACHMENT "A"**  
**SCOPE OF WORK AND COMPENSATION**

I. Purpose

This agreement provides the basis for a cooperative working relationship between the COUNTY and CONTRACTOR with the common goal of building Mental Health services Capacity to the School Based Health Center (SBHC) program. The funds provided under this agreement shall only be used to support activities related to the Mental Health Expansions Project within the SBHC.

II. Scope of Work and Cooperation

CONTRACTOR agrees to:

- A. Provide a 1.0 FTE mental health specialist.
- B. Provide services that are culturally and linguistically appropriate for their target population.
- C. Track data related to mental health encounters and submit encounter data for all billable and non-billable services to State Program Office (SPO) four times during the contract period (January 15, 2016; July 15, 2016; January 15, 2017; and July 15, 2017)
- D. Participate in monthly check-in meetings with SPO.
- E. Submit 3 mid-project reports in December 2015, June 2016, December 2016 and a final report in June 2017. Guidance will be given on expected report content.

COUNTY agrees to:

- A. Work with CONTRACTOR to promote the mental health specialist services.
- B. Submit 3 mid-project reports in December 2015, June 2016, December 2016 and a final report in June 2017.
- C. Serve as liaison to SPO.
- D. Participate in monthly check-in meetings with SPO.

III. Liaison Responsibility

- A. Facilitate communication and cooperation between the CONTRACTOR and COUNTY to provide mental health services in the SBHC'S.
- B. Complete the scope of work as outlined under Section II.

Liaison from COUNTY is Jamie Zentner: JZentner@co.clackamas.or.us  
Liaison from CONTRACTOR is Terri Lloyd.: lloydt@estacada.k12.or.us

IV. Compensation

COUNTY'S obligations under this agreement are subject to receipt of grant funds from the State of Oregon for Program Element #44: School Based Health Centers.

The maximum amount available for CONTRACTOR under this agreement shall not exceed \$163,400. The funds shall be distributed as follows:

FY 15 – 16 – County will pay Estacada \$6,748. Per month for a total of \$80,976.  
FY 16 – 17 – County will pay Estacada \$6,869. Per month for a total of \$82,424.  
Grand Total \$163,400.

V. Reporting Requirements

A. Fiscal Reports

a. CONTRACTOR shall submit monthly expenditure reimbursement invoices for true and verifiable costs and expenses related to implementation of the Mental Health Expansion Project. Invoices, must be itemized and reference contract # 7448. Invoices shall be submitted to COUNTY by the 10th of the month following expenditures

b. CONTRACTOR will submit Fiscal Reports to:

Clackamas County Public Health Division  
Attn: Sherry Whitehead  
2051 Kaen Road, #367  
Oregon City, Oregon 97045

B. Performance Reporting

a. CONTRACTOR must submit qualitative and quantitative data based on reporting requirements set forth by the SPO.

b. CONTRACTOR will submit Performance Reports to:

Clackamas County Public Health Division  
Attn: Jamie Zentner  
2051 Kaen Road, #367  
Oregon City, Oregon 97045



December 17, 2015

Board of County Commissioner  
 Clackamas County

Members of the Board:

Approval of Amendment #3 to the Services Contract with Health Share of Oregon, to expand the Healthy Homes Intervention Home Visit Program.

<b>Purpose/Outcomes</b>	Expand the Healthy Homes Intervention Home Visit Program to reduce emergency department use and hospitalization of asthmatic children.
<b>Dollar Amount and Fiscal Impact</b>	This is a revenue agreement. Amendment #3 adds \$41,600. Bringing the contract value to \$233,278.50
<b>Funding Source</b>	Pass through funds from Health Share of Oregon. Health Share of Oregon has received funding from the Oregon Health Authority (OHA) from the project "Transformation Fund Grant Agreement" Number 144324. No County General Funds are involved.
<b>Duration</b>	Effective 11/01/2015 and expires on 12/31/2015
<b>Previous Board Action</b>	The Board last reviewed and approved this agreement on March 14, 2014, Agenda item 031414-A4
<b>Strategic Plan Alignment</b>	1. N/A 2. Ensure Safe, health and secure communities
<b>Contact Person</b>	Dana Lord, Public Health Director – 503-742-8479
<b>Contract No.</b>	6578-03

**BACKGROUND:**

The Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of a Contract with Health Share of Oregon who has received funding from the Oregon Health Authority (OHA) from the project entitled "Transformation Fund Grant Agreement" Number 144324. This contract proposes Health Share of Oregon collaborate with CCPHD to expand the Healthy Homes Intervention Home Visit Program.

Amendment #3 adds \$41,600. to this revenue contract increasing the maximum value to \$233,278.50. CCPHD will work with Health Share of Oregon to expand the Intervention Home Visit Program to 50 enrolled families. Each family will receive 6 home visits to teach best practice cleaning methods, supplies, and home repairs. The improved home environment should provide better quality of life and reduce the need for emergency department use and hospitalization. The target population shall be children up to 18 years old with asthma or persistent wheezing.

The Amendment is effective November 1, 2015 and continues through December 31, 2015. This contract was reviewed by County Counsel February 28, 2014. The Amendment did not require counsel review as it only increase the revenue and no other language was changed.

**RECOMMENDATION:**

Staff recommends Board approval of this amendment and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

 for RS  
Richard Swift, Director

**THIRD AMENDMENT TO  
HEALTH SHARE OF OREGON SERVICES CONTRACT**

This Third Amendment (this "**Amendment**") to the Health Share of Oregon Services Contract (the "**Contract**") by and between Health Share of Oregon, ("**Health Share**"), and Clackamas County, ("**Contractor**"), is made and entered into as of November 1, 2015 ("**Effective Date**").

