



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

09/06/2011

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Clackamas County Plan Amendment  
DLCD File Number 003-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, September 16, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Rick McIntire, Clackamas County  
Jon Jinings, DLCD Community Services Specialist  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

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DEPT OF

AUG 31 2011

LAND CONSERVATION  
AND DEVELOPMENT  
For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Clackamas County**

Local file number: **ZDO-230**

Date of Adoption: **8/25/2011**

Date Mailed: **8-25-11**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 6/7/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend numerous sections of the CCZDO amending or adding preapplication conference requirements, approval periods and time extension criteria for various administrative action types. Amend Section 1007 pertaining to roads and connectivity clarifying linkage with County Roadway Standards safety and adequacy standards. Correct and clarify dimensional standards in Sections 504 and 1703. New Section 836 permitting canine skills training as home occupation in EFU, TBR and AG/F zones.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **N/A**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1  2  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD File No. 003-11 (18851) [16745]

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**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

N/A

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Local Contact: **Rick McIntire, Sr. Planner**

Phone: (503) 742-4516 Extension:

Address: **150 Beavercreek Rd.**

Fax Number: **503-742-4550**

City: **Oregon City**

Zip: **97045-**

E-mail Address: **rickm@co.clackamas.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)**

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

## ORDINANCE NO. ZDO-230

### An Ordinance amending Sections

**401, 406, 407, 501, 504, 703, 704, 705, 706, 709, 822, 1002, 1007, 1016, 1102, 1103, 1104, 1105, 1106, 1107, 1202, 1203, 1205, 1206, 1301, 1305 and 1703 and adopting a new Section 836 of the Clackamas County Zoning and Development Ordinance**

WHEREAS, in December 2010, the Board of County Commissioners directed the Planning and Zoning Division staff to prepare draft language for consideration of amendments to current Zoning and Development Ordinance language relating to land use permit approval periods and extensions of approval periods in an effort to standardize processes and criteria and to provide relief during a period of economic recession; and

WHEREAS, in December 2010, the Board of County Commissioners directed the Planning and Zoning Division staff to prepare draft language for consideration of creation of a new process to permit animal training uses in the EFU, AG/F and TBR zoning districts; and

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

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

WHEREAS, the proposed amendments are consistent with the County Comprehensive Plan, the Statewide Planning Goals and Guidelines and the Metro Urban Growth Management Functional Plan; and

WHEREAS, after a duly-noticed public hearing, the Clackamas County Planning Commission recommended approval of ZDO-230 on July 25, 2011; and

WHEREAS, the Clackamas County Board of County Commissioners held a public hearing on August 17, 2011; now therefore;

The Board of Commissioners of Clackamas County ordains as follows:

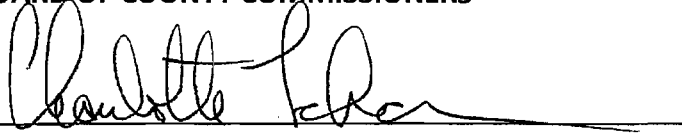
**Section 1:** Sections 401, 406, 407, 501, 504, 703, 704, 705, 706, 709, 822, 1002, 1007, 1016, 1102, 1103, 1104, 1105, 1106, 1107, 1202, 1203, 1205, 1206, 1301, 1305 and 1703 of the Clackamas County Zoning and Development Ordinance are hereby amended and a new Section 836 is added to the

Clackamas County Zoning and Development Ordinance as shown in Exhibit A hereto.

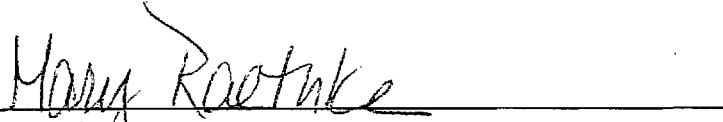
**Section 2:** This ordinance shall be effective on September 26, 2011.

ADOPTED this 25th day of August, 2011

**BOARD OF COUNTY COMMISSIONERS**

A handwritten signature in black ink, appearing to read "Charles L. Schaefer", written over a horizontal line.

Chair

A handwritten signature in black ink, appearing to read "Mary Rootke", written over a horizontal line.

Recording Secretary

## ORDINANCE NO. ZDO-230

### An Ordinance amending Sections

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The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Sections 401, 406, 407, 501, 504, 703, 704, 705, 706, 709, 822, 1002, 1007, 1016, 1102, 1103, 1104, 1105, 1106, 1107, 1202, 1203, 1205, 1206, 1301, 1305 and 1703 of the Clackamas County Zoning and Development Ordinance are hereby amended and a new Section 836 is added to the

Clackamas County Zoning and Development Ordinance as shown in Exhibit  
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**Section 2:** This ordinance shall be effective on September 26, 2011.

ADOPTED this 25th day of August, 2011

BOARD OF COUNTY COMMISSIONERS

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Chair

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Recording Secretary

**Ordinance ZDO-230**  
**Zoning and Development Ordinance Amendments**

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

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

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401.01 PURPOSE

Section 401 is adopted to:

- A. ~~To P~~reserve agricultural use of agricultural land;:-
- B. ~~To P~~rotect agricultural lands from conflicting uses, high taxation, and the cost of public facilities unnecessary for agriculture;:-
- C. ~~To M~~aintain and increase the agricultural economic base of the Clackamas County;
- D. ~~To I~~ncrease agricultural income and employment by creating conditions which further the growth and expansion of agriculture and which attract related industries;:-
- E. ~~To M~~aintain and improve the quality of air, water, and land resources;:-
- F. ~~To C~~onserve scenic and open space;:- and
- G. ~~To P~~rotect wildlife habitats.

401.02 AREA OF APPLICATION

- A. The Exclusive Farm Use District shall be applied to those areas which are generally suitable for small and large scale agricultural uses. Criteria to be considered are:
  - 1. Lands suitable for or characterized by small or large scale agricultural uses, such as the raising of poultry, fur bearing animals, and livestock and the growing of berries, nursery stock, vegetables, grains and field crops.
  - 2. Lands classified by the U.S. Natural Resources Conservation Service as predominantly Class I-IV soils or identified as agricultural soil by more detailed data.
  - 3. Land in other soil classes that is suitable for farm use as defined in Oregon Revised Statutes 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices.



CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

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

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

401.03 DEFINITIONS

Unless specifically defined below or in Section 202 words or phrases used in this section shall be interpreted to give them the same meaning as they have in common usage and to give this section its most reasonable application.

- A. Agricultural Land: As defined in Oregon Administrative Rules (OAR) 660-33-0020.
- B. Farm Use: As defined in Oregon Revised Statutes (ORS) 215.203.
- C. High Value Farmland: As defined in ORS 215.710 and OAR 660-033-0020(8).
- D. Low Value Farmland: All land not defined as High Value Farmland in ORS 215.710 and OAR 660-033-0020(8).
- E. Date of Creation and Existence: When a lot, parcel, or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- F. Tract: One or more contiguous lots or parcels under the same ownership, including lots or parcels divided by a county or public road, or contiguous at a common point. Lots or parcels divided by a State Highway are not considered contiguous.
- G. Golf Course: As defined in Subsection 407.06(B)(31).
- H. Irrigated: Agricultural Land watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this section, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

- I. Farm Stand: A structure designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of the incidental items and fees from promotional activity do not make up more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
- J. Owner: For purposes of a Lot of Record Dwelling, "Owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, niece, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
- K. Historic Property: As defined in ORS 358.480.
- L. Accessory Farm Dwelling: Includes all types of residential structures allowed by the applicable state building code.

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

401.04 PRIMARY USES ALLOWED ON LOW AND HIGH VALUE FARMLAND

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

1. A lawfully established dwelling is a single family dwelling which has:

- ~~1.~~ a. Intact exterior walls and roof structure;
- ~~2.~~ b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

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CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

~~3.~~ c. Interior wiring for interior lights; and

~~4.~~ d. A heating system.

~~5.2.~~ The dwelling to be replaced shall be removed, demolished, or if not a manufactured dwelling, converted to an allowable use within 90 days of the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced must be removed from the property within 30 days of the occupancy of the new dwelling.

~~6.3.~~ If the dwelling to be replaced is located on a portion of the lot not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records to the County Clerk an irrevocable deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. Any release shall be signed by the County and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.

- G. A winery as described in ORS 215.452.
- H. Farm stands.
- I. Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.05 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
- J. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
- K. Climbing and passing lanes within a public right-of-way existing as of July 1, 1987.
- L. Reconstruction or modification of public roads and highways including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
- M. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- N. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-ways

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

- O. Reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under ORS Chapter 215.
- P. Collocation of wireless telecommunication facilities listed in Subsection 835.04(A), subject to Section 835, provided such facilities include an existing tower that is over 200 feet in height.
- Q. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in the section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

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

401.05 PRIMARY USES ALLOWED ON LOW VALUE FARMLAND

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

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

401.06 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

- A. The following uses may only be approved where it:
  - 1. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
  - 2. Will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.
- B. Unless specified otherwise, the following uses may be allowed on Low and High Value Farmland subject to Subsection 1305.02.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

1. A facility for the processing of farm crops located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area, exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet of floor area to the processing activities within another building supporting farm uses. A processing facility shall comply with Subsection 401.10(G) and other applicable siting standards, but the standards shall not be applied in a manner that prohibits the siting of the processing facility.
2. A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in Oregon Revised Statutes (ORS) 215.203(2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
3. Parking of seven or fewer log trucks. The term "parking" does not include a maintenance/repair facility. The parking/storage of other forestry equipment is not permitted.
4. The propagation, cultivation, maintenance and harvesting of aquatic species.
5. Dwellings and other building customarily provided in conjunction with farm uses subject to Subsection 401.09(E) or (F) and Oregon Administrative Rules 660-033-0135.
6. A dwelling on real property used for farm use if the dwelling is located on the same lot or parcel as the dwelling of the farm operator and occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator subject to Subsection 401.09(H).
7. Accessory farm dwellings customarily provided in conjunction with farm use subject to Subsection 401.09(I).
8. One single family Lot of Record dwelling on a lawfully created lot or parcel subject to Subsection 401.09(B), (C) or (D). Lot of Record dwellings proposed on High Value Farmland composed of Class 1 or 2, or

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

prime or unique Soils, shall be reviewed by the Hearings Officer subject to Section 1300.

9. One manufactured dwelling, residential trailer or recreational vehicle, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative, as defined in Subsection 401.03(J), of the resident, subject to Subsection 1204.03.
10. Replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places (as required under ORS 358.480). The use or operation of a historic property for other than uses provided under ORS 358.480(2), including use as a separate residence or creation of a separate parcel, shall be subject to all other applicable provisions of this Section.
11. Residential home or facility as defined in ORS 197.660, in existing dwellings.
12. Farmworker housing as defined in Subsection 202, subject to Subsection 401.09(I).
13. Home occupations as provided in ORS 215.448 and Section 822.
14. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
15. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
16. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.
17. Utility facilities necessary for public service, including wetland waste water treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided.
18. Collocation of wireless telecommunication facilities listed in Subsection 835.05(A)(2), subject to Section 835, provided such facilities include an existing tower that is over 200 feet in height.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

19. Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.
  20. Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community.
  21. Single family dwelling, not provided in conjunction with farm use subject to Subsection 401.09(G).
  22. Fire service facilities providing rural fire protection services.
- C. The following uses may be allowed on Low Value Farmland subject to Subsection 1305.02.
1. Private parks, playgrounds, hunting and fishing preserves and campgrounds except as provided for in Subsection 401.08(F).
    - a. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational areas such as swimming pools, tennis courts, retail stores or gas stations.
    - b. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. A "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

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

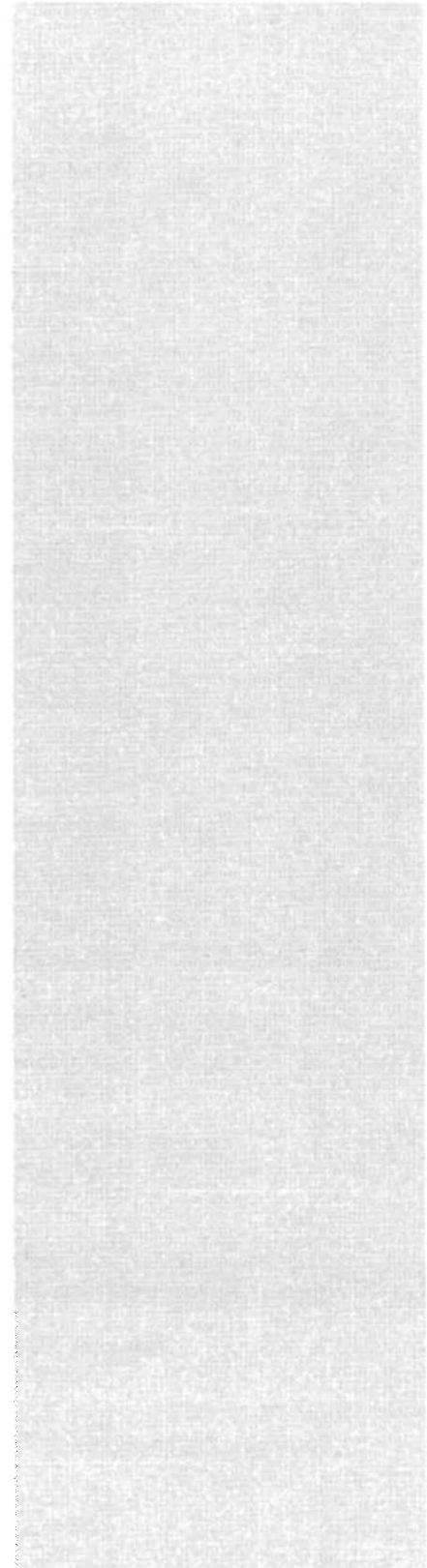
401.07 CONDITIONAL USES

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

- A. Except for uses listed under Subsections 401.07(B)(4) and (C)(2), the use may only be approved where it:
1. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
  2. Will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

- B. The following uses may be allowed on Low and High Value Farmland, subject to Subsection 401.07:
1. Commercial activities that are in conjunction with farm use but not including the processing of farm crops as provided for in Subsection 401.06(B)(1).
  2. Mineral, aggregate, oil, and gas uses. Pursuant to Oregon Revised Statutes (ORS) 215.298, a land use permit is required for mining more than 1000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A permit for mining of aggregate shall be issued only for a site included on an inventory acknowledged in the Comprehensive Plan.
    - a. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources, subject to ORS 215.298.
    - b. Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
    - c. Processing of other mineral resources and other subsurface resources.
    - d. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Subsection 401.04(I).
  3. Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service. A personal use airport as used in this subsection means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.
  4. Roads, highways and other transportation facilities, and improvements not allowed under Subsections 401.04 through 401.06. Such uses may be established, subject to the adoption of an Exception to Statewide Planning Goal 3, Agricultural Lands, and to any other applicable Statewide





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Planning Goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in Oregon Administrative Rules (OAR) 660-012-0035 and 660-012-0065.

5. Transmission towers over 200 feet in height. Towers supporting wireless telecommunication facilities are subject to Section 835.
  6. Commercial utility facilities for the purpose of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres on High Value Farmland, or more than 20 acres on Low Value Farmland, from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR 660, Division 4.
  7. An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks, and is subject to ORS 215.297.
  8. A home occupation to host events, subject to Section 806.
  9. A home occupation for canine skills training, subject to Section 836.
- C. The following uses may be allowed on Low Value Farmland subject to Subsection 401.07:
1. Dog kennels.
  2. A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.
  3. Composting facilities, subject to Section 834.
  4. Golf courses, on land determined not to be high value farmland, as defined in ORS 195.300.
  5. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.

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

401.08 PROHIBITED AND PREEXISTING USES

- A. Structures and uses of land not specifically mentioned in this Section.

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

401.09 CRITERIA FOR DWELLINGS

A permanent dwelling may be established under the following applicable provisions, when the applicant provides a complete application as required in Section 401.11 and subject to Subsections 1001.01 and 1305.02. The landowner for any dwelling approved under this Section shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes ORS 30.936 or 30.937.

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- A. The SCS Soils Atlas for Clackamas County shall be used to determine the soil classification and soil rating for a specific lot or parcel, except;
1. For purposes of approving a Lot of Record Dwelling application, the applicant may submit a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.
  2. For Nonfarm Dwelling applications, the applicant may submit a more detailed site specific soils report from a soils scientist who is certified as a soils classifier by the ARCPACS (A Federation of Certifying Boards in Agronomy, Biology, Earth and Environmental Sciences) and submit a statement from the county Soils Section of the Water and Environment Services that finds the analysis in the report to be soundly and scientifically based.
- B. Lot of Record Dwelling when determined to be located on Low Value Farmland, subject to the following criteria:
1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;
  2. The lot or parcel has been under the continuous ownership of the present owner who either;
    - a. Acquired the lot or parcel prior to January 1, 1985; or
    - b. Acquired the lot or parcel by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985;
  3. The tract on which the dwelling will be sited does not include a dwelling;
  4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;
  5. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law;
  6. When the lot or parcel on which the dwelling will be sited is part of a tract, all remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

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7. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. The Oregon Department of Fish and Wildlife (ODFW) suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
  8. An approval to construct a dwelling granted under this Subsection may be transferred to any other person after the effective date of the land use decision.
- C. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Class III and IV Soil, subject to the following criteria:
1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;
  2. The lot or parcel has been under the continuous ownership of the present owner who either;
    - a. Acquired the lot or parcel prior to January 1, 1985; or
    - b. Acquired the lot or parcel by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985;
  3. The tract on which the dwelling will be sited does not include a dwelling;
  4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;
  5. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law;
  6. When the lot or parcel on which the dwelling will be sited is part of a tract, all remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;
  7. The tract is no more than 21 acres;
  8. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on

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

9. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or the impacts can be adequately mitigated so as not to interfere. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of impact mitigation measures, winter range is seriously considered impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
10. An approval to construct a dwelling granted under this Subsection may be transferred to any other person after the land use decision becomes final.

D. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils if a Hearings Officer review pursuant to Subsection 1300 finds the following:

1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;
2. The lot or parcel has been under the continuous ownership of the present owner who either;
  - a. Acquired the lot or parcel prior to January 1, 1985; or
  - b. Acquired the lot or parcel by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985;
3. The tract on which the dwelling will be sited does not include a dwelling;
4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;
5. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law;

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6. When the lot or parcel on which the dwelling will be sited is part of a tract, all remaining portions of the tract are required to be consolidated into a single lot or parcel;
  7. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity;
  8. The dwelling will comply with the provisions of 401.07(A)(1) and (2);
  9. The dwelling will not materially alter the stability of the overall land use pattern in the area;
  10. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. (Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet).
  11. An approval to construct a dwelling granted under this Section may be transferred to any other person after the effective date of the land use decision.
- E. Dwelling in Conjunction with a Farm Use on High Value Farmland: A primary farm dwelling for the farm operator may be allowed subject to the following criteria:
1. The subject tract is currently employed in farm use that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years;
  2. The lot or parcel on which the dwelling will be sited was lawfully created;
  3. Except as permitted in Subsection 401.09(I), there is no other dwelling on the subject tract;
  4. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;
  5. In determining the gross income requirement, the cost of purchased livestock shall be deducted from the total gross annual income attributed to the tract. Only gross annual income from land owned, not leased or rented, shall be counted.

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6. An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used again to qualify any other parcel for a primary farm dwelling.
  7. Only a lot or parcel zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.
- F. Dwelling in Conjunction with a Farm Use on Low Value Farmland: A primary farm dwelling for the farm operator may be allowed on low value farmland subject to the following criteria:
1. Income Test; Criteria:
    - a. The subject tract is currently employed for the farm use that produced at least \$32,500 in gross annual income from the sale of farm products in the last two or three of the last five years;
    - b. Except as permitted in Subsection 401.09(I), there is no other dwelling on the subject tract;
    - c. The lot or parcel on which the dwelling will be sited was lawfully created;
    - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;
    - e. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted; or
    - f. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
    - g. Only a lot or parcel zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.
    - h. An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement

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dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used to qualify any other parcel for a primary farm dwelling.

2. 160 Acre Test; Criteria:
  - a. The parcel on which the dwelling will be located is at least 160 acres;
  - b. The subject tract is currently employed in a farm use;
  - 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 401.09(I), there is no other dwelling on the subject tract; or
3. Capability Test; Criteria:
  - a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract;
  - b. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Subsection 401.09(F)(3)(a);
  - c. The subject tract is currently employed in farm use at a level capable of producing the annual gross sales required in Subsection 401.09(F)(3)(b);
  - d. The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;
  - e. Except as permitted in Subsection 401.09(I), there is no other dwelling on the subject tract;
  - f. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection 401.09(F)(3)(c).