WHEREAS, Health Share and Contractor have a desire to amend the Contract to the Term provided to Contractor;

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Health Share and Contractor agree as follows:

1. **The Contract is amended as follows with new language in bold and underlined.**
  - a. Contractor shall spend funds according to the attached revised **Exhibit 2 – Project Budget**.
2. **Except as modified hereby, the Agreement shall remain in full force and effect.**

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

**HEALTH SHARE OF OREGON**

**CONTRACTOR**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name (print): \_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 2**

**HEALTH SHARE OF OREGON SERVICES CONTRACT**

**Revised PROJECT BUDGET**

**Contract Amendment No. 3 (Budget Amendment No. 2)**

**Funding Period 2/1/2014 – 12/31/2015**

**Project: Healthy Homes**

**Personnel Costs**

<b>Name</b>	<b>FTE</b>	<b>Salary</b>	<b>Benefits</b>	<b>Total Cost</b>	<b>Amount Requested</b>
Community Health Nurse	0.8	\$79,008.43	\$42,804.57	\$121,813.00	\$121,813.00
Community Health Worker/ Environmental Health Specialist	0.5	\$25,060.05	\$18,904.95	\$43,965.00	\$43,965.00
<b>Subtotal: Personnel</b>		<b>\$104,068.48</b>	<b>\$61,709.52</b>	<b>\$165,778.00</b>	<b>\$165,778.00</b>

<b>Materials &amp; Supplies</b>	<b>Total Cost</b>	<b>Amount Requested</b>
Healthy Homes Family Binder (\$8 x 50 families)	\$ 400.00	\$ 400.00
Family Incentives, HEPA Vacuum, pillow and mattress Covers, walk off mats, other program expense materials & supplies	\$ 26,494.00	\$ 26,494.00
<b>Subtotal: Materials &amp; Supplies</b>		<b>\$ 26,894.00</b>

<b>Consultants &amp; Contracted Services</b>	<b>Total Cost</b>	<b>Amount Requested</b>
Translation	\$ 1,500.00	\$ 1,500.00
Consultation fee - IGA with Multnomah County	\$ 5,000.00	\$ 5,000.00
<b>Subtotal: Consultants &amp; Contracted Services</b>		<b>\$ 6,500.00</b>

<b>Professional Training and Development</b>	<b>Total Cost</b>	<b>Amount Requested</b>
Staff Training	\$ 3,000.00	\$ 3,000.00
Asthma Certification	\$ 500.00	\$ 500.00
<b>Subtotal: Professional Training and Development</b>		<b>\$ 3,500.00</b>

<b>Other Budget Items</b>	<b>Total Cost</b>	<b>Amount Requested</b>
Space, data, telephones, computers, postage	\$ 9,402.50	\$ 9,402.50
Travel expenses	\$ 1,262.00	\$ 1,262.00
Admin costs (Indirect)	\$ 16,619.00	\$ 16,619.00
Allocated costs	\$ 3,323.00	\$ 3,323.00
<b>Subtotal: Other Budget Items</b>		<b>\$ 30,606.50</b>

---

**Total Project Budget \$ 233,278.50 \$ 233,278.50**



COPY

Richard Swift  
Director

December 17, 2015

Board of County Commissioners  
Clackamas County, Oregon

Members of the Board:

Approval of a Construction Agreement Change Order between  
the Department of Health, Housing and Human Service and Par-Tech Construction  
for the West Linn Senior Center Expansion Project

<b>Purpose/Outcomes</b>	Change Order #3 for additional work on an agreement for construction of a 3,700 square foot addition to the West Linn Adult Community Center to provide additional meeting space, a class room and a multipurpose room.
<b>Dollar Amount and Fiscal Impact</b>	City of West Linn.....\$ 680,511 (includes Change Order #3) CDBG Funds (grant)...\$ 240,000 Total Project Budget...\$ 920,511
<b>Funding Source</b>	City of West Linn and CDBG Funds- no County General Funds are involved. 100% of Change Order #3 will be paid by the City.
<b>Duration</b>	Effective when signed and terminates one year after project is completed.
<b>Previous Board Action</b>	The Board of County Commissioners approved the Par-Tech Construction contract on September 10, 2015 board agenda item #091015 – A1. The Intergovernmental Agreement with the City of West Linn was approved on July 10, 2015.
<b>Strategic Plan Alignment</b>	1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities
<b>Contact Person</b>	Chuck Robbins, Director – Community Development Division – 650-5666
<b>Contract No.</b>	H3S # 7383

**Background**

The Housing & Community Development Division of the Health, Housing & Human Service Department requests the approval of Change Order #3 to the construction agreement with Par-Tech Construction for the West Linn Senior Center Expansion Project. Par-Tech Construction was the selected qualified responsive bidder at the August 5, 2015 bid opening. Construction on this project began on September 14, 2015 and will be completed by February 22, 2016. Change Order #3 is for additional work that was requested by the City to improve the quality of the project.

**RECOMMENDATION:**

Change Orders #1, 2 and 3 represents a total of 15.9% increase in the original contract amount. We recommend that Richard Swift, H3S Director be authorized to sign the Change Order on behalf of the Board of County Commissioners.

Respectfully submitted,

  
Richard Swift, Director

## CHANGE ORDER FORM

Par-Tech Construction, Inc.  
 13783 S. Forsythe Road  
 Oregon City, Oregon 97045

( ) Contractor  
 ( ) Architect  
 ( ) H3S Director

Project Name: West Linn Senior Center Expansion  
 Project Address: 1180 Rosemont Road,  
 West Linn OR 97068

Change Order No: **3**  
 Contract Date: 9/14/15  
 NTP Date: 9/14/15  
 Change Order Date: 11/30/15


Project Number: 53374 (H3S Contract #6866)  
 To: Clackamas County HCD  
 2051 Kaen Road, Suite #245  
 Oregon City, Oregon 97045

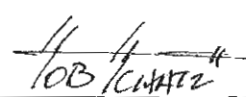
The following changes have been authorized by the City of West Linn, ALLUSA Architects and Clackamas County Housing and Community Development:

Item 1: Additional conduits for data - materials and labor RFC 13	\$ 15,553.00
Item 2: Additional Roof Framing – materials and labor RFC 18	\$ 14,536.00
Item 3: Remove Gift Shop wall and patch– materials and labor RFC 20	\$ 9,518.00
Item 4: Flooring changes – materials and Labor RFC 21	\$ 6,266.00
Item 5: Additional pump at double check vault– materials and labor RFC 22	\$ 5,620.00
Item 6: Upgrade roof drains– materials and labor RFC 23	\$ 1,242.00
Item 7: Additional speaker and data outlets– materials and labor RFC 24	\$ 2,317.00
Item 8: Additional access panels – materials and labor RFC 25	\$ 1,392.00
Item 9: Additional exterior trim to doors and windows – materials/ labor RFC 26	\$ 2,113.00

**TOTAL CONTRACTOR'S PRICE FOR CHANGE ORDER # 3 = + \$ 58,557.00**

Original Contract Price .....	\$ 793,932.00
Net Change by Previous Change Orders .....	\$ 68,022.00
Contract Price prior to this Change Order .....	\$ 861,954.00
Contract Price will be (increased) ( <del>unchanged</del> ) by this Change Order .....	\$ 58,557.00
The new Contract Price including this Change Order will be .....	\$ 920,511.00
The Contract Time will be increased by this Change Order ( <u>13</u> ) calendar days. The date of Substantial Completion as of the date of this Change Order therefore is 2/10/16.	

Approved:   
 by: \_\_\_\_\_ 12.1.15  
 Roger Parsons, President (date)

Approved:   
 by: \_\_\_\_\_ 12.2.2015  
 Bob Schatz, ALLUSA (date)  
 (Architect)

Approved:  
 by: \_\_\_\_\_  
 Richard Swift, Director of Health, (date)  
 Housing & Human Services



**COPY** 12

**M. BARBARA CARTMILL**  
DIRECTOR

**DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

**DEVELOPMENT SERVICES BUILDING**  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

December 17, 2015

Board of County Commissioner  
Clackamas County

Members of the Board:

**Approval of Amendment 1 to an Intergovernmental Agreement (TGM Grant Agreement No. 30687) with Oregon Department of Transportation to Develop the Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan**

<b>Purpose/Outcomes</b>	Amendment to TGM Grant Agreement No. 30687 will make the consultant responsible for the mapping portion of the project instead of the County.
<b>Dollar Amount and Fiscal Impact</b>	The amendment will 1) Increase the total Grant Award amount from ODOT by \$3,210 for a total award of \$147,180 2) The required County's matching amount is increased by \$438 since the total grant award increased.
<b>Funding Source</b>	Transportation and Growth Management Program (TGM) Road Fund
<b>Duration</b>	The project terminates on June 30, 2016
<b>Previous Board Action</b>	June 11, 2014: The BCC approved the grant application and sent a letter of support dated June 12, 2014. May 11, 2015: The BCC approved the IGA at a Business Meeting.
<b>Strategic Plan Alignment</b>	1. How does this item align with your department's Strategic Business Plan goals? This project will provide an update to the County Comprehensive Plan and Transportation System Plan. 2. How does this item align with the County's Performance Clackamas goals? This project will build strong infrastructure and ensure safe, healthy and secure communities.
<b>Contact Person</b>	Karen Buehrig, Transportation Planning Supervisor, 503-742-4683

**BACKGROUND:**

The Oregon Transportation and Growth Management Program (TGM) provides local governments with funding for planning projects and Transportation System Plan (TSP) updates. At the June 11, 2014 Study Session meeting the Board of County Commissioners expressed support for the TGM grant application and a letter of support from the BCC was submitted with the application. In August 2014, DTD was notified that the grant application had been awarded. Subsequently, the statement of work and the Intergovernmental Agreement (IGA) were completed and approved.



The primary purpose of Clackamas County Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan (Project) is to address the following Project Elements:

- a. Identify bicycle and pedestrian needs within the Villages at Mt. Hood boundary (including Brightwood, Welches/Wemme, Zig Zag and Rhododendron),
- b. Develop a Safe Routes to Schools Plan for Welches elementary and middle schools,
- c. Identify locations for at-grade or grade separated pedestrian crossings of US 26 within the Project Area, and
- d. Conduct a feasibility analysis to determine if there is an appropriate location for a multi-use path through the Project Area.

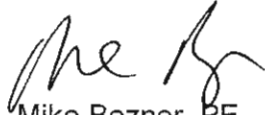
This amendment reduces matching funds received directly by the County by \$3,210. The County will no longer be responsible for the mapping portion of this project. In addition, the Consultant's contract amount will increase by \$6,420 (this contract is held by ODOT).

This amendment has been reviewed and approved by County Counsel.

**RECOMMENDATION:**

Staff respectfully recommends approval of Amendment 1 to the IGA with ODOT to have the consultant be responsible for the mapping portion of the Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan Project.

Respectfully submitted,



Mike Bezner, PE  
Assistant Director of Transportation

## AMENDMENT NO. 1

The State of Oregon, acting by and through its Department of Transportation, hereinafter referred to as "ODOT" or "Agency", and Clackamas County, hereinafter referred to as "County", entered into an intergovernmental agreement on June 5, 2015 ("Agreement"). Said Agreement covers a Transportation and Growth Management grant for Clackamas County, Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan.