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



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1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
2. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils;
3. The dwelling will be sited on a lot or parcel lawfully created before January 1, 1993;
4. The dwelling shall not materially alter the stability of the overall land use pattern of the area. The County shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots in the area similarly situated, subject to Oregon Administrative Rules (OAR) 660-033-0130(4)(a)(D)(i) through (iii).
  - a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a "distinct agricultural area" based on topography, soils types, land use pattern, or the type of farm operations or practices that distinguish it from other adjacent agricultural areas. Findings shall describe the study area, its boundaries, and the location of the subject parcel with this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area; and to the extent OAR 660-033-0130(4)(a)(D)(ii) is applicable.
  - b. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
5. The dwelling shall comply with such other conditions as the County considers necessary.
6. Prior to Planning approval for issuance of a building or manufactured dwelling permit, the applicant shall notify the County Assessor that the lot or parcel is no longer being used for farmland and; request the County

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Assessor to disqualify the lot or parcel for special assessment under ORS 308.370, 308.765, 321.257 to 321.381, 321.730 or 321.815 and; pay any additional tax imposed upon disqualification from special assessment. A lot or parcel that has been disqualified pursuant to this Section shall not requalify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel.

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

1. The accessory farm dwelling shall be located on the same lot or parcel as the primary farm dwelling of the farm operator;
2. The accessory farm dwelling shall be located on a lawfully created lot or parcel;
3. The accessory farm dwelling shall be occupied by a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator's spouse, whose assistance in the management and farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator. The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling;
4. The accessory farm dwelling shall be occupied by person whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management of the farm use of the farm. A farm operator is a person who operates a farm , doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing;
5. There are no other dwellings on the lot or parcel that are vacant or currently occupied by persons not working on the subject farm and that could reasonably be used as an accessory farm dwelling.
6. At any time the accessory farm dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.

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

1. The accessory farm dwelling shall be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal

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- or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;
2. The accessory farm dwelling shall be located on a lawfully created lot or parcel;
  3. The accessory farm dwelling shall be located:
    - a. On the same lot or parcel as the primary farm dwelling; or
    - b. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
    - c. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is re-approved pursuant to Section 401; or
    - d. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved in this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
    - e. On a parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements of Subsection 401.09(E)(1) or 401.09(F)(1) whichever is applicable.
  4. There is no other dwelling on lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;
  5. The primary farm dwelling to which the proposed dwelling would be accessory, shall meet one of the following:

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- a. On Low Value Farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in farm use, as defined in ORS 215.203, and produced at least \$32,500 in gross annual income from the sale of farm products within the last two years or three of the last five years; or
- b. On land identified as High Value Farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in farm use, as defined in ORS 215.203, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years;
6. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross annual income from land owned, not leased or rented, shall be counted.
7. Any proposed land division or property line adjustment of a lot or parcel for an accessory farm dwelling approved pursuant to this Subsection shall not be approved. If it is determined that an accessory farm dwelling satisfies the requirements for a dwelling in conjunction with a farm use under Subsection 401.09(E or F), a parcel may be created consistent with the minimum parcel size requirements in Subsection 401.10(A);
8. An accessory farm dwelling approved pursuant to this Subsection shall not later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 401.06(B)(21).
9. At any time the dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.

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

401.10 LAND DIVISIONS, DIMENSIONS AND ADJUSTMENTS

Land divisions proposed for primary uses may be permitted by the Planning Director, subject to Subsection 1305.02. All land divisions under this subsection shall be subject to Oregon Revised Statutes (ORS) Chapter 92. Lot divisions shall be processed and reviewed consistent with the following criteria:

- A. Land Divisions: All new parcels shall be at least 80 acres. Land divisions for primary uses may be permitted by the Planning Director pursuant to Subsection 1305.02.

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- B. Conditional Use Divisions: The Hearings Officer may approve a division of land for nonfarm uses, except dwellings, set out in ORS 215.283(2) if the Hearings Officer finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. Such land divisions shall be received pursuant to Section 1300.
- C. Nonfarm Use Land Divisions: Lots less than 80 acres in size may be approved by the Planning Director pursuant to Subsection 1305.02 and subject to the following criteria:
1. The originating lot or parcel is at least 80 acres, and is not stocked to the requirements under ORS 527.610 to 527.770,
  2. The lot 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 or parcel for a dwelling will not be smaller than 20 acres;
  4. The criteria in Section 401.09(G)(1,2,4,5 and 6) are satisfied.
- D. Historic property land divisions subject to Section 707.
- E. Property line adjustments shall be subject to Section 1107.
- F. Right-of-Way Inclusion: For purposes of satisfying the lot size requirements of this district, lots which front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way. Lots which front on state and federal highways may not include the land area between the front property line and the middle of the road right of way.
- G. Structure Setbacks:
1. Minimum front yard setback: 30 feet.
  2. Minimum rear yard setback: 30 feet
  3. Minimum side yard setback: 10 feet
  4. Minimum setbacks for accessory structures: Accessory structures shall maintain a minimum front yard setback of 30 feet and minimum rear and side yard setbacks of 10 feet.
  5. Corner Visions: No sight-obscuring structures or plantings exceeding 30 inches in height shall be located within a 20 foot radius of the lot corner nearest the intersection of two public, county or state road, or from the intersection of a private driveway or easement and a public, county or

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state road. Trees located within a 20 foot radius of any such intersection shall be maintained to allow eight feet of visual clearance below the lowest hanging branches.

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

401.11 SUBMITTAL REQUIREMENTS

- A. Planning Director Review: An application for any use requiring review by the Planning Director pursuant to Subsection 1305.02 shall include the following:
1. A complete Land Use Application Form;
  2. Accurate Site Plan drawn to scale on 8.5"x 11" or 8.5"x 14" paper, showing the property and proposal;
  3. Application fee;
  4. Supplemental Application Form addressing each of the applicable approval criteria for the proposed use; and
  5. 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.

401.12 APPROVAL PERIOD AND TIME EXTENSION~~PERMIT EXPIRATION~~

- A. Approval Period: Approval of an administrative action under Section 401 is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:
1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or
  2. For all other administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the administrative action shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.
- B. Time Extension: If the approval of an administrative action is not implemented within the initial approval period established by Subsection 401.12(A), a two-year time extension may be approved by the Planning Director pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

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- ~~C. Subsections 401.12(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.~~
- ~~A. A discretionary decision except as provided in Subsection 401.12(C) and a land division, made after January 9, 2003, approving a proposed development is void two years after the date of mailing of the final decision if the development is not initiated within that period. For purposes of this Subsection, a development is initiated if all necessary development permits are approved by the Planning Division and submitted to the Building Services Division.~~
- ~~B. One extension period of up to 12 months may be granted if:~~
- ~~1. The applicant makes a written request for an extension;~~
  - ~~2. The written request is submitted prior to the expiration of the approval period;~~
  - ~~3. The applicant identifies reasons that prevented the beginning or continuing of the development within the approval period;~~
  - ~~4. The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.~~
- ~~C. If a permit is approved for a proposed residential development on agricultural land outside of an urban growth boundary, the permit shall be valid for four years after the date of mailing of the final decision; and~~
- ~~1. One extension period of up to two years may be granted.~~
  - ~~2. For the purposes of this provision, "residential development" only includes the dwellings provided for under Section 401.~~
- ~~D. Approval or denial of an extension granted under this Subsection is an administrative decision, is not a land use decision as described in Oregon Revised Statutes 197.015 and is not subject to appeal as a land use decision.~~

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

**406 TIMBER DISTRICT (TBR)**

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406.01 PURPOSE

Section 406 is adopted to:

- A. ~~To~~ Conserve forest lands;:
- B. ~~To~~ Protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of timber as the leading use on forest land;
- C. ~~To~~ Conserve, protect, and enhance watersheds, wildlife and fisheries resources, agriculture, and recreational opportunities that are compatible with the primary intent of the zone; and
- D. ~~To~~ Minimize wildfire hazards and risks.

406.02 AREA OF APPLICATION

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

406.03 DEFINITIONS

- A. "Auxiliary" means 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 is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. "Temporary structures" include onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.
- C. "Owner" means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild, of the owner or a business entity owned by any one or combination of these family members.



- D. "Ownership" means holding fee title to a parcel, lot or tract of land, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. For purposes of section 406, ownership shall include all contiguous parcels, lots or tracts meeting this definition.
- E. "Tract" means one or more contiguous lots or parcels under the same ownership
- F. "Forest operation" means any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes (ORS) 527.620(6).
- G. "Cubic foot per acre per year", as defined in Oregon Administrative Rules (OAR) 660-06-005(2).
- H. "Cubic foot per tract per year", as defined in OAR 660-06-005(3).
- I. "Date of creation and existence". When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.
- J. "Historic Property", as defined in ORS 358.480.

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

406.04 PRIMARY USES

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.04 regarding a development restriction that may apply if excessive tree removal occurs;
- B. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;
- C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities;
- D. Alteration, restoration, or replacement of a lawfully established dwelling; ~~that has:~~
  - 1. The dwelling to be altered, restored, or replaced must have:

- 1a. Intact exterior walls and roof structures;
  - 2b. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
  - 3c. Interior wiring for interior lights; and
  - 4d. A heating system.;
  - 52. The dwelling to be replaced shall be removed, demolished, or, if not a manufactured dwelling or residential trailer, converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.
- E. Widening of roads within existing rights-of-way in conformance with the transportation element of the Comprehensive Plan including public road and highway projects as described below.
- 1. Climbing and passing lanes within the right- of-way existing as of July 1, 1987;
  - 2. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result;
  - 3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;
  - 4. Minor betterment of existing public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- F. Farm uses as defined in Oregon Revised Statutes (ORS) 215.203;
- G. Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups;
- H. Private hunting and fishing operations without any lodging accommodations;
- I. Towers and fire stations for forest fire protection;
- J. Water intake facilities, canals and distribution lines for farm irrigation and ponds;

- K. Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries;
- L. Accessory buildings and uses customarily incidental to and in conjunction with any of the uses listed as a primary use in Subsection 406.04, may be established only if a primary use exists;
- M. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
- N. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.
- O. Uninhabitable structures accessory to fish and wildlife enhancement.

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

406.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

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

- A. Home Occupations, as defined in Oregon Revised Statutes (ORS) 215.448, subject to Section 822 and the following criteria:
  - 1. The parcel upon which the home occupation is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
  - 2. The home occupation will not force a significant change in, significantly increase the costs of, or impede accepted farming or forest practices on agriculture or forest lands;
  - 3. The home occupation meets the siting standards of Subsection 406.09;
  - 4. If road access to the home occupation is by a road owned and maintained by a private party or by the Oregon Department of Forestry (ODF), the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance;
  - 5. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of

action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

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

1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;
2. The lot or parcel on which the dwelling will be sited was acquired by the present owner:
  - a. Prior to January 1, 1985; or
  - b. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985;
3. The tract on which the dwelling will be sited does not include a dwelling;
4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;
5. The siting requirements described in Subsection 406.09 shall be met;
6. The property is not capable of producing 5,000 cubic feet per year of commercial tree species;
7. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be Bureau of Land Management or Forest Service roads;
8. The proposed dwelling is not prohibited by this ordinance or the Comprehensive Plan, or any other provisions of law;
9. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is approved.
10. The County Assessor's Office shall be notified of all approvals granted under this subsection.
11. An approval to construct a dwelling granted under this Subsection may be transferred to any other person after the land use decision becomes final.

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

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

2. The tract on which the dwelling will be sited does not include a dwelling;
3. The siting standards described in Subsection 406.09 shall be met;
4. The parcel upon which the dwelling is to be located was lawfully created;
5. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM or the USFS, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance;
6. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;
7. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
8. The tract upon which the dwelling will be sited shall pass a template test, conducted as follows:
  - a. A 160 acre square template shall be centered upon the subject tract. The template may be rotated around the center point to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the subject tract and, to the maximum extent possible, have its length aligned with the road or perennial stream.
  - b. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the SCS Soils Atlas, of:
    - i. 0 - 49 cubic feet per acre per year of wood fiber production, at least part of a minimum of three lots of record shall fall within the template, and a minimum of three lawfully established dwellings shall exist on the lots within the template area; or
    - ii. 50 - 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of seven lots of record shall fall within the template, and a minimum of four lawfully established dwellings shall exist on the lots within the template area; or

- iii. Greater than 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of 11 lots of record shall fall within the template, and a minimum of five lawfully established dwellings shall exist on the lots within the template area.
- c. The following types of lots of record and dwellings shall not be counted toward satisfying Subsection 406.05(C)(8)(b):
  - i. Lots of record larger than 80 acres;
  - ii. Lots of record created on or after January 1, 1993;
  - iii. Dwellings on lots of record larger than 80 acres;
  - iv. Dwellings constructed on or after January 1, 1993;
  - v. Lots of record or dwellings located within an urban growth boundary; and
  - vi. Temporary dwellings.
  - vii. The subject property.
- 9. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(C)(8)(b) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(C)(8)(b) shall be located on the same side of the road as the proposed dwelling.
- D. Forest Dwelling, 160 Acre Minimum, subject to the following criteria:
  - 1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
  - 2. The tract on which the dwelling is to be sited is at least 160 acres;
  - 3. The tract on which the dwelling will be sited does not include a dwelling;
  - 4. The siting standards described in Subsection 406.09 shall be met;
  - 5. The parcel upon which the dwelling is to be located was lawfully created;
  - 6. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the USFS, then the applicant

shall provide proof of a long-term road access use permit or agreement..  
The road use permit may require the applicant to agree to accept responsibility for road maintenance;

7. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;
8. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.

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

1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
2. The tract on which the dwelling will be sited does not include a dwelling;
3. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;
4. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;
5. None of the parcels or tracts used to total 200 acres may already contain a dwelling.
6. All parcels or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;
7. The siting standards described in Subsection 406.09 shall be met;
8. The parcel upon which the dwelling is to be located was lawfully created;
9. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the USFS, then the applicant shall provide proof of a long-term road access use permit or agreement.

The road use permit may require the applicant to agree to accept responsibility for road maintenance;

10. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;
  11. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
- F. Replacement Dwellings for Historic Houses: A replacement dwelling to be used in conjunction with a farm use may be approved if the existing dwelling is listed on the National Register of Historic Places (as required under ORS 358.480). The use or operation of a historic property for other than uses provided under ORS 358.480(2), including use as a separate residence or creation of a separate parcel, shall be subject to all other applicable provisions of this section.
- G. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3) subject to Section 835.

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

406.06 CONDITIONAL USES

- A. Conditional uses may be allowed subject to review by the Hearings Officer pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, any applicable provisions of Section 800, and the following criteria:
1. The proposed use shall not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
  2. The proposed use shall not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel.
  3. A written irrevocable statement shall be recorded in the deed records of the County binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937.



4. If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

B. Conditional Uses:

1. Permanent facility for the primary processing of forest products;
2. Permanent facilities for logging equipment repair and storage;
3. Log scaling and weigh stations;
4. Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. A campground is an area devoted to overnight temporary use for vacation or recreational or emergency purposes, subject to the following:
  - a. These areas may be occupied by a tent, travel trailer or recreational vehicle;
  - b. These uses shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
  - c. The overnight temporary use in the same campground shall not exceed a total of 30 days during any consecutive six month period;
  - d. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and Oregon Administrative Rules (OAR) 660 Division 4.
5. Public parks including only those uses specified under OAR 660-034-0035 subject to the state park master plan and including caretaker residences, subject to the applicable provisions of Subsections 406.05(C)(1) through (7);
6. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;
7. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a well head;

8. A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;
9. A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation;
10. Fire stations for rural fire protection;
11. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4. Hydroelectric facilities shall also be subject to Section 829.
12. Water intake facilities, related treatment facilities, pumping stations, and distribution lines;
13. Reservoirs and water impoundments;
14. Cemeteries;
15. New electric transmission lines with right-of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (i.e., gas, oil, geothermal) with rights-of-way 50 feet or less in width;
16. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;
17. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations;
18. Aids to navigation and aviation;
19. Aircraft land uses, subject to Section 712 or 713;
20. Expansion of existing airports, subject to Section 712 or 713;
21. Television, microwave and radio communication facilities and transmission towers, provided the base of such structure shall not be closer to the property line than a distance equal to the height of the tower;
22. Public road and highway projects as follows:
  - a. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels; and

- b. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels; and
  - c. Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels;
23. Composting facilities, subject to Section 834;
24. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
25. Youth camps on 40 acres or more, subject to OAR 660-006-0031;
26. A home occupation to host events, subject to Section 806-; and
27. A home occupation for canine skills training, subject to Section 836.

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

#### 406.07 TEMPORARY USES

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

- A. Temporary portable facility for the primary processing of forest products grown on-site, subject to Subsection 1204.01, for a period not to exceed one year;
- B. Temporary forest labor camp subject to Subsection 1204.01 for a period not to exceed one year;
- C. A manufactured dwelling, residential trailer or recreational vehicle may be used for care in conjunction with an existing dwelling for the term of a health hardship suffered by the existing resident or a relative as defined in Subsection 406.03(C) and subject to Subsection 1204.03.

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

#### 406.08 PROHIBITED AND PREEXISTING USES

- A. Structures and uses including temporary uses of land not specifically mentioned in ~~this~~ Section 406.
- B. Outdoor advertising displays, advertising signs or advertising structures except as provided in Section 1010.

- C. Any land division, or property line adjustment, except those approved pursuant to Subsection 406.10.
- D. Subdivisions, except as provided in Subsections 406.10(A) and (B).
- E. Legally established preexisting uses and structures not specifically permitted in Section 406 shall be nonconforming uses subject to Section 1206.
- F. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

406.09 SITING STANDARDS FOR DWELLINGS AND STRUCTURES

A. Purpose:

- 1. Ensure compatibility between the new dwelling or structure and the forest and agricultural operations.
- 2. Minimize wildfire hazards and risks.

B. Fire Siting Standards: The following fire siting standards shall apply to all structures greater than 120 square feet in size including, new dwellings, and replacement dwellings not located within 100 feet of the existing dwelling except as provided for in Subsection 406.10(G)

- 1. The dwelling shall have a fire retardant roof.
- 2. The dwelling shall not be sited on a slope of greater than 40 percent.
- 3. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
- 4. If the rural fire district or the Oregon Department of Forestry determines that an on-site water supply is required, then the following criteria shall be met:

a. Access:

If a water supply such as a swimming pool, pond, stream, or lake of 4,000 gallons or more exists within 100 feet of the driveway or road and the access has an average grade of 10 percent or less and a maximum grade of 15 percent, an all-weather approach to a point within 15 feet of the water's edge shall be provided. The all-weather approach shall provide a turnaround area with a 50 foot outside radius. If this standard cannot be met, then an all-weather approach and turnaround shall be constructed as per the requirements of the local emergency services provider.

b. Identification:

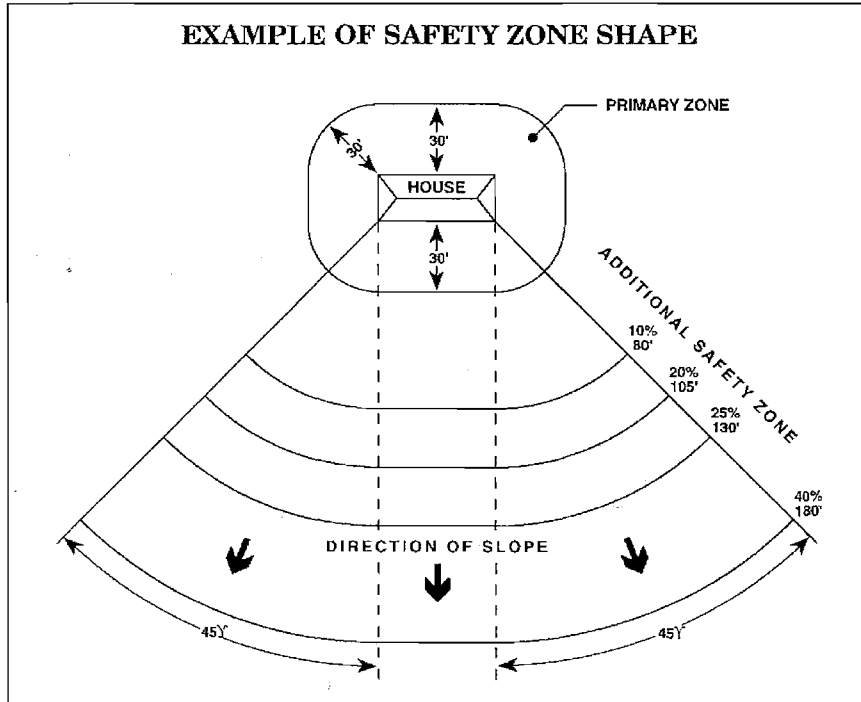
Emergency water supplies shall be clearly marked along the access route with a permanent county approved sign.