It has now been determined by ODOT and County that the Agreement referenced above, although remaining in full force and effect, shall be amended to include an addendum to the Statement of Work. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

**Exhibit A, the Statement of Work, shall be amended to include an addendum to the Statement of Work.**

**Paragraph B of Section 2 (Terms of Agreement); which currently reads:**

"Grant Amount. The Grant Amount shall not exceed \$143,970."

**Shall be amended to read:**

"Grant Amount. The Grant Amount shall not exceed \$147,180."

**Paragraph C of Section 2 of (Terms of Agreement); which currently reads:**

"County's Amount. The County's Amount shall not exceed \$40,000."

**Shall be amended to read:**

"County's Amount. The County's Amount shall not exceed \$36,790."

**Paragraph D of Section 2 of (Terms of Agreement); which currently reads:**

"Consultant's Amount. The Consultant's Amount shall not exceed \$103,970."

**Shall be amended to read:**

"Consultant's Amount. The Consultant's Amount shall not exceed \$110,390."

**Paragraph E of Section 2 of (Terms of Agreement); which currently reads:**

"County's Matching Amount. The County's Matching Amount is \$19,632 or 12% of the Total Project Costs."

**Shall be amended to read:**

"County's Matching Amount. The County's Matching Amount is \$20,070 or 12% of the Total Project Costs."

This Amendment may be executed in several counterparts (facsimile or otherwise) all of which when together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives are duly authorized, have read this Agreement, understand it, and agree to be bound by its terms and conditions.

Amendment No. 1  
TGM Grant Agreement No. 30687  
TGM File Code 1F-14  
EA# TG15LA06

STATE OF OREGON, by and through  
its Department of Transportation

By \_\_\_\_\_  
Division Administrator or designee  
Transportation Development Division

Date \_\_\_\_\_

Clackamas County

By \_\_\_\_\_  
Official's Signature

Date \_\_\_\_\_

**Contact Names:**

Karen Buehrig  
Clackamas County  
150 Beaver Creek Rd.  
Oregon City, OR 97045  
Phone: 503-742-4683  
Fax: 503-742-4349  
E-Mail: karenb@co.clackamas.or.us

Gail Curtis, Contract Administrator  
Transportation and Growth Management  
Program  
123 NW Flanders  
Portland, OR 97209-4037  
Phone: 503-731-8206  
Fax: 503-731-3266  
E-Mail: Gail.E.Curtis@odot.state.or.us

**Addendum to  
Exhibit A  
Statement of Work  
Clackamas County  
Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan**

**Subtask 2.1 shall be deleted in its entirety and replaced with the following:**

- 2.1 **Base Maps** – County shall prepare draft Base Maps of the Project Area and Consultant shall provide comments on the draft Base Maps using existing available data to show:
- a. Key destinations with Project Area including shopping areas, Welches schools, parks, libraries, fire stations, community services, access to US Forest Service or Bureau of Land Management trailheads, other places where there are opportunities for physical activity, and key public areas.
  - b. Publically owned parcels.
  - c. Collector and arterial streets and any programmed and planned street projects.
  - d. Aerial photography to show building footprints and vegetation.
  - e. Zoning designations.
  - f. Comprehensive Plan designations.
  - g. Street centerlines.
  - h. Existing sidewalks and pedestrian network gaps and deficiencies (e.g. substandard condition).
  - i. Existing bicycle facilities and bicycle network gaps and deficiencies.
  - j. Street and right-of-way widths.
  - k. Jurisdiction of roadways.
  - l. Planned pedestrian, bicycle, transit, and roadway improvements.
  - m. Location and existing roadway characteristics of Old Mt Hood Highway, Barlow Trail Road and Still Creek Road, distinguished by paved and unpaved segments.
  - n. Location of public parks, major trails and trailheads distinguished by trail type; and including Barlow Trail, Pioneer Bridal Trail and Still Creek Road (a US Forest Service Road located south of US 26 between Rhododendron and Government Camp), as well as the Sandy Ridge Trail system.
  - o. Location of existing pedestrian crossings, transit stops, transit routes and park and rides.
  - p. Speed limits for collector and higher classified roads.
  - q. Statewide Planning Goal 5 resources that could impact Project.
  - r. Geography/Hydrology. Based on available GIS resources, the County shall prepare Geography/Hydrology base map with structural features (i.e., catch basins, stormwater conveyance systems and treatment facilities) in the project area as well as surface water features (i.e., creeks and drainages).
  - s. The estimated or actual population by age and income; and generalized community health profile based on existing County data.

- t. The estimated or actual number of year-round and second-home residents.
- u. Estimated number of seasonal visitors using available tourist accommodation and recreation destinations data.
- v. Existing land use inventory, including general land use categories such as commercial uses, lodging, recreations, single family use, etc.

Base Maps must be reproducible in a size for use at public presentations, and will be modified through the life of the project to support subsequent deliverables.

**Subtask 2.1.1 shall be added as follows:**

2.1.1 **Final Base Maps** – Consultant shall prepare final Base Maps of the Project Area using existing available data to show:

- a. Key destinations with Project Area including shopping areas, Welches schools, parks, libraries, fire stations, community services, access to US Forest Service or Bureau of Land Management trailheads, other places where there are opportunities for physical activity, and key public areas.
- b. Publically owned parcels.
- c. Collector and arterial streets and any programmed and planned street projects.
- d. Aerial photography to show building footprints and vegetation.
- e. Zoning designations.
- f. Comprehensive Plan designations.
- g. Street centerlines.
- h. Existing sidewalks and pedestrian network gaps and deficiencies (e.g. substandard condition).
- i. Existing bicycle facilities and bicycle network gaps and deficiencies.
- j. Street and right-of-way widths.
- k. Jurisdiction of roadways.
- l. Planned pedestrian, bicycle, transit, and roadway improvements.
- m. Location and existing roadway characteristics of Old Mt Hood Highway, Barlow Trail Road and Still Creek Road, distinguished by paved and unpaved segments.
- n. Location of public parks, major trails and trailheads distinguished by trail type; and including Barlow Trail, Pioneer Bridal Trail and Still Creek Road (a US Forest Service Road located south of US 26 between Rhododendron and Government Camp), as well as the Sandy Ridge Trail system.
- o. Location of existing pedestrian crossings, transit stops, transit routes and park and rides.
- p. Speed limits for collector and higher classified roads.
- q. Statewide Planning Goal 5 resources that could impact Project.
- r. Geography/Hydrology. Based on available GIS resources, the County shall prepare Geography/Hydrology base map with structural features (i.e., catch basins, stormwater conveyance systems and treatment facilities) in the project area as well as surface water features (i.e., creeks and drainages).

- s. The estimated or actual population by age and income; and generalized community health profile based on existing County data.
- t. The estimated or actual number of year-round and second-home residents.
- u. Estimated number of seasonal visitors using available tourist accommodation and recreation destinations data.
- v. Existing land use inventory, including general land use categories such as commercial uses, lodging, recreations, single family use, etc.

Base Maps must be reproducible in a size for use at public presentations, and will be modified through the life of the project to support subsequent deliverables.

Consultant will not create nor clean any GIS data and will display data as-is from the County.

Consultant shall prepare revised Base Maps incorporating comments received after Task 2 meetings. Consultant shall provide base maps to PMT in electronic format.

Consultant shall provide County with GIS shapefiles, including proposed projects, at the conclusion of the project.

Task 2 Deliverable lists shall be deleted in their entirety and replaced with the following:

**County Deliverables**

- 2a Draft Base Maps
- 2b Comments on Tech Memo 1
- 2c Stakeholder Interviews
- 2d Comments on Tech Memo 2
- 2e Joint PAC and TAC Meeting #1
- 2f Tech Memo 3
- 2g Comments on Tech Memo 4
- 2h PMT Meeting #2
- 2i TAC Meeting #2
- 2j PAC Meeting #2

**Consultant Deliverables**

- 2A Comments on Base Maps
- 2A1 Final Base Maps
- 2B Tech Memo 1
- 2C Stakeholder Interviews
- 2D Tech Memo 2
- 2E Joint PAC and TAC Meeting #1
- 2F Comments on Tech Memo 3
- 2G Tech Memo 4
- 2H PMT Meeting #2



- 2I TAC Meeting #2
- 2J PAC Meeting #2

**Project Schedule shall be deleted in its entirety and replaced with the following:**

Task	Schedule
1. Public Involvement and Project Coordination	June to August 2015
2. Existing Conditions and Desired Outcomes	June to December 2015
3. Solutions and Design Concepts Development and Analysis	September to December 2015
4. Recommended Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan	January to June 2016
5. Contingent Task	As needed

**County Deliverable Table shall be deleted in its entirety and replaced with the following:**

Task	Deliverable	Estimated County Reimbursement Budget	Estimated Match Budget
<b>1</b>	<b>Public Involvement and Project Coordination</b>		
1a	Project Committee Rosters	\$500	
1b	Safe Routes to School Team Roster	\$500	
1c	Community Outreach and Engagement Plan	\$1,000	
1d	Check-in Organizational Meeting and Refined Project Schedule	\$1,250	
1e	PMT Meeting #1	\$750	
1f	Interested Parties Contact List and Letter to Project Area Citizens	\$700	
	Subtotal	<b>\$4,700</b>	
<b>2</b>	<b>Existing Conditions and Desired Outcomes</b>		
2a	Draft Base Maps	\$790	
2b	Comments on Tech Memo 1	\$ 750	
2c	Stakeholder Interviews	\$1,000	
2d	Comments on Tech Memo 2	\$ 750	
2e	Joint PAC and TAC Meeting #1	\$1,000	
2f	Tech Memo 3	\$5,000	
2g	Comments on Tech Memo 4	\$ 750	
2h	PMT Meeting #2	\$ 750	
2i	TAC Meeting #2	\$1,250	

Amendment No. 1  
TGM Grant Agreement No. 30687  
TGM File Code 1F-14  
EA# TG15LA06

<b>Task</b>	<b>Deliverable</b>	<b>Estimated County Reimbursement Budget</b>	<b>Estimated Match Budget</b>
2j	PAC Meeting #2	\$1,250	
	Subtotal	<b>\$13,290</b>	
<b>3</b>	<b>Solutions and Design Concepts Development and Analysis</b>		
3a	Comments on Tech Memo 5	\$ 1,000	
3b	PMT Meeting #3	\$750	
3c	TAC Meeting #3	\$1,000	
3d	Comments on Project Online Survey	\$500	
3e	Public Workshop #1	\$2,000	
3f	PMT Meeting #4	\$750	
3g	PAC Meeting #3	\$1,000	
	Subtotal	<b>\$7,000</b>	
<b>4</b>	<b>Recommended Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan</b>		
4a	Comments on Draft Recommended Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan	\$1,500	
4b	Joint PMT Meeting and TAC Meeting #2	\$1,800	
4c	Public Workshop #2	\$2,000	
4d	PMT Meeting #5	\$750	
4e	PAC Meeting #4	\$1,000	
4f	Villages at Mt. Hood Neighborhood Meeting	\$500	
4g	Planning Commission Work Session	\$500	
4h	PMT Meeting #6	\$750	
4i	Title VI Report	\$500	
4j	Comments on Recommended Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan	\$1,500	
	Subtotal	<b>\$10,800</b>	
	<b>Total Non-Contingency</b>	<b>\$35,790</b>	
<b>5</b>	<b>Contingent Task</b>		
5a	Contingent Meeting #1	\$1,000	
	<b>PROJECT TOTAL</b>	<b>\$36,790</b>	<b>\$20,070</b>