5. Fuel Break Standards:

a. Primary Safety Zone:

b. The primary safety zone is a fire break extending a minimum of 30 feet in all directions around structures. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the house. As slope increases, the primary safety zone shall increase away from the house and down the slope at a 45 degree angle from the house, in accordance with the following table and chart:

Section 1.01 Slope	Feet of Primary Safety Zone	Feet of Additional Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150



- c. Secondary Fuel Break:
- d. The secondary fuel break is a fuel break extending a minimum of 100 feet around the primary safety zone. The goal of the secondary fuel 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 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.
- e. If a dwelling or other structure cannot be sited on a parcel to meet these standards due to the size, shape, topography, or other physical characteristics of the property, the standards may be modified subject to the following criteria:
  - i. Irrevocable easements for fuel breaks are obtained from adjacent property owners so that the fuel break standards can be completed and maintained. The easement(s) shall be recorded with the County Clerk. The dwelling shall be sited a minimum of 30 feet from the front, side and rear property lines; or
  - ii. The dwelling shall be sited a minimum of 30 feet from the front, rear and side property lines. Where a primary and secondary fuel break cannot be accomplished around the dwelling due to an

inadequate setback distance, a primary fuel break shall be completed from the dwelling to the property line.

- iii. Dwellings and structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705 respectively. All dwellings shall be sited so that a primary fuel break can be completed around the dwelling 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 break requirements.
  - f. The area of an existing state, county, public or private road right of way adjacent to the subject property may be utilized to satisfy the fuel break requirements, providing all dwellings and structures are sited a minimum of 30 feet from the front, rear and side property lines.
  - g. A variance to the 30 foot front, side or rear setbacks may be allowed subject to Section 1205.
  - h. The fuel break standards shall be completed and approved by the Planning Division staff prior to issuance of any septic, building or manufactured dwelling permits. Maintenance of the fuel breaks shall be the continuing responsibility of the property owner.
- C. Compatibility Siting Standards: Siting of development shall comply with the provisions of Sections 1002 and 1003. Conditional use and temporary structures shall be sited to minimize impact on sensitive wildlife areas identified on Table III-1, *Compatibility Criteria for Wildlife Sensitive Areas*, and Map III-2, *Scenic and Distinctive Resource Areas*, of the Comprehensive Plan, as follows:
- 1. When structures exist on adjacent properties, siting of new structures shall comply with the following prioritized techniques:
    - a. Locate new structure(s) adjacent to an existing compatible structure(s) sharing a common road. (A compatible structure, for purposes of this provision, shall be any structure which does not adversely affect the intended use of another structure); or
    - b. Where "a" above is not practical, locate adjacent to an existing structure and minimize the length of access from the nearest existing public road; or
    - c. Where "a" or "b" above are not practical, site to achieve maximum distance between structures, and minimize the length of access from the nearest existing public road.

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

D. Public and private access:

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

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

1. For purposes of this subsection, 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; or
  - b. A water use permit issued by the WRD for the use described in the application; or
  - c. Verification from the WRD that a water use permit is not required for the use described in the application.
2. If the proposed water supply is from a well and is exempt from permitting requirements, the applicant shall submit the well constructor's report to the county upon completion of the well.

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

406.10 LAND DIVISIONS, DIMENSIONS AND ADJUSTMENTS

Lot divisions proposed for primary uses may be permitted by the Planning Director, subject to Subsection 1305.02. All land divisions under this subsection shall be subject to Oregon Revised Statutes Chapter 92. Land divisions shall be processed and reviewed consistent with the following criteria:

- A. Land Divisions: The parcel size shall be no less than 80 acres.



B. Multiple Dwelling Land Divisions: A parcel or lot with at least two legally established dwellings may be divided subject to Subsection 406.05(A)(5) and the following provisions:

1. At least two lawfully established dwellings existed on the lot or parcel prior to November 4, 1993;
2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.04(D);
3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;
4. At least one of the existing dwellings is located on each lot or parcel created under this provision;
5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to the statewide planning goals for lands zoned for Forest use.
6. A lot or parcel may not be divided under this provision if an existing dwelling on the lot or parcel was approved through a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot or parcel.
7. Dwelling setbacks shall be 30 feet from front, rear and side property lines and are not required to satisfy Subsection 406.09(B)(5). A pre-existing dwelling setback to the original property line shall not be subject to these setback standards.

C. Homestead Dwelling Land Division, subject to the following criteria:

1. The parcel 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 at least 80 acres; or
4. The remaining parcel, not containing the existing dwelling, is consolidated with another parcel, and together the parcels total at least 80 acres;

5. The remaining parcel, not containing the existing dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.
  6. The landowner shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the 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 county 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.
  7. The land owner shall provide evidence that a deed restriction has been recorded with the county clerk, on the parcel containing the dwelling, stating that the landowner 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: The lot size for all conditional uses identified pursuant to Subsection 406.06(B), (1) through (14), and (18) through (22) shall be determined by the Hearings Officer who shall consider the minimum land area required for the use and accessory elements for the use. The objective will be to minimize the impact on surrounding properties and limit the amount of land taken out of farm or forest use.
- E. Land divisions created for conditional uses shall be described and recorded as approved by the county prior to any development occurring on the lots. New land divisions less than 80 acres in size may be approved only for the above described uses if those uses have been approved pursuant to Subsection 406.06(A).
- F. Property line adjustments shall be subject to Section 1107.
- G. Right-of-Way Inclusion: For purposes of satisfying the lot size requirements of this district, lots which front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way. Lots which front on state and federal highways may not include the land area between the front property line and the middle of the road right-of-way.
- H. Structure Setbacks shall be 30 feet from the front and rear property lines and 10 feet from the side property lines and are not required to satisfy Subsection 406.09(B)(5) when the following occur:
1. Replacement dwellings within 100 feet of the existing dwelling; or
  2. Additions to an existing dwelling or new dwellings approved under a previous land use application where the fuel break standards were not required as a condition of approval; or

3. Additions to accessory buildings or new accessory buildings; or
4. A variance to these requirements has been approved pursuant to Section 1205.

- I. General Provisions and Exceptions: Except where specifically stated, the provisions of this section shall not preclude the application of the general provisions and exceptions of Section 900.

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

#### 406.11 SUBMITTAL REQUIREMENTS

- A. Planning Director Review: An application for any use requiring review by the Planning Director under Subsection 1305.02 shall include the following:
  1. A complete Land Use Application Form;
  2. Accurate Site Plan drawn to scale on 8.5" x 11" or 8.5" x 14" paper, showing the property and proposal;
  3. Application fee; and
  4. Supplemental Application Form addressing each of the applicable approval criteria for the proposed use.

#### 406.12 APPROVAL PERIOD AND TIME EXTENSION PERMIT EXPIRATION

- A. Approval Period: Approval of an administrative action under Section 406 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 administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the administrative action shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.
- B. Time Extension: If the approval of an administrative action is not implemented within the initial approval period established by Subsection

406.12(A), a two-year time extension may be approved by the Planning Director pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

C. Subsections 406.12(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.

~~A. A discretionary decision except as provided in Subsection 406.12(C) and a land division, made after January 9, 2003, approving a proposed development is void two years after the date of mailing of the final decision if the development is not initiated within that period. For purposes of this Subsection, a development is initiated if all development permits are approved by the Planning Division and submitted to the Building Services Division.~~

~~A. An extension period of up to 12 months may be granted if:~~

~~1. The applicant makes a written request for an extension;~~

~~1. The written request is submitted prior to the expiration of the approval period;~~

~~2. The applicant identifies reasons that prevented the beginning or continuing of the development within the approval period;~~

~~3. The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.~~

~~B. If a permit is approved for a proposed residential development on agricultural land outside of an urban growth boundary, the permit shall be valid for four years after the date of mailing of the final decision; and~~

~~1. One extension period of up to two years may be granted.~~

~~1. For the purposes of this provision, "residential development" only includes the dwellings provided for under Section 406.~~

~~C. Approval or denial of an extension granted under this Subsection is an administrative decision, is not a land use decision as described in Oregon Revised Statutes 197.015 and is not subject to appeal as a land use decision.~~

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

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

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407.01 PURPOSE

Section 407 is adopted to:

- A. ~~To~~ Ensure compatibility with forest and agricultural operations; and
- B. ~~To~~ Maintain the opportunity for economically efficient forest and agricultural practices.

407.02 AREA OF APPLICATION

- A. Areas containing such a mixture of forest and agricultural uses that neither the statewide forest goal nor the statewide agricultural goal apply alone; or
- B. Areas containing lots or parcels generally 80 acres or larger.

407.03 DEFINITIONS

- A. "Auxiliary" means 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 is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. "Temporary structures" include on site structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation; small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.
- C. "Owner" means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.
- D. "Ownership" means holding fee title to a parcel, lot or tract of land, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. For purposes of Section 407.03(C), above, ownership shall include all contiguous parcels, lots or tracts meeting this definition.
- E. "Tract" means one or more contiguous lots or parcels under the same ownership.

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- F. "Forest operation" means any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes (ORS) 527.620(6).
- G. "Cubic foot per acre per year", as defined in Oregon Administrative Rules (OAR) 660-06-005(2).
- H. "Cubic foot per tract per year", as defined in OAR 660-06-005(3).
- I. "Date of creation and existence". When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.
- J. "High-Value Farmland", as defined in ORS 215.710.
- K. "Low Value Farmland", all land not defined as High Value Farmland in ORS 215.710 and OAR 660-033-0020(8).
- L. "Historic Property", as defined in ORS 358.480.

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

407.04 PRIMARY USES

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.04 regarding a development restriction that may apply if excessive tree removal occurs;
- B. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;
- C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities;
- D. Alteration, restoration, or replacement of a lawfully established dwelling; ~~that:~~
  - 1. The dwelling to be altered, restored, or replaced must have:
    - ~~1~~a. Intact exterior walls and roof structures;
    - ~~2~~b. Indoor plumbing consisting of a kitchen sink, toilet and bathing

facilities connected to a sanitary waste disposal system;

~~3c.~~ Interior wiring for interior lights; and

~~4d.~~ A heating system; ~~and~~

~~52.~~ The dwelling to be replaced shall be removed, demolished, or, if not a manufactured dwelling or residential trailer, converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.

- E. Widening of roads within existing rights-of-way in conformance with the transportation element of the Comprehensive Plan including public road and highway projects as described below.
1. Climbing and passing lanes within the right- of-way existing as of July 1, 1987;
  2. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result;
  3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;
  4. Minor betterment of existing public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- F. Farm uses as defined in Oregon Revised Statutes (ORS) 215.203;
- G. Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups;
- H. Private hunting and fishing operations without any lodging accommodations;
- I. Towers and fire stations for forest fire protection;
- J. Water intake facilities, canals and distribution lines for farm irrigation and ponds;
- K. Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and

Mineral Industries;

- L. Accessory buildings, other than dwellings, and uses customarily incidental to and in conjunction with any of the uses listed as a primary use in Subsection 407.04, may be established only if a primary use exists;
- M. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
- N. Residential home or facility as defined in ORS 197.660, in existing dwellings.
- O. Farm Stands:  
  
A structure designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of the incidental items and fees from promotional activity do not make up more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings, or public entertainment.
- P. Utility carrier cabinets, subject to Section 830.
- Q. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.
- R. Wineries as described in ORS 215.452.
- S. Creation of, restoration of, or enhancement of wetlands.

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

407.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

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

- A. Home Occupations, as defined in Oregon Revised Statutes (ORS) 215.448, subject to Section 822 and the following criteria:
  - 1. The parcel upon which the home occupation is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
  - 2. The home occupation will not force a significant change in, significantly



increase the costs of, or impede accepted farming or forest practices on agriculture or forest lands;

3. The home occupation meets the siting standards of Subsection 407.09;
4. If road access to the home occupation is by a road owned and maintained by a private party or by the Oregon Department of Forestry (ODF), the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance;
5. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

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

1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;
2. The tract on which the dwelling will be sited does not include a dwelling;
3. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
4. The lot or parcel on which the dwelling will be sited was acquired by the present owner (as defined in ORS 215.705(6)):
  - a. Prior to January 1, 1985; or
  - b. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
5. The siting standards described in Subsection 407.09 shall be met;
6. The property is not capable of producing 5,000 cubic feet per year of commercial tree species;
7. The property is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be Bureau of Land Management or Forest Service roads;
8. The proposed dwelling is not prohibited by this Ordinance or the

Comprehensive Plan, or any other provisions of law;

9. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is approved.
10. The County Assessor's Office shall be notified of all approvals granted under this Subsection.
11. An approval to construct a dwelling granted under this Subsection may be transferred to any other person after the land use decision becomes final.
12. In cases where agriculture was the predominant use of the property on January 1, 1993, Lot of Record Dwellings shall satisfy the standards identified under Subsection 401.09B, C or D.

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

1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
2. The tract on which the dwelling will be sited does not include a dwelling;
3. The siting standards described in Subsection 407.09 shall be met;
4. The parcel upon which the dwelling is to be located was lawfully created;
5. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the USFS, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance;
6. A written irrevocable statement shall be recorded for the county 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.
7. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
8. The tract on which the dwelling will be sited shall pass a template test, which shall be conducted as follows:

- a. A 160 acre square template shall be centered on the subject tract. The template test 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 on the subject tract and, to the maximum extent possible, have its length aligned with the road or perennial stream.
  - b. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the SCS Soils Atlas, of:
    - i. 0 - 49 cubic feet per acre per year of wood fiber production, at least part of a minimum of three lots of record shall fall within the template, and a minimum of three lawfully established dwellings shall exist on the lots; or
    - ii. 50 - 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of seven lots of record shall fall within the template, and a minimum of four lawfully established dwellings shall exist on the lots; or
    - iii. Greater than 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of 11 lots of record shall fall within the template, and a minimum of five lawfully established dwellings shall exist on the lots.
  - c. The following types of lots of record and dwellings shall not be counted toward satisfying Subsection 407.05(C)(8)(b):
    - i. Lots of record larger than 80 acres;
    - ii. Lots of record lawfully created on or after January 1, 1993;
    - iii. Dwellings on lots of record larger than 80 acres;
    - iv. Dwellings constructed on or after January 1, 1993;
    - v. Lots of record or dwellings located within an urban growth boundary; and
    - vi. Temporary dwellings.
    - vii. The subject property.
9. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection

407.05(C)(8)(b) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 407.05(C)(8)(b) shall be located on the same side of the road as the proposed dwelling.

10. In cases where agriculture was the predominant use of the property on January 1, 1993, requests for a dwelling shall meet the applicable standards identified under 401.09B - G.

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

1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
2. The tract on which the dwelling will be sited is at least 160 acres;
3. The tract on which the dwelling will be sited does not include a dwelling;
4. The siting standards described in Subsection 407.09 shall be met;
5. The parcel upon which the dwelling is to be located was lawfully created;
6. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the USFS, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance;
7. A written irrevocable statement shall be recorded with the deed records for the county 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;
8. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
9. In cases where agriculture was the predominant use of the property on January 1, 1993, requests for a dwelling shall meet the applicable standards identified under 401.09E - G.

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

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1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
2. The tract on which the dwelling will be sited does not include a dwelling;
3. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;
4. The owner submits proof of an irrevocable deed restriction, recorded with the County Clerk, for the tracts in the 200 acres. The deed restrictions shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;
5. None of the parcels or tracts used to total 200 acres may already contain a dwelling;
6. All parcels or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;
7. The siting standards described in Subsection 407.09 shall be met;
8. The parcel upon which the dwelling is to be located was lawfully created;
9. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the USFS, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance;
10. A written irrevocable statement shall be recorded with the deed records for the county 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;
11. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
12. In cases where agriculture was the predominant use of the property on January 1, 1993, requests for a dwelling shall meet the applicable standards identified under 401.09B - G.

- F. Accessory Farm Dwelling – Relative: An accessory farm dwelling for a relative of the farm operator may be allowed when agriculture was the predominant use of the property on January 1, 1993 subject to the following criteria:
1. The accessory farm dwelling shall be located on the same lot or parcel as the primary farm dwelling of the farm operator;
  2. The accessory farm dwelling shall be located on a lawfully created lot or parcel;
  3. The accessory farm dwelling shall be occupied by a grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, 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 and not the personal conditions of the farm operator. The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling;
  4. The accessory farm dwelling shall be occupied by 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. A farm operator is a person who operates a farm, doing the work and making the day to day decisions about such things as planting, harvesting, feeding and marketing;
  5. There are no other dwellings on the lot or parcel that are vacant or currently occupied by persons not working on the subject farm and that could reasonably be used as an accessory farm dwelling;
  6. At any time the accessory farm dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within ninety (90) days.
  7. The accessory farm dwelling shall be sited in a manner which minimizes negative impacts on farm uses, and also minimizes impacts on sensitive wildlife areas identified on Comprehensive Plan Table III-1, *Compatibility Criteria for Wildlife Sensitive Areas*, and Comprehensive Plan Map III-4, *Stevens Great Blue Heron Rookery*, using siting techniques a-c under Subsection 407.09(C)(1);
  8. Where no compatible structure(s) exist on adjacent properties, new structures shall be sited to allow future development to satisfy Subsection 407.09(C)(1)(a) above.

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9. The County shall not approve any lot division or property line adjustment which results in the location of any accessory farm dwelling on a lot or parcel separate from the farm use property for which it has been established.

G. Accessory Farm Dwelling – Non-relative: An accessory farm dwelling for a non-relative of the farm operator may be allowed when agriculture was the predominant use of the property on January 1, 1993, subject to the following criteria:

1. The accessory farm dwelling shall be occupied by a person or persons who will be principally engaged in the farm use of the land whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;
2. The accessory farm dwelling shall be located on a lawfully created lot or parcel;
3. The accessory farm dwelling shall be located:
  - a. On the same lot or parcel as the primary farm dwelling; or
  - b. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
  - c. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to the subsection must be occupied by a person or persons who is principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use is required by the farm operator. The manufactured dwelling may remain if it is re-approved pursuant to this subsection.
  - d. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved in this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

- e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements of Subsection 401.09(E)(1) or 401.09(F)(1) whichever is applicable.
4. There is no other dwelling on lands designated agricultural forest owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;
5. The primary farm dwelling to which the proposed dwelling would be accessory, shall meet one of the following:
  - a. On land identified as Low Value Farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in a farm use, as defined in ORS 215.203, and produced at least \$32,500 in gross annual income from the sale of farm products within the last two years or three of the last five years; or
  - b. On land identified as High Value farmland, the primary dwelling is located on a farm or ranch operation that is currently employed in a farm use, as defined in ORS 215.203, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years;
6. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross annual income attributed to the tract. Only gross annual income from land owned, not leased or rented, shall be counted;
7. Any proposed land division or property line adjustment of a lot or parcel for an accessory farm dwelling approved pursuant to this Subsection, except as it would be consistent with Subsection 407.10(A) or (D), shall not be approved;
8. An accessory farm dwelling approved under this Subsection shall not later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use subject to Subsection 401.06(B)(10).
9. 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 ninety (90) days.
10. The County shall not approve any land division or property line adjustment which results in the location of any accessory farm dwelling on



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a lot or parcel separate from the farm use property for which it has been established.

- H. Aquatic Species: The propagation, cultivation, maintenance, and harvesting of, are subject to the following criteria. Removal of any aggregate in conjunction with this use is subject to all standards of this ordinance:
1. The use will not force a significant change in accepted farm or forest practices on surrounding land devoted to farm or forest use;
  2. The use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
- I. Farm Dwellings, subject to the following criteria:
1. A dwelling in conjunction with a farm use may be approved by the Planning Director subject to Subsection 1305.02, if the requirements of Subsection 401.09 are met.
- J. Dwellings and related structures authorized by 407.05(I), where the predominant use is forestry shall be subject to the siting standards of Subsection 407.09.
- K. Replacement Dwellings for Historic Houses: A replacement dwelling to be used in conjunction with a farm use may be approved if the existing dwelling is listed on the National Register of Historic Places (as required under ORS 358.480). The use or operation of a historic property for other than uses provided under ORS 358.480(2), including use as a separate residence or creation of a separate parcel, shall be subject to all other applicable provisions of this section.
- L. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3) subject to Section 835.

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

407.06 CONDITIONAL USES

- A. Conditional uses may be allowed subject to review by the Hearings Officer pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, any applicable provisions of Section 800, and the following criteria:
1. The proposed use shall not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
  2. The proposed use shall not significantly increase fire hazard, fire

suppression costs, or risks to fire suppression personnel.

3. A written irrevocable statement shall be recorded with the deed records of the County binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes 30.936 or 30.937.
4. If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

B. Conditional Uses:

1. Permanent facility for the primary processing of forest products;
2. Permanent facilities for logging equipment repair and storage;
3. Log scaling and weigh stations;
4. Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by this subsection. A campground is an area devoted to overnight temporary use for vacation or recreational or emergency purposes but not for residential purposes, subject to the following:
  - a. These areas may be occupied by a tent, travel trailer or recreational vehicle;
  - b. These uses shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations and not for residential purposes;
  - c. Overnight temporary use in the same campground shall not exceed a total of 30 days during any consecutive six month period.
  - d. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to Oregon Revised Statutes (ORS) 197.732 and Oregon Administrative Rules (OAR) 660 Division 4.
5. Public parks including only those uses specified under OAR 660-034-0035 subject to the state park master plan and including caretaker residences, subject to the applicable provisions of Subsections 407.05(B)(1) through (7);

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6. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;
7. Exploration for mineral and aggregate resources as defined in ORS Chapter 517;
8. 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 the wellhead;
9. 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;
10. 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;
11. Fire stations for rural fire protection;
12. 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;
13. Water intake facilities, related treatment facilities, pumping stations, and distribution lines;
14. Reservoirs and water impoundments;
15. Cemeteries;
16. New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (i.e., gas, oil, geothermal) with rights-of-way 50 feet or less in width;
17. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations;
18. Aids to navigation and aviation;
19. Personal use airports for airplanes and helicopter pads, including associated hanger, maintenance, and service facilities. A personal use airport as used in this subsection means an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guests and by commercial aviation activities

in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation;

20. 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;
21. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
22. Public road and highway projects as follows:
  - a. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels; and
  - b. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels; and
  - c. 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; and
  - d. Roads, highways and other transportation facilities, and improvements not otherwise allowed under this ordinance, provided an exception is taken to Statewide Planning Goals 3 and 4, and any other Statewide Planning Goal with which the facility or improvement does not comply;
23. Composting facilities, subject to Section 834;
24. Youth camps on 40 acres or more, subject to OAR 660-006-0031;
25. Commercial activities that are in conjunction with farm use;
26. Dog kennels not as described in Subsection 401.05(A);
27. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources, subject to ORS 215.298;
28. Processing, as defined by ORS 517.750, of aggregate into asphalt or

Portland cement;

29. Public or private schools, including all buildings essential to the operation of a school. Schools shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660-04;
30. Churches, and cemeteries in conjunction with churches. Churches shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660-04;
31. Golf courses located on Low Value Farmland and subject to Subsections 401.04(A)(4) and (8). Existing golf courses on High Value Farmland shall not be expanded to contain more than 18 holes. A golf course shall be subject to the following:
  - a. A golf course is an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. Golf courses approved under this provision shall be 9- or 18-hole regulation golf courses or a combination 9- and 18-hole regulation golf course;
  - b. A regulation 18-hole golf course is characterized as a site containing between 120 and 150 acres of land or more, with a playable distance of 5000 to 7200 yards, and a par of 64 to 73 strokes;
  - c. A regulation 9-hole golf course is characterized as a site containing between 65 and 90 acres of land or more, with a playable distance of 2500 to 3600 yards, and a par of 32 to 36 strokes;
  - d. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18-hole or larger golf course.
  - e. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing, such as tennis courts; swimming pools; weight rooms; wholesale or retail operations oriented to the non-golfing public; housing.
  - f. Accessory uses shall be limited in size and orientation on the site to

serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g. food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings;

32. Farmworker housing, subject to Subsection 407.05(G);

33. A home occupation to host events, subject to Section 806;

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

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

#### 407.07 TEMPORARY USES

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

- A. Temporary portable facility for the primary processing of forest products grown on-site subject to Subsection 1204.01, for a period not to exceed one year;
- B. Temporary forest labor camp subject to Subsection 1204.01, for a period not to exceed one year;
- C. A manufactured dwelling, residential trailer or recreational vehicle may be used for care, in conjunction with an existing dwelling for the term of a health hardship suffered by the existing resident or a relative as defined in 407.03(C) and subject to Subsection 1204.03.

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

#### 407.08 PROHIBITED AND PREEXISTING USES

- A. Structures and uses, including temporary uses of land, not specifically mentioned in ~~this~~ Section 407.
- B. Outdoor advertising displays, advertising signs or advertising structures except as provided in Sections 1010.
- C. Any land division, or property line adjustment, except those approved pursuant to Subsection 407.10.
- D. Subdivisions except as provided in Subsections 407.10(A) and (B).
- E. Legally established preexisting uses and structures not specifically permitted in Section 407 shall be nonconforming uses subject to Section 1206.
- F. Preexisting uses on High Value Farmland which are located wholly within this zone may be maintained, enhanced or expanded on the same tract subject

to Section 1206, except golf courses may be expanded to no more than 18 holes.

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

407.09 SITING STANDARDS FOR DWELLINGS AND STRUCTURES IN THE AG/F DISTRICT

A. Purpose:

1. Ensure compatibility between the new dwelling and the forest and agricultural operations.
2. Minimize wildfire hazards and risks.

- B. Fire Siting Standards: The following fire siting standards shall apply to all structures greater than 120 square feet in size including, new dwellings, and replacement dwellings not located within 100 feet of the existing dwelling in a forest zone, except as provided for in Subsection 407.10(G).

1. The dwelling shall have a fire retardant roof.
2. The dwelling shall not be sited on a slope of greater than 40 percent.
3. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
4. If the rural fire district or the Oregon Department of Forestry determines that an on-site water supply is required, then the following criteria shall be met:

a. Access:

If a water supply such as a swimming pool, pond, stream, or lake of 4,000 gallons or more exists within 100 feet of the driveway or road and the access has an average grade of 10 percent or less and a maximum grade of 15 percent, an all-weather approach to a point within 15 feet of the water's edge shall be provided. The all-weather approach shall provide a turnaround area with a 50 foot outside radius. If this standard cannot be met, then an all-weather approach and turnaround shall be constructed as per the requirements of the local emergency services provider.

b. Identification:

Emergency water supplies shall be clearly marked along the access route with a permanent county approved sign.

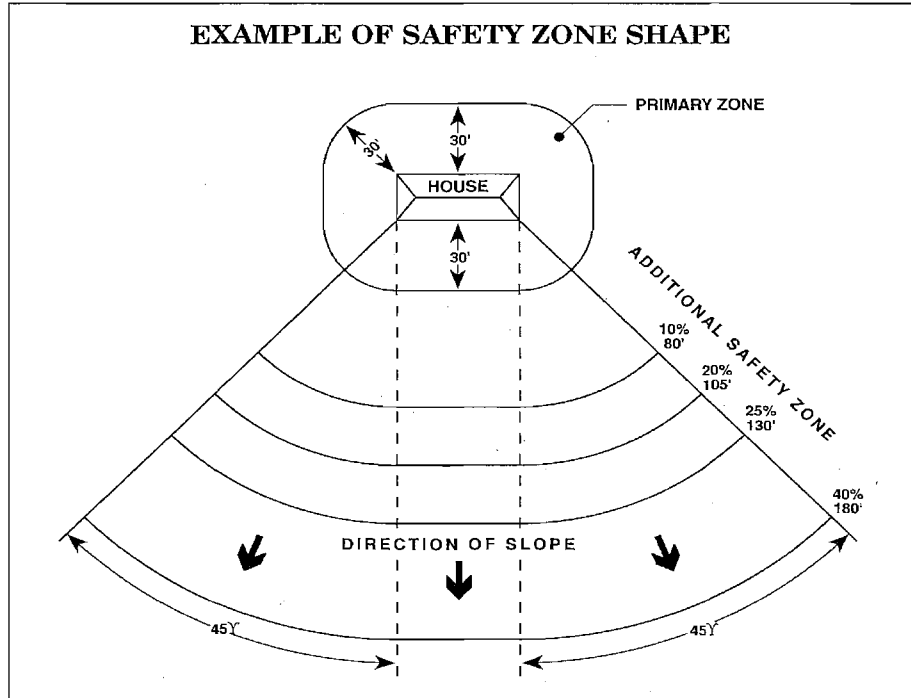
5. Fuel Break Standards

a. Primary Safety Zone:

The primary safety zone is a fire break extending a minimum of 30 feet in all directions around structures. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and low 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 house. As slope increases, the primary safety zone shall increase away from the house and down the slope at a 45 degree angle from the house, in accordance with the following table and chart:

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





b. Secondary Fuel Break:

The secondary fuel break extending a minimum of 100 feet around the primary safety zone. The goal of the secondary fuel 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 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.

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

- i. Irrevocable easements for fuel breaks are obtained from adjacent property owners so that the fuel break standards can be completed and maintained. The easement(s) shall be recorded with the County Clerk. The dwelling shall be sited a minimum of 30 feet from the front, side and rear property lines, or;
- ii. The dwelling shall be sited a minimum of 30 feet from the front, rear and side property lines. Where a primary and secondary fuel break cannot be accomplished around the dwelling due to an inadequate setback distance, a primary fuel break shall be

completed from the dwelling to the property line.

- iii. Dwellings and structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705 respectively. All dwellings shall be sited so that a primary fuel break can be completed around the dwelling 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 break requirements.
        - d. The area of an existing state, county, public or private road right-of-way adjacent to the subject property may be utilized to satisfy the fuel break requirements, providing all dwellings and structures are sited a minimum of 30 feet from the front, rear and side property lines.
        - e. A variance to the 30 foot front, side or rear setbacks may be allowed subject to Section 1205.
        - f. The fuel break standards shall be completed and approved by the Planning Division staff prior to issuance of any septic, building or manufactured dwelling permits. Maintenance of the fuel breaks shall be the continuing responsibility of the property owner.
- C. Compatibility Siting Standards: Siting of development shall comply with the provisions of Section 1002 and 1003. Conditional use and temporary structures shall be sited to minimize impact on sensitive wildlife areas identified on Comprehensive Plan Table III-1, *Compatibility Criteria for Wildlife Sensitive Areas*, and Comprehensive Plan Map III-4, *Stevens Great Blue Heron Rookery*, as follows:
- 1. When structures exist on adjacent properties, siting of new structures shall comply with the following prioritized techniques:
    - a. Locate new structure(s) adjacent to an existing compatible structure(s) sharing a common road. (A compatible structure, for purposes of this provision, shall be any structure which does not adversely affect the intended use of another structure.); or
    - b. Where "a" above is not practical, locate adjacent to an existing structure and minimize the length of access from the nearest existing public road; or
    - c. Where "a" or "b" above are not practical, site to achieve maximum distance between structures, and minimize the length of access from the nearest existing public road.
  - 2. Where no compatible structures exist on adjacent properties, new

structures shall be sited to allow future development to satisfy Subsection 406.09(C)(1)(a).

D. Public and private access:

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

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

1. For purposes of this subsection, 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; or
  - b. A water use permit issued by the WRD for the use described in the application; or
  - c. Verification from the WRD that a water use permit is not required for the use described in the application.
2. If the proposed water supply is from a well and is exempt from permitting requirements, the applicant shall submit the well constructor's report to the county upon completion of the well.

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

407.10 LAND DIVISIONS, DIMENSIONS AND ADJUSTMENTS

Land divisions proposed for principal primary uses may be permitted by the Planning Director, subject to review with notice pursuant to Subsection 1305.02. All land divisions under this subsection shall be subject to Oregon Revised Statutes Chapter 92. Land divisions shall be processed and reviewed consistent with the following criteria:

- A. Land Divisions: The parcel size shall be no less than 80 acres.
- B. Multiple Dwelling Land Divisions: A parcel or lot with at least two legally established dwellings may be partitioned subject to 407.05(A)(5) and the

following provisions: (1/9/03

1. At least two lawfully created dwellings existed on the lot or parcel prior to November 4, 1993;
  2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 407.04(D);
  3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;
  4. At least one of the existing dwellings is located on each lot or parcel created under this provision;
  5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to statewide planning goals for lands zoned for Forest use.
  6. A lot or parcel may not be divided under this provision if an existing dwelling on the lot or parcel was approved through a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot or parcel.
  7. Dwelling setbacks shall be 30 feet from front, rear and side property lines and are not required to satisfy the Fuel Break Standards outlined in Section 407.09(B)(5). A preexisting dwelling setback to the original property line shall not be subject to these setback standards.
- C. Homestead Dwelling Land Division, subject to the following criteria:
1. The parcel 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 existing prior to June 1, 1995;
  3. The remaining parcel, not containing the dwelling, is at least 80 acres; or
  4. The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels total at least 80 acres;
  5. The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

6. The applicant shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the 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 county 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.
7. The landowner shall provide evidence that a deed restriction has been recorded with the county clerk, on the parcel containing the dwelling, stating that the landowner 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: The lot size for all conditional uses identified pursuant to Subsection 407.06(B), (1) through (6), (9) through (15), (17), and (19) through (31) shall be determined by the Hearings Officer who shall consider the minimum land area required for the use and accessory elements for the use. The objective will be to minimize the impact on surrounding properties and limit the amount of land taken out of farm or forest use.

Land divisions created for conditional uses shall be described and recorded as approved by the county prior to any development occurring on the lots. New land divisions less than 80 acres in size may be approved only for the above described uses if those uses have been approved pursuant to Subsection 407.06(A).

- E. Property line adjustments shall be subject to Section 1107.
- F. Right-of-Way Inclusion: For purposes of satisfying the lot size requirements of this district, lots which front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way. Lots which front on state and federal highways may not include the land area between the front property line and the middle of the road right-of-way.
- G. Structure Setback: Shall be 30 feet from the front and rear property lines and 10 feet from the side property line and are not required to satisfy the Fuel Break Standards outlined in Section 407.09 when the following occur:
1. Replacement dwellings within 100 feet of the existing dwelling; or
  2. Additions to an existing dwelling or new dwellings approved under a previous land use application where the fire siting standards were not required as a condition of approval; or
  3. Additions to accessory buildings or new accessory buildings.

4. Variances to these requirements may be allowed pursuant to Section 1205.

H. General Provisions and Exceptions: Except where specifically stated, the provisions of this section shall not preclude the application of the general provisions and exceptions under Section 900.

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

407.11 SUBMITTAL REQUIREMENTS

A. An application for any use requiring review by the Planning Director under Subsection 1305.02 shall include the following:

1. A complete Land Use Application Form;
2. Accurate Site Plan drawn to scale on 8.5" x 11" or 8.5" x 14" paper, showing the property and proposal;
3. Application Fee;
4. Supplemental Application Form addressing each of the applicable approval criteria for the proposed use; and
5. 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.

407.12 APPROVAL PERIOD AND TIME EXTENSION PERMIT EXPIRATION

A. Approval Period: Approval of an administrative action under Section 407 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 administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the administrative action shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

B. Time Extension: If the approval of an administrative action is not implemented within the initial approval period established by Subsection

407.12(A), a two-year time extension may be approved by the Planning Director pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

C. Subsections 407.12(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.

~~A. A discretionary decision except as provided in Subsection 407.12(C) and a land division, made after January 9, 2003, approving a proposed development is void two years after the date of mailing of the final decision if the development action is not initiated within that period. For purposes of this Subsection, a development is initiated if a building permit or manufactured dwelling permit is approved by the Planning Division and submitted to the Building Services Division.~~

~~B. An extension period of up to 12 months may be granted if:~~

- ~~1. The applicant makes a written request for an extension;~~
- ~~2. The written request is submitted prior to the expiration of the approval period;~~
- ~~3. The applicant identifies reasons that prevented the beginning or continuing of the development within the approval period;~~
- ~~4. The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.~~

~~C. If a permit is approved for a proposed residential development on agricultural land outside of an urban growth boundary, the permit shall be valid for four years after the date of mailing of the final decision; and~~

- ~~1. One extension period of up to two years may be granted.~~
- ~~2. For the purposes of this provision, "residential development" only includes the dwellings provided for under Section 407.~~

~~D. Approval or denial of an extension granted under this Subsection is an administrative decision, is not a land use decision as described in Oregon Revised Statutes 197.015 and is not subject to appeal as a land use decision.~~

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

**501 NEIGHBORHOOD COMMERCIAL DISTRICT (NC)**

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[The title of Section 501 changed by Ord. ZDO-224, 5/31/11]

501.01 PURPOSE

This section is adopted to implement the policies of the Comprehensive Plan for Neighborhood Commercial areas. The intent of these provisions is to provide for convenience commercial needs of residential neighborhoods in locations easily accessible to these neighborhoods with minimal negative impacts.

501.02 AREAS OF APPLICATION

Sites may be zoned Neighborhood Commercial District (NC) in areas planned for residential use, subject to Hearings Officer review under the provisions of Section 1300, when either Subsection 501.02(A) or Subsections 501.02(B) and (C) are satisfied:

- A. Preexisting Uses: The site, prior to the adoption of Section 501, was occupied by, and had an historical commitment to, neighborhood commercial uses. Additions of land area to a preexisting site shall be subject to Subsections 501.02(B) and (C).
- B. New Sites/Expansion of Preexisting Sites: New sites and property adjacent to any existing NC site may be tentatively zoned NC when all the following criteria are satisfied:
  - 1. Criteria under Subsections 1203.01(B) through (E) for conditional uses.
  - 2. The new site, or expanded site, is necessary to provide convenience commercial uses which are not currently available within the service area. "Service area," for purposes of this provision, shall be either:
    - a. The readily accessible area within 2,000 feet of the proposed site; or
    - b. A defined area with a minimum of 500 existing or potential dwelling units which are closer to the proposed site, and have as good or better access to the proposed site, than to existing commercial sites considering distance and topographical barriers. Potential dwelling units shall be determined on the basis of existing zoning.
  - 3. The site should be a maximum of one acre in size. To allow clustering of convenience uses, additional area may be added, up to a maximum total area of two acres.
  - 4. The site shall have access to a street of at least a collector classification.



5. The site should not include more than one quadrant of an intersection. If more than one quadrant is proposed, the applicant must show that undo traffic congestion will not result.
6. The site has a Comprehensive Plan designation of Low Density, Medium Density or High Density Residential.

C. ~~Final Approval: A NC zone change shall automatically become final if, within two years of the County's action approving the proposed zone change, one of the following is accomplished:~~

- ~~1. A building permit application for a structure(s) to house an allowed use has been approved and has not expired; or~~
- ~~2. An existing building on the site has been occupied by a use allowed in the district, and site improvements have been approved and installed as necessary to satisfy the development standards in this Ordinance.~~

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

#### 501.03 PRIMARY USES

The following are primary uses in the Neighborhood Commercial District, provided each is at a scale appropriate to serve the surrounding neighborhood, and does not attract substantial customer traffic from other areas. A mixture of small-scale uses within one building shall be encouraged.

##### A. Retail Commercial Uses:

1. Apparel stores and dressmaking shops;
2. Bakery shops;
3. Catering establishments;
4. Confectionery stores;
5. Delicatessen shops and restaurants, but not drive-in restaurants or drive-thru service;
6. Drug stores;
7. Fabric and dry goods stores;
8. Florist and gift shops;
9. Grocery and produce stores;

10. Hardware and garden supplies; and

11. Meat and fish markets.

B. Service Commercial Uses:

1. Barber and beauty shops;

2. Clothes pressing, alterations, and tailoring shops;

3. Daycare facilities and other adult or child care facilities, operated during the daytime, subject to Section 807;

4. Dry cleaners; laundry agencies; self-service laundromats and dry cleaning facilities;

5. Exercise and tanning studios;

6. Offices for doctors, dentists, chiropractors, naturopathic treatment personnel, and other health service personnel; small clinics or community health care programs;

7. Photo finishing;

8. Shoe repair;

9. Veterinarian services and pet supplies;

10. Video rental stores;

11. Bed and breakfast residences and inns, subject to Section 832; and

12. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835;

C. Retail or service commercial uses that the Planning Director finds to be similar to one or more of those specified above. A request for a determination under Subsection 501.03(C) shall be processed as an Interpretation pursuant to Subsection 1305.03; and

D. Preexisting retail or service commercial uses.

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

501.04 ACCESSORY USES

A.—The following are accessory uses in the Neighborhood Commercial District:

A. \_\_\_ Uses and structures customarily accessory and incidental to a primary use;

B. \_\_\_ Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work;

C. \_\_\_ 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;

D. \_\_\_ Recyclable drop-off sites, subject to Section 819;

E. \_\_\_ Bus shelters, subject to Section 823;

F. \_\_\_ Signs, subject to Section 1010;

G. \_\_\_ Bike racks, pedestrian amenities, and transit amenities;

H. \_\_\_ Solar energy systems;

I. \_\_\_ Rainwater collection systems; and

J. \_\_\_ Electric vehicle charging stations.

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

501.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

The Planning Director may approve the following use, pursuant to Subsection 1305.02:

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

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

501.06 CONDITIONAL USES

- A. The Hearings Officer may approve conditional uses in the Neighborhood Commercial District, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800. In addition, the proposed use:

- 1. Shall be needed to serve primarily the convenience commercial needs of the neighborhood, considering accessibility of similar uses;

2. Shall not substantially increase traffic through the neighborhood; and
  3. Shall not diminish the amenities of the neighborhood.
- B. Uses allowed subject to Subsection 501.06(A) are any uses identified in Subsection 502.03, which are not identified in Subsection 501.03.