**Consultant Deliverable Table shall be deleted in its entirety and replaced with the following:**

Task	Description	Lump Sum Per Deliverable
<b>1</b>	<b>Public Involvement and Project Coordination</b>	
1A	Check-in Organizational Meeting and Refined Project Schedule	\$4,700
1B	Project Publicity	\$3,100
1C	PMT Meeting #1	\$1,700
1D	Project Website	\$1,500
	<b>Subtotal - Task 1</b>	<b>\$11,000</b>
<b>2</b>	<b>Existing Conditions and Desired Outcomes</b>	
2A	Comments on Base Maps	\$500
2A1	Final Base Maps	\$6,420
2B	Tech Memo 1	\$5,100
2C	Stakeholder Interviews	\$2,560
2D	Tech Memo 2	\$3,820
2E	Joint PAC and TAC Meeting #1	\$1,530
2F	Comments on Tech Memo 3	\$270
2G	Tech Memo 4	\$5,740
2H	PMT Meeting #2	\$660
2I	TAC Meeting #2	\$730
2J	PAC Meeting #2	\$1,380
	<b>Subtotal - Task 2</b>	<b>\$28,710</b>
<b>3</b>	<b>Solutions and Design Concepts Development and Analysis</b>	
3A	Tech Memo 5	\$21,670
3B	PMT Meeting #3	\$660
3C	TAC Meeting #3	\$1,630
3D	Project Online Survey	\$2,120
3E	Public Workshop #1	\$6,420
3F	PMT Meeting #4	\$1,660
3G	PAC Meeting #3	\$2,070
	<b>Subtotal - Task 3</b>	<b>\$36,230</b>
<b>4</b>	<b>Recommended Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan</b>	
4A	Draft Recommended Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan	\$16,000
4B	Joint PMT Meeting and TAC Meeting #2	\$2,300
4D	Public Workshop #2	\$5,100
4E	PMT Meeting #5	\$820
4F	PAC Meeting #4	\$2,040

Amendment No. 1  
TGM Grant Agreement No. 30687  
TGM File Code 1F-14  
EA# TG15LA06

<b>Task</b>	<b>Description</b>	<b>Lump Sum Per Deliverable</b>
4G	PMT Meeting #6	\$820
4H	Recommended Villages at Mt. Hood Pedestrian and Bikeway Implementation Plan	\$6,320
	<b>Subtotal – Task 4</b>	<b>\$33,400</b>
<b>5</b>	<b>Contingent Task</b>	
5A	Contingent Meeting #1	\$1,050
	<b>Subtotal Non-Contingent</b>	<b>\$109,340</b>
	<b>Subtotal Contingent</b>	<b>\$1,050</b>
	<b>TOTAL</b>	<b>\$110,390</b>

DRAFT

Approval of Previous Business Meeting Minutes:

November 25, 2015

(draft minutes attached)

# BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at

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

**Wednesday, November 25, 2015 – 10:00 AM**

**Public Services Building**

**2051 Kaen Rd., Oregon City, OR 97045**

**PRESENT:** Commissioner John Ludlow, Chair  
Commissioner Jim Bernard  
Commissioner Paul Savas  
Commissioner Martha Schrader  
Commissioner Tootie Smith

## **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

## **I. CITIZEN COMMUNICATION**

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

1. Les Poole, Gladstone – spoke regarding Code Enforcement issues.

## **II. PUBLIC HEARINGS**

1. Board Order No. **2015-120** Boundary Change Proposal CL 15-006, Annexation to Clackamas County Service District No. 1  
Chris Storey, County Counsel, Ken Martin, Boundary Change Consultant presented the staff report. Chair Ludlow opened the public hearing and asked if anyone wished to speak, seeing none he asked for a motion.

### **MOTION:**

Commissioner Bernard: I moved we approve the board order for Boundary Change Proposal CL 15-006, Annexation to Clackamas County Service District No. 1.  
Commissioner Schrader: Second.  
Clerk calls the poll.  
Commissioner Bernard: Aye.  
Commissioner Smith: Aye;  
Commissioner Schrader: Aye.  
Commissioner Savas: Aye.  
Chair Ludlow: Aye – the motion passed 5-0.

**Chair Ludlow announce the Board will recess as the Board of County Commissioners and convene as the Service District No.5 Board for the next two Public Hearings.**

## **Service District No. 5 (Street Lighting)**

2. Resolution No. **2015-121** Adding a New Rate Category for Street Lighting Service Charges for Clackamas County Service District No. 5  
Wendi Coryell, Service District No. 5 presented the staff report.  
Chair Ludlow opened the public hearing and asked if anyone wished to speak, seeing none he asked for a motion.

### **MOTION:**

Commissioner Schrader: I moved we approve the resolution adding a new rate category for Street Lighting Service Charges for Clackamas County Service District No. 5.  
Commissioner Bernard: Second.  
Clerk calls the poll.

Commissioner Smith: Aye;  
Commissioner Schrader: Aye.  
Commissioner Savas: Aye.  
Commissioner Bernard: Aye.  
Chair Ludlow: Aye – the motion passed 5-0.

3. Board Order No. **2015-122** Forming an Assessment Area within Clackamas County Service District No. 5, Assessment Area 27-15 McLoughlin Blvd. 170-Lot Petition Wendi Coryell, Service District No. 5 presented the staff report. Chair Ludlow opened the public hearing and stated there are several folks signed up to speak. The following list of Residents spoke in support of this Assessment Area.

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

1. Thelma Haggemiller, Oak Grove
2. Brad Olson, Oak Grove
3. Terry Gibson, Jennings Lodge
4. Ed Gronke, Jennings Lodge
5. Jennifer Harding, Milwaukie
6. Terri Gilreath, Oak Grove
7. Stephanie Rose, Milwaukie
8. Baldwin Vanderbilt, Oak Grove
9. Michelle Craig, Milwaukie
10. Brent Emberlin, Milwaukie
11. Les Poole, Gladstone

*~Board Discussion~*

Chair Ludlow closed the public hearing and asked for a motion.

**MOTION:**

Commissioner Savas: I moved we approve the board order forming an Assessment Area within Clackamas County Service District No. 5, Assessment Area 27-15 McLoughlin Blvd. 170-Lot Petition.

Commissioner Schrader: Second.

*~Board Discussion~*

Clerk calls the poll.

Commissioner Schrader: Aye.  
Commissioner Savas: Aye.  
Commissioner Bernard: Aye.  
Commissioner Smith: Aye;  
Chair Ludlow: Aye – the motion passed 5-0.

**Chair Ludlow announce the Board will adjourn as the Service District No. 5 Board and Re-Convene as the Board of County Commissioners for the remainder of the meeting.**

**III. CONSENT AGENDA**

Chair Ludlow asked the Clerk to read the consent agenda by title, he then asked for a motion.

**MOTION:**

Commissioner Bernard: I move we approve the consent agenda.

Commissioner Savas: Second.

Clerk calls the poll.

Commissioner Schrader: Aye.  
Commissioner Savas: Aye.  
Commissioner Bernard: Aye.  
Commissioner Smith: Aye.  
Chair Ludlow: Aye – the motion passes 5-0.



**A. Health, Housing & Human Services**

1. Approval of Amendment No.1 to the Intergovernmental Agreement #146952 with the State of Oregon, Department of Human Services, for the Operation of the Oregon Food Stamp Employment and Training Program (OFSET) – *Community Solutions*
2. Approval of an Intra-Agency Agreement with Clackamas County Children, Youth & Families Division for Alcohol and Drug Prevention Strategies for Families – *Behavioral Health*
3. Approval of Amendment No. 2 to Sub-Recipient Grant Agreement # 15-018 with Folk Time, Inc. for Peer Support Services at the Oregon City Drop-In Center – *Behavioral Health*
4. Approval of an Agency Services Contract with Lifeworks NW for Early Assessment and Support Alliance (EASA) Services – *Behavioral Health*
5. Approval of a Revenue Provider Agreement with Regence Blue Cross BlueShield of Oregon to Provide Primary Care and Mental Health Care Services to Assigned Members at the Clackamas County Health Centers – *Health Centers*

**B. Department of Transportation & Development**

1. Approval of Amendment No. 1 with the Oregon Department of Transportation for the Termination of Agreement No. 28781 for OR 213, Harmony, Sunnyside Roads Sidewalk/Signal Improvements

**C. Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*

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**IV. COUNTY ADMINISTRATOR UPDATE**

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

**V. COMMISSIONERS COMMUNICATION**

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

~Board Discussion regarding Marijuana opt out~  
Chair Ludlow made the following motion:

**MOTION:**

Chair Ludlow: I move we opt out.

Commissioner Savas: Second.

~Board Discussion~ <http://www.clackamas.us/bcc/business.html>

Commissioner Schrader ask to have this motion tabled.

**MOTION:**

Commissioner Schrader: I move we table this motion.

Commissioner Savas: Second.

~Board Discussion~ <http://www.clackamas.us/bcc/business.html>

Clerk calls the poll.

Commissioner Bernard: Aye.  
Commissioner Smith: No.  
Commissioner Schrader: Aye.  
Commissioner Savas: Aye.  
Chair Ludlow: No – the motion passes 3-2 to have the first motion tabled until the December 2, 2015 public hearing.

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Chair Ludlow adjourned the meeting in memory of two County Employees who passed away this year:

Kathy Van Vactor, Housing Authority of Clackamas County

Richard Kershaw, County Road Maintenance

**MEETING ADJOURNED - 11:42 AM**

**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. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. [www.clackamas.us/bcc/business.html](http://www.clackamas.us/bcc/business.html)**



DEPARTMENT OF COMMUNICATIONS

COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER  
2200 KAEN ROAD | OREGON CITY, OR 97045

December 17, 2015

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of an Amended Intergovernmental Agreement with Washington County Consolidated Communications Agency (WCCCA) and the City of Lake Oswego Communications Agency (LOCOM)

<b>Purpose/Outcomes</b>	Updates an existing IGA with new vendor and product information.
<b>Dollar Amount and Fiscal Impact</b>	This IGA refers to the Computer Aided Dispatch (CAD) partnership only. Costing is included as an addendum (attached). Total cost is \$1,195,426, and is shared by all three agencies based on a previously agreed formula. CCOM's portion is 33.33% of the total costs, or \$398,475.33.
<b>Funding Source</b>	Member agencies from CCOM, LOCOM, and WCCCA
<b>Duration</b>	Perpetual
<b>Previous Board Action</b>	The Board last reviewed and approved the original agreement on April 3, 2014; Agenda Item Number: B.1
<b>Strategic Plan Alignment</b>	Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Bob Cozzie, CCOM Director 503-723-4875
<b>Contract No.</b>	N/A

**BACKGROUND:**

Clackamas County Communications (CCOM) entered into an Intergovernmental Agreement with WCCCA and LOCOM creating the Metro Area Joint CAD System on April 3, 2014. The agreement originally referred to a specific product (CommandCAD version 2.9 and MobileCOM version 5.3) offered by Tiburon, Inc. A competing vendor, TriTech Software Systems, purchased Tiburon, Inc., which resulted in a change to the originally purchased system.