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

501.07 PROHIBITED AND PREEXISTING USES

- A. Prohibited Uses: The following are prohibited uses in the Neighborhood Commercial District:
1. Uses of structures and land not specifically allowed; and
  2. Dwellings, except when incidental to a primary use.
- B. Preexisting Uses:
1. Except for dwellings, preexisting uses not otherwise allowed shall be considered nonconforming uses and shall be subject to Section 1206.
  2. Preexisting dwellings may be allowed to remodel or expand and shall not be subject to Section 1206.

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

501.08 SUBMITTAL REQUIREMENTS

- A. Information showing the request satisfies the criteria listed in Subsections 1203.01(B) through (E);
- B. A vicinity map, drawn to scale, showing the following:
1. Uses and location of improvements on adjacent properties and properties across any private or public road;
  2. Location of all commercial uses within 2000 feet, identifying the uses; and
  3. Location of pedestrian and bicycle facilities;
- C. Site plan, drawn to scale, showing the following:
1. Property dimensions and area of property;
  2. Roads adjacent to property identifying them by name and showing their width;

3. Access to property;
4. Location and size of existing and proposed improvements showing distance from property lines and distance between improvements;
5. Location of existing and proposed parking; and
6. Location of existing and proposed pedestrian and bicycle facilities, including pedestrian rest and gathering areas; and

D. Building profiles.

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

501.09 DIMENSIONAL STANDARDS

A. Purpose: The dimensional standards are intended to:

1. Provide for the protection of adjacent properties and the surrounding neighborhood;
2. Establish the maximum limits of the development; and
3. Ensure that building scale is in character with the surrounding neighborhood.

B. Dimensional Standards:

1. Street Frontage: Street frontage requirements shall be the same as the requirements of the zoning district that existed on the property immediately prior to its designation as Neighborhood Commercial District.
2. Maximum Front Yard Setback: 20 feet for buildings at or near a transit stop along a major transit street, as set forth more specifically in Section 1005.
3. Minimum Lot Size:
  - a. Low Density Residential Areas: The minimum lot size allowed by the zoning designation of the property immediately prior to its designation as Neighborhood Commercial.
  - b. Medium and High Density Residential Areas: 7,260 square feet.
4. Maximum Lot Size: One acre, except as approved under Subsection 501.02(B)(3).

5. Maximum Lot Coverage: 50 percent.
6. Maximum Building Height: 35 feet.
7. Minimum Landscaping Area: 15 percent of the lot.
8. Maximum Floor Area Per Use: Individual uses shall not exceed 5,000 square feet of gross floor area.

- C. Variances: The requirements of Subsection 501.09(B) may be modified pursuant to Section 1102 when such modification is consistent with Section 1205. A proposed reduction that exceeds 20 percent of the requirement shall be processed as a separate variance application pursuant to Section 1205.

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

501.10 DEVELOPMENT STANDARDS

- A. Compliance with Approved Plans: ~~Neighborhood Commercial Sites~~ shall be developed in accordance with the site and development plan approved for the property at the time the zone change to Neighborhood Commercial was granted. ~~All conditions of approval and the development standards of this Ordinance shall be satisfied within two years of the final order approving the zone change, as specified under Subsection 501.02(C).~~
- B. Time Extensions: ~~If Subsection 501.10(A) is not satisfied within the two-year period, the zoning of the property shall revert to its designation immediately prior to the zone change approval. A one-year time extension may be granted by the Planning Director, pursuant to Section 1305.02, upon finding:~~
- ~~1. A written request for a time extension has been submitted to the Planning Director 30 days prior to the expiration of approval.~~
  - ~~1. There exists good and reasonable cause for failure to develop the parcel.~~
  - ~~2. There is a reasonable expectancy the site will be developed and occupied within one year of the extension.~~
- ~~C.B.~~ General: Development is subject to the applicable provisions of Sections 1000 and 1100.
- ~~D.C.~~ Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan.
- ~~F.D.~~ Signs: Only projecting, building, or low freestanding or ground-mounted signs, graphics, or symbols shall be used.

F.E. Access and On-Site Circulation: The location, design, and development of access and onsite circulation shall comply with the following:

1. Joint street access for adjacent commercial developments shall be required.
2. Circulation facilities, architectural features, signing, and landscaping shall be designed to achieve pedestrian scale.
3. Landscaping, crosswalks, street lighting or signaling, or similar improvements may be required to create safe and inviting places to cross streets.
4. Onsite sidewalks and pedestrian spaces shall be separated from automobile and truck circulation, parking, and loading whenever possible.

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

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

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

#### 501.11 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of a zone change to Neighborhood Commercial District (NC) is valid for two 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 two-year period, the approval shall be implemented, or the approval will become void and the zoning of the property will revert to its designation immediately prior to the zone change approval. "Implemented" means either:

1. A building permit for a structure to house a use allowed in the NC zoning district has been approved and has not expired; or
2. An existing building on the site has been occupied by a use allowed in the NC zoning district, and site improvements have been approved and installed as necessary to satisfy the development standards of this Ordinance.

B. Time Extension: If the approval of a zone change to NC is not implemented within the initial approval period established by Subsection 501.11(A), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

**504 RURAL TOURIST COMMERCIAL DISTRICT (RTC)**

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504.01 PURPOSE

Section 504 is adopted to implement the policies of the Comprehensive Plan for Community Commercial areas regulated by the Mount Hood Community Plan-area.

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

504.02 AREA OF APPLICATION

Property may be zoned Rural Tourist Commercial District when:

- A. The site has a Comprehensive Plan designation of Community Commercial;
- B. The site is regulated by the Mount Hood Community Plan; and
- C. The criteria in Section 1202 are satisfied.

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

504.03 PRIMARY USES

A. The following are primary uses in the Rural Tourist Commercial District to serve the surrounding community and tourists. A mixture of small-scale uses within a building or complex is encouraged:

1. A. Uses listed in Subsections 501.03(A) and (B), at a scale appropriate to serve the surrounding community;
2. B. Accounting and income tax service;
3. C. Antique and second hand stores;
4. D. Arts and crafts stores, including manufacturing of the crafts to be sold in that store, and craft classes;
5. E. Auto and truck repair services, and sale of replacement parts;
6. F. Banks, credit unions, savings and loans;
7. G. Billiard halls and game rooms;
8. H. Book and stationery stores;
9. I. Building materials retailers and plumbing, electrical and building contractors;



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10. J. Clothing stores;
11. K. Community and government services such as community action agencies, extension services, fire stations, tourist information, forest service and post offices;
12. L. Doctor and dentist offices;
13. M. Firewood sale;
14. N. Feed stores, including wholesale and retail sales and storage;
15. O. Food lockers;
16. P. Garden store, including wholesale and retail sales of seeds, seedlings and nursery stock, fertilizer and mulch;
17. Q. Gunsmith;
18. R. Houseware and household appliance and equipment sales and repair;
19. S. Insurance agents;
20. T. Leather goods and hides sales;
21. U. Locksmith;
22. V. Logging contractors;
23. W. Liquor stores;
24. X. Museums;
25. Y. Offices, meeting rooms, rental and sales outlets and equipment storage for organizations related to farm or forestry uses such as water boards, farmers co-ops, granges, wholesalers or retailers of farm or forestry equipment, materials and products;
26. Z. Pottery and ceramic goods, including manufacturing of pottery to be sold in that store, and classes;
27. AA. Real Estate Agents;
28. BB. Service stations, subject to Section 820;
29. CC. Electric vehicle charging stations;
30. DD. Taverns;

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31. EE. Upholstery shops, including retail sales;
32. FF. Veterinary services and clinics;
33. GG. Churches, subject to Section 804;
34. HH. Public utility installations;
35. II. Recreational vehicle camping facilities, subject to Subsection 813.01(D);
36. JJ. Motels, hotels, and resort accommodations are subject to the density provisions of Subsection 504.08(C). Commercial uses associated with hotel/motel facilities and resort accommodations (i.e. restaurants, gift shops, conference rooms) are allowed subject to the limitations of Subsection 504.08(B)(8);
37. KK. Park and ride lots, facilities, and bus shelters, subject to Section 823;
38. LL. Community parking structures in Government Camp, to the extent that they are consistent with an adopted community parking plan;
39. MM. Public and private schools, and trade schools;
40. NN. Detached single-family dwellings ~~may be established~~ on lots of record existing on December 7, 1983. Such dwellings established in Government Camp are exempt from Government Camp specific standards, except for minimum setback standards;
41. OO. Any use that the Planning Director finds to be similar to one or more of those specified above. A request for a determination under Subsection 504.03(A)(41) shall be processed as an Interpretation pursuant to Subsection 1305.03~~;~~;
42. PP. Utility carrier cabinets, subject to Section 830~~;~~;
43. QQ. Sports equipment rental, sale, service, or repair~~;~~;
44. RR. Other uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area~~;~~ and
45. SS. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.

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

504.04 ACCESSORY USES

- A. The following are accessory uses in the Rural Tourist Commercial District:

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1. A. Uses and structures customarily accessory and incidental to a primary use;
2. B. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work;
3. C. Solar energy systems;
4. D. Rainwater collection systems;
5. E. Signs, subject to Section 1010;
6. F. 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; and
7. G. Recyclable drop-off sites, subject to Section 819.

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

504.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

The Planning Director may approve the following use in the Rural Tourist Commercial District, pursuant to Subsection 1305.02:

- A. Wireless telecommunication facilities listed in Subsection 835.05, subject to Section 835.

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

504.06 CONDITIONAL USES

A. — The Hearings Officer may approve the following conditional uses in the Rural Tourist Commercial District, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.

- 1- A. Recycling centers and transfer stations, subject to Section 819;
- 2- B. Hydroelectric facilities, subject to Section 829;
- 3- C. Theme parks and amusement parks;
- 4- D. Mini-storage facilities, consistent with the building design standards of Subsection 504.09(C)(4) and having a minimum 15-foot setback between the front property line and the developed portion of the site, excluding landscaping. No outside storage shall be permitted; and

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5. E. Recreational activities such as, but not limited to, ski areas and associated uses.

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

504.07 PROHIBITED AND PREEXISTING USES

The following are prohibited uses in the Rural Tourist Commercial District:

- A. Uses of structures and land not specifically allowed.
- B. New detached single-family dwellings on lots created after December 7, 1983, except when accessory to a primary use. However, a dwelling which lawfully existed on December 7, 1983, shall not be a nonconforming use, and may be altered or expanded without review under Section 1206.
- C. The use of a mobile home or residential trailer as a permanent dwelling or office except within a recreational vehicle or trailer park.
- D. All other preexisting uses and structures not specifically permitted in Section 504 shall be nonconforming uses subject to Section 1206.
- E. Pre-existing structures in Government Camp which lawfully existed prior to February 8, 2007, shall not be identified as a nonconforming use and may be altered or expanded in compliance with the standards of Sections 504 and 1102.

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

504.08 DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
  - 1. Provide for protection of surrounding properties and the historic character of the Mt. Hood Community;
  - 2. Ensure that the minimum operational requirements of the development are provided onsite;
  - 3. Establish the maximum limits of development;
  - 4. Provide for coordinated, pleasing and efficient utilization of Rural Tourist Commercial areas; and
  - 5. Provide a safe, pedestrian-oriented environment and community gathering areas in the Government Camp core commercial district that extends from E. Wy'East Trail to E. Union Street and E. Lige Lane (First Street) to Highway 26.

B. Dimensional Standards:

1. B. Setback from National Forest: No setback is required where development abuts a National Forest.

~~2. C. Minimum Front Yard Setback: 25 feet. Structures on corner lots shall observe the minimum setback on both streets except:~~

~~1. In Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, Government Camp Village Plan, Land Use Plan & Boundary, the minimum front yard setback from a property line abutting shall observe a minimum setback of four feet and maximum setback no greater than 10 feet for property with frontage on Government Camp Old Mt. Hood Loop Road shall be four feet. However, there is no minimum setback from Government Camp Loop for a building cantilever. An exception to the maximum frontage setback to the Old Mt. Hood Loop Road is allowed where public plaza space is provided. Setbacks for cantilevers to buildings with frontage on the Old Mt. Hood Loop Highway shall observe no setback. Structures and buildings shall be designed to include measures to protect the public and vehicles from snow slide incidents. These measures shall be implemented in compliance with the State of Oregon Structural Specialty Code and Subsection 504.08(G)(5). A corner lot with frontage on Government Camp Loop shall comply with a minimum front yard setback of 10 feet from the property line abutting the other road. Structures on corner lots of the Old Mt. Hood Loop Road and on the local side streets shall observe a minimum setback of ten feet.~~

~~2. Except as established by Subsection 504.08(C)(1), in Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, a corner lot shall comply with the 25-foot minimum front yard setback from one of the front lot lines and shall comply with a 10-foot minimum front yard setback from the other front lot line.~~

D. Maximum Front Yard Setback: None, except in Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, the maximum front yard setback from a property line abutting Government Camp Loop shall be 10 feet. An exception to this requirement is allowed to accommodate public plaza space.

~~3. E. Minimum Rear Yard Setback: 10 feet. When a rear yard abuts a more restrictive zone, the minimum setbacks shall be 20 feet.~~

4. F. Minimum Side Yard Setback: 10 feet. When a side yard abuts a more restrictive zone, the minimum setbacks shall be 20 feet. However, in Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, there is no minimum side yard setbacks may have no side yard setback subject to compliance with Subsection 504.08(B)(5) and

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all other development standards, except as may be required to comply with Subsection 504.08(G).

5. G. Minimum Building Separation Requirement: A minimum of 10 feet shall be required between all buildings on- or off-site, except ~~a~~ Above 3,500 feet elevation, where the separation distance between buildings with contiguous snow slide areas shall be a minimum of 20 feet. ~~For purposes of this section, "Snow slide area" means the area around a structure that may be subject to snow buildup as a result of snow sliding from the sloped roof of the structure.~~

6. H. Minimum Landscaping Area: 15 percent of the lot. However, in the unincorporated community of Government Camp Village, as shown on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan, Land Use Plan & Boundary*, the minimum shall be 10 percent, except that there shall be no minimum for properties with frontage on the ~~Government Camp~~ Old Mt. Hood Loop Road from ~~E. Wy'East Trail to E. Olive Street and on E. Little Trail from E. Olive Street to E. Church Street, where public plazas are provided in compliance with Subsection 504.09(E).~~

7. I. Government Camp Maximum Building Height: The maximum building height shall be 70 feet. This provision shall be modified by staff to allow a height increase up to 25 percent when necessary to accommodate understructure parking, or to preserve natural features or views.

8. J. Government Camp Commercial Development Floor Area Limitation: The maximum floor area allowed for commercial development is 8,000 square feet per use. A use shall be defined as a separate leaseable space. Commercial uses customarily associated with hotel, motel, or resort uses shall be allowed up to 8,000 square feet per use in addition to the area taken up by the hotel itself.

9. K. Rhododendron Rural Service Center Floor Area Limitation: 4,000 square feet per building.

10. L. Density: The maximum number of hotel, motel, or resort units per acre shall be as follows:

1. Government Camp Village ~~Urban Unincorporated Community:~~ Hotel/motel accommodations in the village of Government Camp Village may be provided up to a maximum of 50 units per acre, with a limitation of 100 units per development, ~~subject to compliance with all other development standards.~~
2. Other Villages: Units allowed per acre shall be determined on the basis of the unit size and village density, as specified on the following chart:

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Unit Size (in square feet)	Maximum Number of Units per Acre in Wemme/Welches Resort Community	Maximum Number of Units per Acre in Rhododendron Rural Service Center
1,200 +	6	4
1,000-1,199	7	5
800-999	8	6
600-799	10	8
400-599	14	12
200-399	32	22

~~D.~~ M. Hotels/Motels: Hotels and motels are allowed if served by community sewer, up to a maximum of 35 units within Rural Community or Rural Service Center, and no limit within Resort Communities.

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~~E.~~ N. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.

~~F.~~ O. Variances: The standards of Subsection 504.08 may be modified pursuant to Section 1205.

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

504.09 DEVELOPMENT STANDARDS

- A. General: Development is subject to the applicable provisions of Sections 1000 and 1100.
- B. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan.
- C. Government Camp Design Standards: The following standards shall apply to Government Camp and shall govern where any standards are in conflict with other provisions of Section 504. These standards shall apply to all new development and, where reasonable, to remodels.
  - 1. Main Entrance Siting: Properties with street frontage on Government Camp ~~the Old Mt. Hood Loop Highway (Loop Road)~~ shall locate the main entrance and pedestrian amenities on ~~the Government Camp Loop Road~~.
  - 2. Loading and Delivery: Shall not be located on Government Camp ~~Old Mt. Hood Loop Highway~~ unless there is no other access.

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3. Walkways: Walkways parallel to ~~the Old Mt. Hood Government Camp Loop Road~~ are not required, however if a walkway is extended from the existing 10-foot-wide sidewalk fronting ~~the Old Mt. Hood Government Camp Loop Road~~, it shall be constructed of materials consistent with the existing 10-foot-wide sidewalk. Covered walkways may be provided along the building frontage of development on properties with street frontage ~~onto the Government Camp Loop Road from East Wy~~ East Trail to ~~East Olive Street and on East Little Trail from East Olive Street to East Church Streets~~. When a covered walkway is constructed it shall be a permanent structure at a minimum of 8-feet in width and attached to the building, it shall not project beyond the property lines, and shall be consistent with the building design and materials and existing 10-foot sidewalk fronting ~~the Mt. Hood Old Government Camp Loop Road~~. A covered walkway shall extend along the entire frontage of the building.
  1. Exterior Building Materials: Building and accessory structures shall use wood, stone, stone veneer, stucco, for exterior construction. Stucco and textured concrete may be used as secondary materials. Stucco must be acrylic based and be combined with heavy timber, wood, or stone cladding. A rock, rock veneer, or textured concrete base shall be provided around the building exteriors with street frontage. No exposed plywood, particle board, plain concrete, cinder block, or grooved T1-11 is permitted.
  2. Roofing Materials: No non-architectural composition shingles or galvanized or corrugated metal roofs are allowed.
  3. Design: Building design shall meet the design intent of mountain architecture styles as described in the Government Camp Village Design Guidelines Handbook. Examples of mountain architecture include "Cascadian", "Oregon Rustic", and the "National Park Style".
- D. Signs: In addition to the provisions of Section 1010, all signs in the Rural Tourist Commercial District (RTC) shall be complimentary to the unique historic character of the Mt. Hood corridor in the use of graphics, symbols, lighting and natural materials. In addition, identification and onsite directional signing shall be sensitive to the needs of tourists. Identification signing may be provided for each distinctive village or area designated in the Mt. Hood Community Plan subject to approval by the State Highway Division and the Design Review Committee. Government Camp signs shall comply with the sign provisions of Subsection 1010.09.
- E. Government Camp Landscaping and Plaza Space: Development with street frontage on ~~Government Camp~~ ~~the Old Mt. Hood Loop Road from East Wy~~ East Trail to ~~East Olive Street and on East Little Trail from East Olive Street to East Church Street~~ may provide a combination of landscaping and onsite public plaza space. Plaza space shall be permanent space open to the public. The plaza space shall be integrated into the development and be both



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accessible and visible from ~~Government Camp~~ the Old Mt. Hood Loop Road or ~~East Little Trail~~ where there is no frontage on ~~the Government Camp Loop Road~~.

The following requirements shall apply along ~~the Old Mt. Hood~~ Government Camp Loop Road from ~~East Wy~~ East Trail to ~~East Olive Street~~ and along ~~East Little Trail~~ from ~~East Olive Street~~ to ~~East Church Streets~~, if plazas are established to comply with the landscape requirements.

1. Square footage required: A minimum of 100 square feet of plaza space may be provided for developments with up to 1999 square feet. Developments 2000 square feet and larger may provide a minimum of 150 square feet. This shall be developed as one contiguous space. Developments 5000 square feet and larger may develop the plaza as two separate plazas.
2. Plaza surface materials: Surface materials shall consist of textured concrete, concrete mixed with aggregate, rock, rock veneer, pavers, bricks, or wood. No asphalt is permitted.
3. Plaza landscaping: 10 percent of the total plaza area shall be landscaped with planters and/or hardy native vegetation.
4. Seating: A minimum of three permanent adult seating spaces shall be provided in the plaza for developments with up to 1999 square feet of floor area. One additional seating space shall be provided for each 1000 square feet of development. Seating spaces shall be constructed of wood, wrought iron, rock, rock veneer or textured concrete.
5. Garbage receptacles: At least one garbage receptacle shall be provided in the plaza. Receptacles shall be clad in wood or stone.

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

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

**703 FLOODPLAIN MANAGEMENT DISTRICT (FMD)**

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703.01 FINDINGS OF FACT

A Floodplain Management District (FMD) is needed for the following reasons:

- A. Flood Losses Resulting from Periodic Inundation: The flood hazard areas of the County are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the County's tax base, all of which adversely affect the public health, safety, and general welfare.
- B. General Causes of These Flood Losses: Flood losses are caused by:
  - 1. The cumulative effect of obstruction in floodways causing increase in flood heights and velocities, and
  - 2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

703.02 PURPOSE

This section is adopted to promote the public health, safety, and general welfare, and to minimize flood losses with provisions designed to:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or that cause increased flood heights or velocities;
- B. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction;
- C. Protect individuals, as much as possible, from buying lands that are not suitable for intended purposes because of flood hazard; and
- D. Minimize the need for rescue and relief efforts associated with flooding undertaken at the expense of the general public.

703.03 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by the FMD is considered reasonable for regulatory purposes and is based on engineering and scientific study. Larger floods may occur on rare occasions, or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside the FMD or land uses permitted within the FMD will be free from flooding or flood damages. This section shall not create liability on

the part of the County, or any officer or employee thereof, for any flood damages that result from reliance on the FMD or any administrative decision lawfully made hereunder.

703.04 AREA OF APPLICATION

The FMD is applied to the special flood hazard area (SFHA) identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Clackamas County, Oregon & Incorporated Areas," (FIS) dated June 17, 2008, with accompanying Flood Insurance Rate Maps (FIRMs).

- A. The FIS and FIRMs are hereby adopted by reference and declared to be a part of this section and are on file at the County Department of Transportation and Development.
- B. The Planning Director shall make interpretations where needed, as to the exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions, topography and/or elevations). In areas where base flood elevation data have been provided, the Planning Director may require the applicant to submit an elevation certificate to determine whether the proposed development is located in the SFHA. To most precisely determine the base flood elevation of the subject area, the elevations provided by the FIS flood profiles in combination with the cross section lines on the FIRM shall supersede the base flood elevation lines and values identified on the FIRM.

703.05 DEFINITIONS

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

- A. **Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the "regulatory flood," or the "100-year flood," the base flood is the national standard used by the National Flood Insurance Program and all federal agencies for the purposes of requiring the purchase of flood insurance and regulating new development.
- B. **Base Flood Elevation:** The computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations are shown on Flood Insurance Rate Maps and on the flood profiles included in the Flood Insurance Study.
- C. **Basement:** Any area of a building that has its floor below ground level on all sides.

- D. Below-Grade Crawl Space: An enclosed area below the base flood elevation — which is in nearly all cases considered by the National Flood Insurance Program to also be a basement — that generally serves as the foundation for a structure and exhibits the following characteristics:
1. All sides of the crawl space are below the adjacent exterior grades outside the crawl space;
  2. The interior grade inside the crawl space is not more than two feet below the lowest adjacent exterior grade; and
  3. The height, measured from the interior grade of the crawl space to the top of the crawl space foundation, does not exceed four feet at any point.
- E. Community Rating System: A program of the National Flood Insurance Program (NFIP) that recognizes jurisdictions for implementing floodplain management practices and standards that exceed NFIP minimum requirements. Membership in the program results in increased public safety and property protection, along with reductions in flood insurance premiums.
- F. Conditional Letter of Map Revision: The Federal Emergency Management Agency's (FEMA's) comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. The letter does not revise an effective National Flood Insurance Program map, but it indicates whether the project, if built as proposed, would be recognized by FEMA.
- G. Cross Section: A source of data that is developed during the hydraulic analyses of a stream in the course of producing the Flood Insurance Rate Maps (FIRMs) and the Flood Insurance Study (FIS). Cross sections provide an elevation view of the floodplain taken perpendicular to the flow at specific points and are typically determined using field survey information and topographic maps. Some of the locations of cross sections are shown on the FIRMs and are, in turn, cross-referenced in the FIS, where they provide precise information about a variety of data that relates to flood conditions.
- H. Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. Development does not include those activities of a type and magnitude that cause no effects on water surface elevations, no effects on the level of insurable damages, and no adverse impacts to upstream or downstream properties, as determined by the Planning Director, based on documentation supplied by the applicant.

- I. Elevation Certificate: A form produced by the Federal Emergency Management Agency (FEMA) that is completed by a professional engineer, licensed architect, or licensed surveyor, usually through field survey work, that reports elevation information about grades, structures, and other facilities. An elevation certificate is used to determine the relationship of grades, structures, and other facilities to the base flood elevation. It is also used to certify building elevations to ensure compliance with community floodplain regulations; determine proper insurance rates; and support a Letter of Map Amendment or Letter of Map Revision Based on Fill. Communities that participate in the Community Rating System are required to use an elevation certificate for all official reporting and recordkeeping of elevations.
- J. Encroachments: Activities or construction within the floodway, including fill, new construction, substantial improvements, and other development.
- K. Federal Emergency Management Agency (FEMA): A federal agency, whose primary mission is to reduce the loss of life and property and protect the nation from all hazards, including natural disasters, acts of terrorism, and other manmade disasters, by leading and supporting the nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. Among other things, FEMA manages and oversees the National Flood Insurance Program.
- L. Flood: A general and temporary condition of partial or complete inundation of normally dry land area from:
  - 1. The overflow of inland or tidal waters; and/or
  - 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- M. Flood Fringe Area: In areas where base flood elevation data have been provided and floodways have been established, the flood fringe area is the portion of the special flood hazard area that is outside of the floodway.
- N. Flood Hazard Area: The portion of the special flood hazard area where flood elevations are available but the floodway has not been defined.
- O. Flood Insurance Rate Map: The official map on which the Federal Insurance Administration has delineated both the special flood hazard area and the risk premium zones applicable to the community.
- P. Flood Insurance Study: The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevations of the base flood.
- Q. Flood Profile: A graph, found in the Flood Insurance Study, of computed flood elevations at floodplain cross sections that is typically available for a

stream that has base flood elevations shown on the Flood Insurance Rate Map (FIRM). Elevations provided by the flood profiles, used in combination with the cross section lines on the FIRM, are the most accurate means of determining the base flood elevation at a particular site.

- R. Flood Prone Area: The portion of the special flood hazard area that has been determined by approximate methods and, consequently, for which base flood elevation data are not available.
- S. Floodplain: Land area that is adjacent to rivers and streams and is subject to periodic and recurring inundation by floodwaters.
- T. Floodproofing: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.
- U. Floodway: The channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, often referred to as the “regulatory floodway.”
- V. Hydraulic Shadow: The area that is upstream and downstream of an existing structure or other obstruction, where the water is essentially stagnant due to water flowing around the structure or obstruction, as defined on pages 1-3 of the June 2001 *Hydraulic Shadow Computations* document, on file at the County Department of Transportation and Development.
- W. Letter of Map Amendment (LOMA): An official amendment, by letter from the Federal Emergency Management Agency, to an effective National Flood Insurance Program map. A LOMA establishes a property’s location in relation to the special flood hazard area. LOMAs usually are issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation.
- X. Letter of Map Revision (LOMR): The Federal Emergency Management Agency's modification to an effective Flood Insurance Rate Map (FIRM). LOMRs generally are based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. The LOMR officially revises the FIRM, and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR generally is accompanied by an annotated copy of the affected portions of the FIRM or FIS report.
- Y. Letter of Map Revision Based on Fill: The Federal Emergency Management Agency’s modification of the special flood hazard area shown on the Flood

Insurance Rate Map based on the placement of fill outside the existing regulatory floodway.

- Z. Lowest Construction Elements: The lowest flooring system of a structure that consists of repeated structural members, spaced 24 inches or less on center.
- AA. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Subsection 703.11(A)(1).
- BB. Manufactured Home: A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- CC. National Flood Insurance Program (NFIP): A federal program that is administered by the Federal Emergency Management Agency that is designed to reduce the loss of life, damage to property, and rising disaster relief costs, both within and beyond the special flood hazard area. The NFIP makes federally backed flood insurance available to communities that agree to adopt and enforce floodplain management ordinances that meet or exceed NFIP requirements.
- DD. New Construction: Structures for which the start of construction commenced on or after the effective date of this section.
- EE. "No-Rise" Certification: A certification that is provided by a professional engineer or licensed architect that demonstrates through accompanying hydrologic and hydraulic analyses, performed in accordance with standard engineering practice and National Flood Insurance Program rules and regulations, that an encroachment within the floodway will not result in any increase in the flood levels during the regulatory flood discharge. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map.
- FF. Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or matter in, along, across, or projected into any channel, watercourse, or regulatory flood hazard area that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that

is placed where it might be carried downstream by the flow of water resulting in damage to life or property.

- GG. Pre-FIRM Structure: A structure that was built before March 1, 1978, the effective date of the first Flood Insurance Rate Map (FIRM) for the County, and hence, prior to the date when detailed flood hazard data and flood elevations were provided to the County.
- HH. Post-FIRM Structure: A structure that was built on or after March 1, 1978, the effective date of the first Flood Insurance Rate Map (FIRM) for the County.
- II. Recreational Vehicle: A vehicle that is:
1. Built on a single chassis;
  2. 400 square feet or less when measured at the largest horizontal projection;
  3. Designed to be self-propelled or permanently towable by a light duty truck; and
  4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- JJ. Regulatory Flood Protection Elevation: The elevation to which uses regulated by the FMD are required to be elevated or floodproofed.
- KK. Shallow Flooding Area: The portion of the special hazard area with average flood depths of one to three feet that usually exhibit sheet flow on sloping terrain. For areas of alluvial fan flooding, velocities are also determined.
- LL. Special Flood Hazard Area: (SFHA): The land area covered by the floodwaters of the base flood on National Flood Insurance Program (NFIP) maps and, thus, the area determined by detailed or approximate studies to be in a 100-year floodplain. The SFHA is subject to the NFIP's floodplain management regulations and the mandatory purchase of flood insurance. The SFHA includes the floodway, flood fringe, flood hazard, flood prone, and shallow flooding areas.
- MM. Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such



as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the structure.

- NN. Structure: A walled and roofed building, manufactured home, or a gas or liquid storage tank that is principally above ground.
  
- OO. Substantial Damage: Any damage of any origin sustained by a pre-FIRM structure, or a structure for which the applicable Flood Insurance Rate Map or the Flood Insurance Study has been updated or revised since the date of construction of the structure, whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The market value of the structure before the damage occurred shall be the structure's Real Market Value that is provided by the County Assessor's office. The cost of restoring a structure shall be determined by the County Building Codes Division, pursuant to Subsection R105.3.1.1 of the 2005 Oregon Residential Specialty Code and through subsequent versions of the applicable, adopted Building Code that address substantially damaged structures within the special flood hazard area.
  
- PP. Substantial Improvement: Any repair, rehabilitation, reconstruction, or improvement — or series of repairs, rehabilitations, reconstruction, or improvements — of a pre-FIRM structure, or a structure for which the applicable Flood Insurance Rate Map or the Flood Insurance Study has been updated or revised since the date of construction of the structure, the cost of which — or cumulative costs of which at the time of the most recent repair, rehabilitation, reconstruction, or improvement — equals or exceeds 50 percent of the market value of the structure. The market value of the structure shall be determined at the time of the most recent repair, rehabilitation, reconstruction, or improvement, either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. The market value of the structure shall be the structure's Real Market Value that is provided by the County Assessor's office. The cost of repair, rehabilitation, reconstruction, or improvement of a structure, or series thereof, shall be determined by the County Building Codes Division, pursuant to Subsection R105.3.1.1 of the 2005 Oregon Residential Specialty Code and through subsequent versions of the applicable, adopted Building Code that address substantially improved buildings within the special flood hazard area. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other part of the structure commences, whether or

not that alteration affects the external dimensions of the structure. Substantial improvement does not, however, include:

1. Any project to improve a structure to correct existing violations of state or local health, sanitary, or safety code specifications provided such violations have been identified by the local code enforcement official and the project is the minimum necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

QQ. Wet Floodproofing: Permanent or contingent measures that are applied to a structure or its contents that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area. Generally, this includes properly anchoring the structure, using flood resistant materials below the base flood elevation and protecting mechanical and utility equipment. Application of wet floodproofing as a flood protection technique under the National Flood Insurance Program is limited to enclosures below elevated residential and non-residential structures and to nonresidential structures that have been issued variances by the County.

#### 703.06 EXEMPT USES

The following uses are exempt from the requirement to obtain a Floodplain Development Permit and from compliance with Subsections 703.10 and 703.11 .

- A. Uses that do not constitute development. Examples of uses that may qualify for this exemption include farming, wild crop harvesting, archery ranges, wildlife and nature preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, lawns, gardens, and play areas.
- B. Repair, rehabilitation, reconstruction, or improvement of a pre-FIRM structure that is not a substantial improvement and where the structure has not sustained substantial damage. If the structure is located in the floodway, no increase in ground coverage shall result unless:
  1. A “no-rise” certification is provided; or
  2. Proof is provided by a professional engineer or licensed architect that the area within which the increase in ground coverage is proposed lies within the hydraulic shadow.
- C. Fish enhancement projects — including stream crossings that are a direct component of such projects — outside of the floodway sponsored or approved by a state or federal agency.

## 703.07 DEVELOPMENT IN THE FLOODWAY

Development in the floodway is prohibited, except as provided in Subsection 703.06(B), or for the uses listed in this subsection. The following uses are allowed only if permitted in the underlying zoning district and, with the exception of fish enhancement projects, require approval of a Floodplain Development Permit:

- A. Development that requires a waterfront location (e.g., marinas and boat ramps). A “no-rise” certification shall be provided.
- B. Riprap or other structural stream bank protection measures. A “no-rise” certification and the evidence required in Subsection 703.10(J)(2) shall be provided, or the criteria in Subsection 703.10(J)(1) shall be met.
- C. Hydroelectric facilities. A “no-rise” certification shall be provided;
- D. Stream crossings, except those that are a direct component of a fish enhancement project sponsored or approved by a state or federal agency, subject to Subsection 703.10(G);
- E. Replacement, substantial improvement, or repair of substantial damage of a structure that was constructed prior to the establishment of, or revisions to, the floodway, subject to the following:
  - 1. The development shall comply with Subsection 1206.05 and the applicable provisions of Subsections 703.10 and 703.11.
  - 2. Foundations shall be designed by a professional engineer or licensed architect, to the satisfaction of the County Building Codes Division, to withstand the mean velocity of floodwaters in the floodway, as they are listed in the Floodway Data tables of the Flood Insurance Study, and to withstand the scouring forces associated with those floodwater velocities.
  - 3. If an increase in ground coverage is proposed, the applicant shall provide either a “no-rise” certification or proof by a professional engineer or licensed architect that the area within which the increase in ground coverage is proposed lies within the hydraulic shadow.
- F. Fish enhancement projects — including stream crossings that are a direct component of such projects — sponsored or approved by a state or federal agency, subject to the following:
  - 1. The project shall be reviewed pursuant to Subsection 104.01(A).
  - 2. The responsible agency shall provide a feasibility analysis and certification, prepared by a qualified professional, that the project is designed to keep any rise in 100-year flood levels as close to zero as

practically possible and that no structures shall be impacted by any potential rise.

3. Routine maintenance of the project shall be required in order to sustain conveyance over time, and a long-term maintenance program shall be included in the analysis and certification.

#### 703.08 DUTIES OF THE PLANNING DIRECTOR

Duties of the Planning Director under this section shall include:

- A. The Planning Director shall review Floodplain Development Permits to determine if the proposed development adversely affects the flood carrying capacity of the special flood hazard area. For purposes of this subsection, "adversely affects" means that the cumulative effect of the proposed development and all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.
- B. Within the special flood hazard area, when more detailed base flood elevation or floodway data is available outside of the adopted Flood Insurance Study (FIS) from a federal, state or other authoritative source — such as preliminary or draft information from a new study that will revise the FIS —the Planning Director may obtain, review, and reasonably utilize such data. When the data pertains to a preliminary or draft FIS in Zone A, the Planning Director is required to reasonably utilize the data, and is allowed discretion in using this data only to the extent that the technical or scientific validity of the data in the draft or preliminary FIS is questioned by a qualified professional.
- C. For all new or substantially improved structures, the Planning Director shall obtain either an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate for Non-Residential Structures.
  1. In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions.
  2. The determination regarding which certificate is required shall be made based on the nature of the development consistent with National Flood Insurance Program regulations.
- D. The Planning Director shall maintain for public inspection all records pertaining to the provisions of this section.
- E. The Planning Director shall notify adjacent communities and the State Department of Land Conservation and Development prior to any alteration or

relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

703.09 FLOODPLAIN DEVELOPMENT PERMITS

Except as provided under Subsections 703.06(B) and (C) and 703.07(F), a Floodplain Development Permit (FDP) shall be obtained for development in the FMD. Work that is necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, and stream banks in response to emergencies may be undertaken prior to obtaining an FDP, provided that an FDP is obtained after the emergency has passed.

- A. Submittal Requirements: An application for an FDP shall include the following:
1. A site plan drawn to scale, showing elevations of the site; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; and location and elevations of streets, water supply, sanitary facilities, and soil types; and other applicable information;
  2. Specifications for building construction and materials, loads and forces, and effect on soil bearing pressures, erosion control, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities;
  3. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
  4. Either an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate for Non-Residential Structures.
    - a. In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions, and based on construction drawings and proposed site locations of development.
    - b. The determination regarding which certificate is required shall be made based on the nature of the proposed development consistent with National Flood Insurance Program regulations.
- B. Factors of Consideration: In reviewing an application for an FDP, the following factors shall be considered:
1. The danger to life and property due to increased flood heights or velocities caused by encroachments;

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2. The danger that materials may be swept on to other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination, and unsanitary conditions;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
5. The importance to the community of the service provided by the proposed facility;
6. The requirements of the facility for a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
9. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
10. The safety of access to property in times of flood for ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
12. Other factors that are relevant to the purpose of this section.

C. Approval Criteria: The Planning Director may approve an FDP, pursuant to Subsection 1305.02, if the applicant provides evidence substantiating the following:

1. All necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
2. If the proposed development is in the floodway, the standards of Subsection 703.07 have been met.
3. If the proposed development includes alteration of a watercourse, maintenance will be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
4. The proposed development will comply with the applicable provisions of Subsections 703.10 and 703.11.

D. Conditions of Approval: The County may attach conditions of approval to an FDP if such conditions are deemed necessary to further the purpose of this section. Such conditions may include, but are not limited to:

1. Limitations on periods of use and operation;
2. Imposition of operation controls, sureties, and deed restrictions; and
3. Floodproofing and other protective measures, such as:
  - a. Installation of watertight doors, bulkheads, and shutters;
  - b. Reinforcement of walls to resist water pressure;
  - c. Use of paints, membranes, or mortars to reduce seepage of water through walls;
  - d. Addition of mass or weight to structures to resist flotation;
  - e. Installation of pumps to lower water levels in structures;
  - f. Construction of water supply and waste treatment systems to prevent the entrance of floodwaters;
  - g. Pumping facilities for subsurface external foundation wall and basement floor pressures;
  - h. Construction to resist rupture or collapse caused by water pressure or floating debris;
  - i. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
  - j. Requirements for construction of channel modifications, dikes, levees, and other protective measures.

E. Finalization of an FDP: If a preliminary elevation certificate or floodproofing certificate was required for a structure, a building permit for that structure shall not receive a final approval or certificate of occupancy until the County approves a final elevation certificate or floodproofing certificate that is based on the as-built/finished construction.

F. Approval Period: Approval of an FDP 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, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved FDP, "implemented" means all other necessary County development permits

(e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.

a. A “major development permit” is:

- i. A building or manufactured dwelling placement permit for a new primary structure that was part of the FDP approval; or
- ii. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the FDP approval.

G. Time Extension: If the approval of an FDP is not implemented within the initial approval period established by Subsection 703.09(F), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

## 703.10 GENERAL STANDARDS

Development in the FMD shall comply with the following standards:

A. Anchoring:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

B. Construction Materials and Methods, and Utilities

1. The following standards shall apply to below-grade crawl spaces. For more detailed information, refer to FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*. For flood insurance purposes, there is an additional charge that is added to the basic flood insurance policy premium for structures that are built on below-grade crawl spaces.
  - a. The building shall be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the openings required by Subsection 703.10(B)(1)(b). Because of hydrodynamic loads, crawl-space construction is prohibited in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a professional engineer or licensed architect. Other types of foundations are recommended for these areas.
  - b. The crawl space shall have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of



- floodwaters. The bottom of each flood vent opening shall be no more than one foot above the lowest adjacent exterior grade.
- c. Portions of the building below the base flood elevation (BFE) shall be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
  - d. Any building utility systems within the crawl space shall be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, shall either be placed above the BFE or sealed from floodwaters.
  - e. The interior grade of a crawl space below the BFE shall not be more than two feet below the lowest adjacent exterior grade.
  - f. The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall shall not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
  - g. There shall be an adequate drainage system that removes floodwaters from the interior area of the crawl space. The enclosed area shall be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.
  - h. The velocity of floodwaters at the site should not exceed five feet per second for any crawl space. For velocities in excess of five feet per second, other foundation types should be used.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, and using methods and practices that minimize flood damage. For more detailed information, refer to November 1999 FEMA Publication 348, *Protecting Building Utilities from Flood Damage*; and FEMA Technical Bulletin 2-93, *Flood-Resistant Materials Requirements*.

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3. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  4. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
  5. All equipment, machinery, appliances, and electrical boxes that pertain to electrical, ventilation, plumbing, and heating and air-conditioning systems and services, as well as outside fuel storage tanks, outside air-conditioning units, and other interior or exterior service facilities, systems, equipment, machinery, and appliances shall be designed, elevated, floodproofed, and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Floodproofed facilities, systems, equipment, machinery, and appliances — except for waterproofed wires and cables, as well as waterproofed and sealed plumbing pipes and other plumbing services — shall be certified as such by a preliminary and final floodproofing certificate. Non-floodproofed facilities, systems, equipment, machinery, and appliances shall be elevated at least two feet above the BFE, except that duct systems may be elevated at least one foot above the BFE.
  6. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  7. A professional engineer or licensed architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the County.
- C. Substantial Improvement and Substantial Damage: A structure for which a substantial improvement or repair of substantial damage is proposed shall be elevated, retrofitted, upgraded, etc., such that the structure and all of its interior and exterior service facilities, systems, equipment, machinery and appliances shall be brought into compliance with the applicable standards of this section.
- D. Manufactured Homes
1. Manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor is elevated at least two feet above the BFE, or the lowest construction elements are elevated at least 18 inches above the BFE, whichever results in the higher elevation of the lowest floor.

2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
3. Manufactured homes shall be placed pursuant to Section 824, utilizing the applicable designs and guidelines, as approved by the Building Codes Division, of the September 1985 FEMA Publication, *Manufactured Home Installation in Flood Hazard Areas*, or any more recent or replacement publication thereof.

E. Recreational Vehicles: Recreational vehicles shall be:

1. Located on the site for fewer than 180 consecutive days;
2. Fully licensed and ready for highway use;
3. Supported on wheels or a jacking system;
4. Attached to services on the site only by quick-disconnect type utilities and security devices; and
5. Void of any permanently attached additions.

F. Fill

1. Any fill or other materials — except those proposed within the interior of, and inside the walls of, a crawl space, foundation, basement or enclosure floor — shall be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the applicant, showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
2. Fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.
3. Structures may be allowed to be constructed on fill and thereby elevated above the BFE, subject to the following standards:
  - a. The fill shall be placed such that the lowest adjacent finished grade of the fill to the foundation of the structure is at least two feet above the BFE.
  - b. The lowest portion of the lowest structural support system of the building (i.e., the bottom of slab, bottom of footings, or bottom of any other lowest on-grade or sub-grade supporting member) shall be located at least one foot above the BFE.

- c. Placement of the fill shall require approval of a grading permit.
  - d. The structure shall be constructed pursuant to the applicable standards of FEMA Technical Bulletin 10-01, *Ensuring That Structures Built on Fill in or near Special Flood Hazard Areas Are Reasonably Safe from Flooding*.
4. All fill placed at or below the BFE shall be balanced with at least an equal amount of material removal either on-site, or from a nearby area at or below the BFE and in the same drainage basin. In addition, the following standards shall apply:
- a. Excavation below the level of the seasonal groundwater table shall not be used in balancing fill volumes against excavation volumes;
  - b. The mean annual groundwater level shall be determined by soil morphology, or other available data on groundwater conditions;
  - c. Balancing of a fill shall occur at the same time as the fill is placed on the development site;
  - d. The site plan required in Subsection 703.09(A)(1) shall identify the area where material is removed from the floodplain to balance fill volumes, including pertinent elevations and volume of fill removed;
  - e. A professional engineer or licensed architect shall certify that the amount of material removed balances the amount of fill material;
  - f. A suitable recorded easement or similar legally binding mechanism, in a form acceptable to County Counsel shall be provided to the Planning Director, indicating that future development of the delineated area where material is removed to balance fill volumes is prohibited, and the delineated area cannot be used in the future as balancing for a fill; and
  - g. When the balancing occurs off-site, the application shall also include:
    - i. Authorization from the owner of the property where the balancing will occur; and
    - ii. A legal description of the parcel where the balancing will occur.
5. The following uses or activities are not subject to the provisions of Subsection 703.10(F)(4):
- a. Removal and/or fill necessary to plant new trees or vegetation;

- b. Removal and/or fill required for the construction of storm-water runoff detention facilities and/or structures; and
- c. Removal and/or fill required for the construction of other facilities such as levees designed specifically to reduce or mitigate flood impacts.

G. Stream Crossings, Including Bridges and Culverts, and Transportation Projects

- 1. Stream crossings and transportation projects shall be designed as balanced removal and fill projects, or designed to not raise the BFE.
- 2. Stream crossings and transportation projects that encroach into the floodway shall obtain a “no-rise” certification, or, if the “no-rise” condition cannot be achieved, shall obtain a Conditional Letter of Map Revision, prior to permitting the work, followed by a Letter of Map Revision after the work has been completed.
- 3. Stream crossings and transportation projects shall be designed to minimize the area of fill in the special flood hazard area (SFHA) and to minimize erosive water velocities.
- 4. Stream crossings shall be as close to perpendicular to the stream as practicable.
- 5. Stream crossings shall be designed to allow fish passage.
- 6. Stream crossings and transportation projects are subject to review and approval pursuant to applicable federal and state statutes and administrative rules.

H. Subdivisions

- 1. Subdivisions shall be consistent with the need to minimize flood damage.
- 2. Subdivisions shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.
- 3. Subdivisions shall have adequate drainage provided to reduce exposure to flood damage.
- 4. The applicant shall provide base flood elevations for the area of development. Where base flood elevation data have not been provided or are not available from another authorized source, the data shall be generated for subdivisions that contain at least 50 lots or five acres.

I. Toxic or Hazardous Materials

1. The storage or use of toxic or hazardous materials in conjunction with nonresidential uses is prohibited, except as permitted in Subsection 703.10(I)(2).
2. Storage or use of toxic or hazardous materials may be permitted if the applicant demonstrates the following:
  - a. The proposed development requires toxic or hazardous materials for operation.
  - b. An area outside the SFHA is not available to be used for storage or use of toxic or hazardous materials.
  - c. The containers, structures, facilities and machinery that contain, use or process the toxic or hazardous materials shall be elevated:
    - i. A minimum of two feet above the BFE in flood fringe and flood hazard areas;
    - ii. A level to be determined pursuant to Subsection 703.11(C)(1) in flood prone areas; or
    - iii. The depth number specified on the Flood Insurance Rate Map — or a minimum of two feet above the highest adjacent grade if no depth number is specified — in shallow flooding areas.
  - d. The structures that support the containers, structures, facilities, and machinery that contain, use or process the toxic or hazardous materials shall comply with Subsections 703.10(A) and 703.10(B)(2) and (7).

J. Riprap or Other Structural Stream Bank Protection Measures:

1. If riprap or other structural stream bank protection measures are proposed to repair bank damage, bank removal or bank erosion, the following criteria shall be met. For the purpose of this subsection, “pre-existing conditions” are the conditions of the repair area upon which the FIRM(s), Flood Boundary and Floodway Map(s), and FIS(s) were based that were in effect during the period that the bank was damaged, removed and / or eroded, leading up to the proposed repair.
  - a. The measures shall not encroach any further into the stream channel than the pre-existing conditions.
  - b. The measures shall not add any more cubic yards of bank material than was in place in the pre-existing conditions.

- c. The measures shall not exceed the height of the bank nor protrude above the topography that was in place in the pre-existing conditions.
  - d. The pre-existing conditions shall be demonstrated through some combination of historical and aerial photography, survey and cross-section information, maps or plans, hydrologic and hydraulic modeling, or any other pertinent information.
  - e. The applicant shall provide evidence from a professional engineer, with expertise in hydrology, hydraulics, fluvial geomorphology, or hydrogeology, that the proposal complies with Subsections 703.10(J)(1)(a) through (d) and that the proposed stream bank protection measures will cause no adverse impacts to upstream or downstream properties, when compared to impacts of the pre-existing conditions.
2. If riprap or other structural stream bank protection measures are proposed for reasons other than to repair bank damage, bank removal or bank erosion, or if the repair exceeds the standards of Subsection 703.10(J)(1), the applicant shall provide evidence from a professional engineer, with expertise in hydrology, hydraulics, fluvial geomorphology, or hydrogeology, that the proposed stream bank protection measures will cause no adverse impacts to upstream or downstream properties.

703.11 SPECIFIC STANDARDS

- A. Flood Fringe and Floodway Areas: In flood fringe and floodway areas, as indicated on the Flood Insurance Rate Map (FIRM) or determined pursuant to Subsection 703.08(B), development shall comply with the following criteria:
  - 1. Residential Construction: New construction and substantial improvement of a dwelling shall have the lowest floor, including basement, elevated at least two feet above the base flood elevation (BFE) — or the lowest construction elements elevated at least one foot above the BFE, whichever results in the higher elevation of the lowest floor — except that new or substantially improved manufactured homes shall have the lowest floor, including basement, elevated at least two feet above the BFE, or the lowest construction elements elevated at least 18 inches above the BFE, whichever results in the higher elevation of the lowest floor. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a professional engineer or licensed architect or shall meet or exceed the following

minimum criteria. For more detailed information, refer to FEMA Technical Bulletin 1-93, *Openings in Foundation Walls*.

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided, unless the applicant provides documentation from a professional engineer or licensed architect that a flood vent manufacturer's product can provide less than one square inch of opening for every square foot of enclosed area and still meet National Flood Insurance Program standards.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. Nonresidential Construction: New construction and substantial improvement of a nonresidential structure shall either comply with Subsection 703.11(A)(1), or, together with attendant utility and sanitary facilities, shall comply with the following criteria. For more detailed information, refer to FEMA Technical Bulletin 3-93, *Non-Residential Floodproofing — Requirements & Certification*.
- a. The structure shall be floodproofed, so that below the point one foot above the BFE, the structure is watertight, with walls substantially impermeable to the passage of water. Applicants floodproofing nonresidential structures shall be notified in writing that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to one foot above the BFE will be rated as being floodproofed to the BFE).
  - b. The structure shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c. A professional engineer or licensed architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the County.
- B. Flood Hazard Areas: In flood hazard areas, as indicated on the FIRM or determined pursuant to Subsection 703.08(B), development shall comply with Subsection 703.11(A) and the following criteria:



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1. The cumulative effect of the proposed development and all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
  2. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
  3. So far as practical, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- C. Flood Prone Areas: In flood prone areas, development shall comply with the following criteria:
1. Proposed construction shall be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, post-flood improvements to the waterway, etc., where available. Failure to elevate the lowest floor to at least two feet above the highest grade may result in higher insurance rates.
  2. Proposed residential construction shall comply with Subsections 703.11(A)(1)(a) through (c). Proposed nonresidential construction, together with attendant utility and sanitary facilities, shall comply with Subsections 703.11(A)(2)(a) through (c). However, the level to which the structure must be elevated or floodproofed shall be determined pursuant to Subsection 703.11(C)(1).
  3. Proposed construction shall comply with Subsections 703.11(B)(2) and (3).
- D. Shallow Flooding Areas: In shallow flooding areas development shall comply with the following criteria:
1. New construction and substantial improvement of a dwelling shall comply with Subsections 703.11(A)(1)(a) through (c) and shall have the lowest floor, including basement, elevated above the highest adjacent grade of the building site to a minimum of two feet above the depth number specified on the FIRM, or shall have the lowest construction elements elevated to a minimum of one foot above the depth number specified on the FIRM, whichever results in the higher elevation of the lowest floor. If no depth number is specified, the lowest floor, or the lowest construction elements, whichever results in the higher elevation of the lowest floor, shall be elevated at least two feet above the highest adjacent grade of the building site.
  2. New construction and substantial improvement of a nonresidential structure shall either comply with Subsection 703.11(D)(1), or, together with attendant utility and sanitary facilities, shall comply with

Subsection 703.11(A)(2)(a) through (c), except that the structure shall be floodproofed to the elevation identified in Subsection 703.11(D)(1).

3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

703.12 EXCEPTION

A. Approval Criteria: Certain non-residential structures — such as detached garages and storage sheds solely used for parking and limited storage that are no greater than 400 square feet in area, pole barns used for storage of farm machinery and equipment, small garden sheds, and structures used in conjunction with agricultural activities — may be granted an exception from the elevation and floodproofing standards of Subsection 703.11, subject to the following criteria. (For more detailed information, refer to FEMA Technical Bulletin 7-93, *Wet Floodproofing Requirements*.)

1. The exception is reviewed pursuant to Subsection 703.13, and compliance with the approval criteria of Subsection 703.13(A) is demonstrated.
2. The structure will be wet floodproofed.
3. The structure will not cause significant flood risk.
4. The structure will not be used for human habitation, and will be utilized primarily for storage or parking.
5. The structure will be designed to have low flood damage potential.
6. The structure will be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
7. The structure will be constructed with flood-resistant materials that meet the requirements of the County Building Codes Division, up to:
  - a. A minimum of one foot above the BFE in flood fringe and flood hazard areas;
  - b. A level to be determined pursuant to Subsection 703.11(C)(1) in flood prone areas; or
  - c. The depth number specified on the Flood Insurance Rate Map — or a minimum of two feet above the highest adjacent grade if no depth number is specified — in shallow flooding areas.
8. If the structure will be located in the floodway, the structure will comply with Subsection 703.07.

- B. Insurance Consequences: If an exception is granted for a structure that is accessory to a dwelling and the structure will exceed a value greater than 10 percent of the value of the dwelling, the applicant shall be given written notice that substantial increases in insurance rates may result.

703.13 VARIANCES

- A. Approval Criteria: In conjunction with review of a Floodplain Development Permit, the Planning Director may approve a variance from the requirements of this section, if the applicant provides evidence substantiating the following:
1. The request is consistent with Subsection 703.09(B).
  2. There is good and sufficient cause for the variance.
  3. Compliance with the requirements for which the variance is requested would cause an exceptional hardship to the applicant.
  4. Approval of the variance would not result in increased flood levels, additional threats to public safety, extraordinary public expense, or a nuisance condition.
  5. The variance requested is the minimum necessary, considering the flood hazard, to provide relief.
  6. If the proposal is to repair or rehabilitate a historic structure that is listed on the National Register of Historic Places or a State Inventory of Historic Places, the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.
- B. Insurance Consequences: If a variance is granted that allows the lowest floor of a structure to be built below the regulatory flood protection elevation, the applicant shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**704 RIVER AND STREAM CONSERVATION AREA (RSCA)**

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704.01 PURPOSE

Section 704 is adopted to:

- A. Maintain the integrity of the rivers and streams in the County by minimizing erosion, promoting bank stability, maintaining and enhancing water quality and fish and wildlife habitat, and preserving scenic quality and recreational potential;
- B. Maintain rivers in their natural state to the maximum extent practicable, thereby recognizing their natural, scenic, historic, economic, cultural, and recreational qualities; and
- C. Implement the River Design Plans set forth in Chapter 3 of the Comprehensive Plan.

704.02 DEFINITIONS

Unless specifically defined in Subsection 704.02, words or phrases used in Section 704 shall be interpreted to give them the same meaning as they have in common usage and to give Section 704 its most reasonable application.

- A. **Composite Bank Stabilization:** A combination of structural and nonstructural bank stabilization methods that includes a revetment of rock with a natural vegetation cover or overlay.
- B. **Development:** Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or any other activity which results in the removal of substantial amounts of vegetation or in the alteration of natural site characteristics.
- C. **Mean High Water Line:** The bank of any river or stream established by the annual fluctuations of water generally indicated by physical characteristics such as a line on the bank, changes in soil conditions, or vegetation line.
- D. **Nonstructural Bank Stabilization:** The placement of natural vegetation—to include a filter fabric if desired—along a shoreline for the primary purpose of bank stabilization.
- E. **Structural Bank Stabilization:** The placement of a manmade, concrete wall or revetment of rock along a shoreline for the primary purpose of bank stabilization.

## 704.03 AREA OF APPLICATION

- A. Section 704 applies to land that is generally within a quarter mile of the mean high water line of the Clackamas, Sandy/Salmon, Molalla/Pudding, Roaring, Tualatin, and Zig Zag Rivers. These lands are classified as Principal River Conservation Areas and are identified on Comprehensive Plan Maps III-1a, Principal River Conservation Area Clackamas River Design Plan, III-1b, Principal River Conservation Area Sandy-Salmon River Design Plan, III-1c, Principal River Conservation Area Molalla River Design Plan, through III-1d, Principal River Conservation Area Tualatin River Design Plan, and III-2, Scenic & Distinctive Resource Areas of the Comprehensive Plan. The location of these rivers may vary from these maps, if more specific information is provided.
- B. Section 704 also applies to land that is located within 100 feet of the mean high water line of large Type F streams, except pPrincipal rRivers identified in Subsection 704.03(A), identified on Water Protection Rule Classification (WPRC) Maps compiled pursuant to OAR 629-635-000 and adopted as part of the Comprehensive Plan. The location of these streams may vary from these maps if more specific information is provided. Classified as Stream Conservation Areas (SCAs), these large streams are designated in the Comprehensive Plan as those that generally have annual average flows of 10 cubic feet per second or greater.
- C. Section 704 also applies to land that is located within 70 feet of the mean high water line of medium Type F streams, identified on the WPRC Maps. The location of these streams may vary from these maps if more specific information is provided. Classified as ~~SCAs~~Stream Conservation Areas, these medium streams are designated in the Comprehensive Plan as those that generally have annual average flows of greater than two cubic feet per second and less than 10 cubic feet per second. (1/5/09)
- D. Section 704 also applies to land that is located within 50 feet of the mean high water line of small Type F streams, identified on the WPRC Maps. The location of these streams may vary from these maps if more specific information is provided. Classified as ~~SCAs~~Stream Conservation Areas, these small streams are designated in the Comprehensive Plan as those that generally have annual average flows of less than two cubic feet per second. (1/5/09)
- E. The provisions of Section 704 are in addition to those requirements of the State Scenic Waterways Act, Omnibus Oregon Wild and Scenic Rivers Act of 1988, and the Federal Wild and Scenic Rivers Act of 1968. In those areas so designated, the requirements of the County shall be administered subject to the application requirements of Subsection 704.08 and prevail when they are more restrictive than state and federal standards.

- F. Notwithstanding Subsections 704.03(A) through (E), Section 704 does not apply to land that is inside the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary, nor does it apply to Oregon Department of Fish and Wildlife, or other state or federally approved, fish enhancement projects.

704.04 RIVER AND STREAM SETBACKS

The following minimum setbacks shall apply to structures exceeding 120 square feet or 10 feet in height:

- A. Structures shall be located a minimum of 100 feet from the mean high water line of a principal river. This minimum setback may be increased up to 150 feet from the mean high water line to lessen the impact of development. In determining the minimum setback, the following shall be considered:
  - 1. The size and design of any proposed structures;
  - 2. The width of the river;
  - 3. The topography of the land between the site and the river;
  - 4. The type and stability of the soils;
  - 5. The type and density of existing vegetation between the site and the river;
  - 6. Established recreation areas or areas of public access; and
  - 7. Visual impact of any structures.
- B. Structures shall be located a minimum of 100 feet from the mean high water line of a large stream.
- C. Structures shall be located a minimum of 70 feet from the mean high water line of a medium stream.
- D. Structures shall be located a minimum of 50 feet from the mean high water line of a small stream.

704.05 SETBACK EXCEPTIONS

- A. The following uses are exempt from the minimum setback standards of Subsection 704.04:

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1. Residential lots of record where lot depth precludes compliance with the setback standards of Subsection 704.04, provided that:
  - a. Structures shall be sited the maximum distance from the mean high water line which meets the setback and other standards of the underlying zoning district; and
  - b. The footprint of structures shall not exceed 25 percent of the lot area;
2. Repairs, additions, alterations to, or replacement of structures, roadways, driveways, or other development, which is located closer to a river or stream than permitted by the setback requirements of Subsection 704.04, provided that such development does not encroach into the setback any more than the existing structures, roadways, driveways, or other development;
3. Water dependent uses such as private boat docks, marinas, or boat ramps, provided that structures shall be muted earth tones and any structure shall be the minimum size necessary to accommodate the use;
4. Uses such as roads, bridges, culverts, pipes, and power lines that are necessary for crossing streams, provided they do not create barriers to fish movement and that adverse impacts are mitigated;
5. Water impoundments, diversions, detention and retention facilities, and hydroelectric facilities; and
6. Structural, nonstructural, and composite bank stabilization, provided that structural bank stabilization shall only be approved if:
  - a. Structural bank stabilization is required to protect existing structures;
  - b. Nonstructural bank stabilization will be insufficient to adequately protect existing structures; and
  - c. The structural bank stabilization will utilize composite bank stabilization.

- B. In addition to the exemptions listed in Subsection 704.05(A), the minimum setback standards of Section 704 may be modified for purposes consistent with the adopted Economic, Social, Environmental, and Energy ~~(ESEE)~~ analyses for the applicable watershed.

704.06 DEVELOPMENT STANDARDS

- A. The maximum height of a dwelling or a structure accessory to a dwelling shall

be 35 feet, if the dwelling or accessory structure can be seen from a principal river.

- B. Commercial or industrial facilities, such as structures, parking areas, and storage areas shall comply with Subsection 704.04, and signs shall be screened from view of the Principal River or Stream Conservation Area by an opaque vegetation buffer. These facilities shall be subject to design review~~reviewed~~, pursuant to ~~the Design Review provisions of~~ Section 1102.
- C. Subdivisions and partitions shall be designed, where possible, to allow compliance with ~~the provisions of~~ Section 704.

#### 704.07 VEGETATION PRESERVATION REQUIREMENTS

- A. A minimum of 75 percent of the setback area (distance) shall be preserved with native vegetation.
- B. Tree cutting and grading shall be prohibited within the buffer or filter strip, with the following exceptions:
  - 1. Trees that endanger life or structures may be removed.
  - 2. Tree cutting and grading may be permitted in conjunction with those uses listed in Subsections 704.05 and 704.06, to the extent necessary to accommodate those uses. Disturbed areas that are outside the footprint of structures and other improvements shall be restored with native vegetation.
  - 3. Vegetation removal may occur when approved by the Oregon Department of Fish and Wildlife, upon written notification that such removal is required as part of a river or stream enhancement project.
- C. Commercial forest activities and harvesting practices outside an urban growth boundary shall be subject to the Oregon Forest Practices Act. Commercial forest harvesting activities inside an urban growth boundary shall be reviewed pursuant to the Forest Policies of the Comprehensive Plan.

#### 704.08 SUBMITTAL REQUIREMENTS

An application filed pursuant to Subsection 704.09 shall include the following:

- A. A completed land use application on a form provided by the ~~County Planning Director~~Division;
- B. A site plan showing existing vegetation and development, and locations of proposed development or tree-cutting activity;



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- C. Elevations of any proposed structures;
- D. Exterior materials list for any proposed structures, including type and colors of siding and roofing;
- E. Cross-section of any area within the vegetative buffer or filter strip where grading, filling, or excavating will occur; and
- F. A stream buffer restoration plan showing the location, number, and species of native trees and vegetation to be planted.

704.09 ADMINISTRATION OF SECTION 704

- A. Development and tree-cutting activities controlled by Section 704 in a Principal River Conservation Area (PRCA) shall be reviewed by the Planning and Zoning Division staff to ~~ensure~~<sup>insure</sup> consistency with Section 704. Proposed developments on lands within 150 feet of the mean high water line shall be ~~subject to Planning Director review~~<sup>reviewed</sup>, pursuant to Subsection 1305.02. For lands beyond 150 feet of the mean high water line, notice shall be sent to the U.S. Forest Service and Bureau of Land Management.
- B. Development and grading permits in a Stream Conservation Area (SCA) shall be reviewed pursuant to Subsection 104.01(C).
- C. Approval of a PRCA or SCA permit 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, or the approval will become void.
  - 1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved PRCA or SCA permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.
    - a. A "major development permit" is:
      - i. A building or manufactured dwelling placement permit for a new primary structure that was part of the PRCA or SCA permit approval; or
      - ii. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the PRCA or SCA permit approval.

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- B. If the approval of a PRCA permit by the Planning Director, pursuant to Subsection 1305.02, is not implemented within the initial approval period established by Subsection 704.09(C), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

**705 WILLAMETTE RIVER GREENWAY (WRG)**

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**705.01 PURPOSE**

Section 705 is adopted to:

- A. Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River;
- B. Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability, and maintaining and enhancing water quality and fish and wildlife habitats; and
- C. Implement the Willamette River Design Plan set forth in Chapter 3 of the Comprehensive Plan.

**705.02 DEFINITIONS**

Unless specifically defined in Subsection 705.02, words or phrases used in Section 705 shall be interpreted to give them the same meaning as they have in common usage and to give Section 705 its most reasonable application.

- A. Change of Use: Making a different use of the land or water which requires construction, alterations of the land, water, or other areas outside of existing structures and which substantially alters or affects the land or water.
- B. Develop: To bring about growth or availability; to construct or alter a structure; to conduct a mining operation; to make a physical change in the use or appearance of land; to divide land into parcels; to create or terminate rights of access.
- C. Development: The act, process, or result of developing.
- D. Intensification: Any addition or action which increases or expands the area or amount of an existing use, or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure.
- E. Water-Dependent Use: A use or activity that can be carried out only on, or adjacent to water areas because the use requires access to the water body for water borne transportation, recreation, energy production, or source of water.

**705.03 AREA OF APPLICATION**

Section 705 applies to development, change of use, or intensification of use on lands

and water within the Willamette River Greenway, except:

- A. A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated;
- B. Landscaping, driveway construction, modifications of existing structures, and the construction or placement of subsidiary structures or facilities which are usual and necessary to the use and enjoyment of existing improvements;
- C. Changes, modifications, and other practices customarily related to those farm uses described in Section 401;
- D. Gravel removal from the bed of the Willamette River when conducted under a permit from the State of Oregon, and when compatible with the purposes stated in Subsection 705.01;
- E. Customary dredging and channel maintenance;
- F. The placing, by a public agency, of signs, workers, or aids to serve the public;
- G. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- H. Acquisition and maintenance of scenic easements by the Oregon Parks and Recreation Department; and
- I. The partial harvest of timber beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Oregon Forest Practices Act (OFPA). If such activity is not covered by the ~~Forest Practices Act~~OFPA, it shall be reviewed pursuant to Subsection 104.01(C) to ~~ensure~~assure consistency with the purposes stated in Subsection 705.01. Commercial forest activities and harvesting practices shall provide for vegetation buffers and the intended shading, soil stabilizing, and water filtering effects required by the OFPA~~Forest Practices Act~~.

705.04 STANDARDS FOR INTENSIFICATION, CHANGE OF USE, OR DEVELOPMENT WITHIN THE WILLAMETTE RIVER GREENWAY

~~A—All intensification, change of use, or development shall require a Willamette River Greenway (WRG) conditional use permit. A—The Planning Director may approve a WRG greenway conditional use permit, pursuant to Subsection 1305.02, shall be granted only if the applicant demonstrates that the request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet. Additionally, the applicant shall demonstrate provides evidence substantiating the following:~~

- ~~A1.~~ Approval of ~~T~~the request ~~is~~will be consistent with the purposes stated in Subsection 705.01.
- ~~B2.~~ Where necessary, public access has been provided by appropriate legal means to and along the river.
- ~~C.~~ The request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet.
- ~~3.~~ ~~The request complies with Subsections 705.04(D) and 705.04(E).~~
- ~~DB.~~ ~~A greenway conditional use permit shall be granted only if the applicant demonstrates that~~ Tthe request will result in the preservation of a buffer or filter strip of natural vegetation along the river bank. The depth of this vegetative buffer or filter strip need not exceed 150 feet, and shall be determined by consideration of the following:
1. The character of the use ~~or~~ development;
  2. The width of the river;
  3. Steepness of the terrain;
  4. Type and stability of the soil; and
  5. The type and density of the existing vegetation.
- ~~EC.~~ Structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.04. Residential lots of record and water-dependent uses unable to meet this requirement shall be exempt from this setback.
- ~~FD.~~ The maximum height of a dwelling or a structure accessory to a dwelling shall be 35 feet.
- ~~GE.~~ Private noncommercial docks and boathouses shall be subject to the following standards listed below, in addition to the other standards in Subsection 705.04:
1. General Provisions:
    - a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).

- b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure.
  - c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1.
  - d. Only one dock and boathouse is allowed per riverfront lot of record.
2. Oregon City Falls to Multnomah County line:
    - a. Private noncommercial docks shall not exceed 400 square feet.
    - b. Private boathouses are prohibited.
  3. Oregon City Falls to Marion County line:
    - a. Private noncommercial docks shall not exceed 700 square feet.
    - b. Private noncommercial boathouses shall not exceed 500 square feet.
    - c. Private noncommercial boathouses shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.
  4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to state law.

705.05 PROHIBITED USES

The following uses are prohibited in the Willamette River Greenway (WRG):

- A. Low head hydroelectric dam facilities, which adversely impact fisheries or the scenic and water quality of the river; and
- B. Private noncommercial docks and moorages in the limited use rural portions of the WRG-Willamette River Greenway identified on Comprehensive Plan Map III-1e, *Willamette River Greenway Design Plan* of the Comprehensive Plan.

705.06 SUBMITTAL REQUIREMENTS

An application for a Willamette River Greenway conditional-use permit shall include the following:

- A. A completed land use application on a form provided by the County Planning

Director~~Division~~;

- B. A site plan showing existing vegetation and development, and locations of proposed development or activity;
- C. Elevations of any proposed structures;
- D. Exterior materials list for any proposed structures, including type and colors of siding and roofing; and
- E. Cross section of any area within the vegetative buffer or filter strip where grading, filling, or excavating will occur.

705.07 ADMINISTRATION OF SECTION 705

~~A. An application for a greenway conditional use permit shall be reviewed pursuant to Subsection 1305.02.~~

AB. A minimum of 15 working days prior to the issuance of a decision on a Willamette River Greenway (WRG) permit:

- 1. Written notice, including a copy of the application, shall will be sent immediately upon receipt of an application to the Oregon Parks and Recreation Department, by certified mail-return receipt requested; and
- 2. Written notice shall be sent to tThe Oregon Division of State Lands shall also be notified of the application. The Parks and Recreation Department and Division of State Lands will have 15 working days from the date of mailing to respond before a decision is rendered.

B. Approval of a WRG permit 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, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WRG permit, "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 or manufactured dwelling placement permit for a new primary structure that was part of the WRG permit approval; or

- b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WRG permit approval.
- C. If the approval of a WRG permit is not implemented within the initial approval period established by Subsection 705.07(B), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.



**706 HABITAT CONSERVATION AREA DISTRICT (HCAD)**

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706.01 PURPOSE

Section 706 is adopted to implement the policies of the Comprehensive Plan for Habitat Conservation Areas.

706.02 AREA OF APPLICATION

- A. Section 706 applies in the Habitat Conservation Area District (HCAD). The HCAD applies to all parcels containing a Habitat Conservation Area (HCA). The HCAD also applies to any area that is less than 100 feet outside the boundary of an HCA even if the area is not located on the same parcel as the HCA. HCAs are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the HCA Map) and are categorized as High, Moderate, or Low HCA. Notwithstanding the HCA Map, however, Section 706 does not apply to areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary.
- B. An applicant may dispute the location of an HCA by submitting an application for HCA Map Verification pursuant to Subsection 706.06(B) or by applying for a Comprehensive Plan amendment to modify the HCA Map. HCA Map Verification does not amend the Comprehensive Plan.
- C. Development within an HCA in accordance with the provisions of Section 706 shall not result in removal of such developed areas from the HCA and shall not change the applicable HCA category.

706.03 DEFINITIONS

Unless specifically defined in Subsection 706.03, words or phrases used in Section 706 shall be interpreted to give them the same meaning as they have in common usage and to give Section 706 its most reasonable application.

- A. **Bankfull Stage:** The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. The bankfull stage may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.
- B. **Building Footprint:** The area that is covered by buildings or other roofed structures. A roofed structure includes any structure more than six feet above grade at any point, and that provides an impervious

cover over what is below. Building footprint also includes uncovered horizontal structures such as decks, stairways, and entry bridges that are more than six feet above grade. Eaves are not included in the building footprint. Underground facilities and structures are defined based on the foundation line.

- C. Developed Areas Not Providing Vegetative Cover: Areas that do not meet the definition of Forest Canopy, Low Structure Vegetation or Open Soils, or Woody Vegetation.
- D. Developed Flood Area: A flood area (a) upon which a building or other structure has been located, or (b) that is an uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as “Grasscrete”) that is able to withstand vehicular traffic or other heavy-impact uses; provided, however, that graveled areas shall not be considered developed flood areas.
- E. Development: Any manmade change defined as structures, roads, utilities, mining, dredging, paving, filling, or grading in amounts greater than 10 cubic yards. In addition, “development” is any other activity that results in the removal of more than 10 percent or 20,000 square feet of the Habitat Conservation Area vegetation on a lot of record, whichever is less. The calculation of the amount of vegetative cover removed shall be done separately for each lot of record and shall include all vegetative cover removed after January 5, 2009, regardless of whether the removal is done as one project or a series of projects. When individual trees are removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetation removed.
- F. Disturb: Manmade changes to the existing physical status of the land, which are made in connection with development.
- G. Disturbance Area: An area that contains all temporary and permanent development, exterior improvements, and staging and storage areas on the site. For new development the disturbance area must be contiguous. The disturbance area does not include agricultural and pasture lands or naturalized areas.
- H. 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.
- I. Ecological Functions: The primary biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control,

sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.

- J. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- K. Enhancement: The process of improving upon the natural functions and/or values of an area or water resource that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and resources that occur naturally.
- L. Erosion: The movement of soil particles resulting from actions of water or wind.
- M. Fill: Any material such as, but not limited to, sand, soil, rock, or gravel that is placed in a wetland or flood area for the purposes of development.
- N. Flood Areas: Lands contained within the Floodplain Management District regulated by Section 703 and lands that were inundated in the February 1996 flood. (Note: Areas that were mapped as flood areas but were filled to a level above the base flood level prior to September 30, 2005, consistent with all applicable local, state, and federal laws shall no longer be considered habitat based on their status as flood areas.)
- O. Flood Management Areas: Flood areas and, in addition, lands that have documented evidence of flooding.
- P. Forest Canopy: Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water resource.
- Q. Habitat-Friendly Development: A method of developing property that has less detrimental impact on fish and wildlife habitat than do traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels

for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.

- R. Invasive Non-Native or Noxious Vegetation: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.
- S. Low Structure Vegetation or Open Soils: Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).
- T. Mitigation: The reduction of adverse effects of proposed development by considering, in the following order
  1. Avoiding the impact by not taking a certain action or parts of an action;
  2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
  3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
  5. Compensating for the impact by replacing or providing comparable substitute Habitat Conservation Areas.
- U. Native Vegetation: Vegetation native to the Portland metropolitan area provided that it is not invasive non-native or noxious vegetation.
- V. Open Space: Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests, and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves, and parks.
- W. Ordinary Mean High Water Line: The line on the bank or shore to which water ordinarily rises in season.
- X. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall

project purpose and probable impact on ecological functions. The practicability of a development option shall include consideration of the type of HCA that will be affected by the proposed development. For example, High HCAs have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, so it should be more difficult to show that alternative development options that avoid the habitat are not practicable. On the other hand, Low HCAs have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat, so it should be less difficult to show that alternative development options that avoid the habitat are not practicable.

- Y. Restoration: The process of returning a disturbed or altered area or water resource to a previously existing natural condition. Restoration activities reestablish the structure, function, or diversity to that which existed prior to impacts caused by human activity.
- Z. Riparian: Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- AA. Significant Detrimental Impact: An impact that affects the natural environment, considered individually or cumulatively with other impacts on the HCA, to the point where existing fish and wildlife habitat functional values are degraded.
- BB. Stormwater: The surface water runoff that results from all natural forms of precipitation.
- CC. Stormwater Pretreatment Facility: Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.
- DD. Stream: A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- EE. Structure: A building or other major improvement that is built, constructed, or installed, not including minor improvements—such as fences, utility poles, flagpoles, or irrigation system components—that are not customarily regulated through zoning codes.
- FF. Urban Development Value: The economic value of a property lot or parcel as determined by analyzing three separate variables: assessed

land value, value as a property that could generate jobs (“employment value”), and the Metro 2040 design type designation of property. The urban development value of all properties containing regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map.

- GG. Utility Facilities: Buildings, structures, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pre-treatment facilities.
- HH. Water Resource: All rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, flood management areas, wetlands, and all other bodies of open water.
- II. Watershed: A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake, or wetland.
- JJ. Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.
- KK. Woody Vegetation: Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream.

#### 706.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 706, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 706.06(A). Notwithstanding the requirement for HCA Map Verification under Subsection 706.06(B), the HCA Map shall be deemed reliable for the purpose of administering Subsection 706.04 unless an approved HCA Map Verification exists for the subject property, in which case the approved HCA Map Verification shall be used to administer Subsection 706.04.

- A. Uses and activities that do not constitute development, except if the use or activity is prohibited by Subsection 706.05;
- B. Development that:
  - 1. Had it been proposed prior to January 5, 2007, would not have required a land use, building, erosion prevention and sediment control, or grading permit; and
  - 2. Is located on a parcel that is developed with a dwelling for which a building or manufactured home placement permit was issued prior to January 5, 2007, or a dwelling that was lawfully established prior to the requirement to obtain such a permit;
- C. Development, authorized by a valid design review or conditional use permit for which a complete application was submitted prior to January 5, 2009, provided that the development will not result in an increase in the HCA disturbance area approved under the design review or conditional use permit;
- D. Development on a partition parcel or a subdivision lot, provided that the parcel or lot is part of a partition or subdivision approved pursuant to Subsection 706.10(A)(4) or (B);
- E. Maintenance, alteration, expansion, repair, and replacement of existing structures, provided that the building footprint is not increased;
- F. Expansion or replacement of an existing structure, provided that:
  - 1. The expansion or replacement shall not intrude more than 500 square feet into the HCA in addition to the building footprint that lawfully existed on January 5, 2007. If more than one expansion or replacement of the same structure is undertaken—regardless of whether the work is done as one project or a series of projects—the total increase in the intrusion in the HCA shall not exceed this 500-square-foot limit;
  - 2. The new intrusion into the HCA shall be no closer to the protected water resource than the pre-existing structure; and
  - 3. Replacement is lawfully commenced within one year of destruction of the original structure. “Lawfully commenced” means the filing of an application for a land use, building, septic, grading, manufactured dwelling or residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin replacement of the structure.

- G. Development that will have a disturbance area that does not exceed 120 square feet. If more than one development is undertaken pursuant to this exemption—regardless of whether the work is done as one project or a series of projects—the total disturbance area shall not exceed this 120 square-foot limit;
- H. Temporary clearing of vegetative cover in an HCA, not to exceed 200 square feet per lot of record, for the purpose of site investigations and pits for preparing soil profiles, provided that cleared areas are replanted with native vegetation when the investigation is complete. After replanting, no open soil areas greater than 25 square feet in area shall remain. If a tree is removed, the area contained within the tree's drip line shall be the basis for calculating the square footage of vegetative cover removed. If a tree is removed in an HCA and the tree is equal to or greater than 6 inches in diameter at breast height, it shall be replaced as set forth in Table 6;
- I. Maintenance of existing gardens, pastures, lawns, and landscaping, including the installation of new irrigation systems within existing gardens, pastures, lawns, and landscaping;
- J. Removal of invasive non-native or noxious vegetation and the planting or propagation of native vegetation, provided that:
  - 1. Handheld tools are used to remove invasive non-native or noxious vegetation; and
  - 2. After such removal, all open soil areas greater than 25 square feet are replanted with native vegetation;
- K. Farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use, except that this exemption does not apply to buildings associated with farm practices or farm uses;
- L. Forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930, outside the Portland Metropolitan Urban Growth Boundary;
- M. Maintenance, alteration, repair, and replacement of existing roads, railroads, and utilities, provided that there is no additional intrusion into the HCA;
- N. Maintenance and repair of existing manmade water control facilities, such as irrigation and drainage ditches, constructed ponds and lakes, wastewater facilities, and stormwater pre-treatment facilities;



- O. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, regional, state, or federal restoration or enhancement plan;
- P. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist's report, or other credible evidence, is provided by the owner of the subject property and verifies the dead, diseased, or hazardous condition of the trees proposed for removal;
- Q. Low-impact outdoor recreation facilities for public use, such as multi-use paths, trails, picnic areas, interpretive and educational displays, and overlooks, provided that:
  - 1. The facility is located outside of a Water Quality Resource Area regulated pursuant to Section 709;
  - 2. The facility includes less than 500 square feet of new impervious surface; and
  - 3. Any proposed trails are constructed using non-hazardous, pervious materials, with a maximum width of four feet;
- R. Emergency procedures or activities undertaken which are necessary to remove or abate hazards and nuisances, or for the protection of public health, safety, and welfare, provided that:
  - 1. Such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of Section 706; and
  - 2. After the emergency, the owner shall mitigate adverse impacts to the HCA resulting from the emergency action; and
- S. Facilities that infiltrate stormwater onsite, including the associated piping, provided that forest canopy and areas within the drip lines of trees are not disturbed and that only native vegetation is planted in these facilities. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins.

706.05 PROHIBITED USES

The following uses and activities are prohibited within a Habitat Conservation Area:

- A. The planting of invasive non-native or noxious vegetation; and

- B. Outside storage of materials and equipment, unless such storage began before January