This amended IGA outlines the new vendor and product, which will be implemented as a joint project between CCOM, LOCOM, and WCCCA. Costing information is included as an addendum to the IGA.

**RECOMMENDATION:**

Staff recommends the Board approve and sign this amended agreement; and allow Director Bob Cozzie to sign the costing addendum.

Respectfully submitted,

Bob Cozzie, Director  
Clackamas County Communications



**Amendment No. 1 to Intergovernmental Agreement-Metropolitan Area Joint CAD System (“MACJS”)**

This is an Amendment to the **Intergovernmental Agreement** by and among the City of Lake Oswego, Clackamas County, and Washington County Consolidated Communications Agency (collectively the “Partners” or individually a “Partner”) which was previously entered into on April 3, 2014 creating the Metropolitan Area Joint CAD System (“MAJCS”) for acquisition, operation, and management of a regional CAD system as a joint operation; and

**Whereas**, the Joint CAD System identified in the original IGA was described as Tiburon Command CAD version 2.9 and Mobile COM version 5.3,

And whereas on February 6, 2015, MAJCS CAD Management Team (CMT) was notified that Tiburon Inc., was purchased by TriTech Software Systems and the MAJCS CMT was subsequently notified of end of life concerns for Command CAD;

And whereas the CAD Management Team has determined it is necessary to move to TriTech Inform CAD and Mobile product

**Now, therefore**, the parties agree to amend the Agreement to include the following:

- 3. B. “Joint CAD System” shall be the multi-agency computer aided dispatch system described in the TriTech InformCAD purchase agreement and statement of work from TriTech to WCCCA and including the Inform CAD and Inform Mobile product or the latest available versions of each.

All other provisions of the Intergovernmental Agreement referenced above shall remain in full force and effect.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Date Authorized, if applicable:  
\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Date Authorized, if applicable:  
\_\_\_\_\_.

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Date Authorized, if applicable:  
\_\_\_\_\_.

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Attorney



15

GARY SCHMIDT  
DIRECTOR

PUBLIC AND GOVERNMENT AFFAIRS  
PUBLIC SERVICES BUILDING  
2051 KAEN ROAD OREGON CITY, OR 97045

December 17, 2015

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order in the Matter of an Extension of the Cable Television Franchise with Canby  
Telcom (Formerly Canby Telephone Association)

<b>Purpose/Outcome</b>	Extend current cable television franchise to allow time for evaluation and negotiations.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	N/A
<b>Duration</b>	Effective January 5, 2016 through June 30, 2016
<b>Previous Board Action/Review</b>	The original franchise agreement was approved by Board Order No. 2006-04 on January 5, 2006.
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government
<b>Contact Person</b>	Gary Schmidt, Public and Government Affairs, 503-742-5908
<b>Contract No.</b>	N/A

**BACKGROUND:**

Canby Telcom's (formerly Canby Telephone Association) Cable Franchise Permit expires on January 5, 2016. As the County and Canby Telcom will need time to evaluate and negotiate a new cable franchise agreement, it is desirable to continue the current contract under the same terms and conditions pursuant to applicable law unless and until the County issues a termination of franchise notice. Canby Telcom currently serves over 350 subscribers in the unincorporated area of Clackamas County.

This extension, if granted, would not affect either party's rights in the renewal process and includes a provision to preserve the County's right to retroactive PEG funding negotiated in the renewal. The County will evaluate Canby Telcom's legal, technical and financial qualifications to operate the cable system, as well as the community's needs, in its determination of whether to renew the franchise and on what terms and conditions.

This cable franchise agreement extension has been reviewed and approved by County Counsel.

Page 2  
Staff Report – Canby Telcom Extension  
December 17, 2015

**RECOMMENDATION:**

Staff respectfully recommends the Board approve the extension of the franchise permit agreement to assure that the terms of the current franchise agreement continue to be met through June 30, 2016.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gary Schmidt".

Gary Schmidt, Director  
Public and Government Affairs

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the matter of approving an extension of the cable television franchise with Canby Telcom (formerly Canby Telephone Assoc.)



ORDER NO.

This matter coming before the Clackamas County Board of Commissioners at its regularly scheduled public meeting on December 17, 2015 to consider approving an extension of the cable television franchise with Canby Telcom (formerly Canby Telephone Association).

**WHEREAS**, Canby Telcom holds a cable television franchise with Clackamas County, which will expire on January 5, 2016; and

**WHEREAS**, County staff and representatives of Canby Telcom will evaluate and negotiate terms regarding the renewal of the applicable franchise unless and until the County issues a termination of franchise notice; and

**WHEREAS**, the amount of time required to conclude negotiations and allow for public review of a new franchise agreement will extend beyond the current expiration date; and

**WHEREAS**, it is in the public interest to extend the current franchise for an additional period of time under the same terms and conditions pursuant to applicable law to accommodate the renewal process and avoid a potentially unnecessary disruption of service to affected residents.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT** the franchise granted to Canby Telcom shall be extended until and including June 30, 2016, and that all rights and obligations provided the parties under the franchise agreement shall remain in full force and effect during that period, including the rights of the parties under the Cable Communications Policy Act of 1992 and the Telecommunications Act of 1996. Neither Canby Telcom nor the County shall assert any claim, denial or defense based upon the original expiration date of the Franchise Agreement, excepting therefrom that the County may assert in negotiations that any increase in PEG funding included in the new franchise agreement shall include the time period covered by this extension. This extension of the franchise is explicitly conditioned upon written acceptance thereof by the Franchisee.

DATED THIS \_\_\_\_\_ DAY OF DECEMBER, 2015.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary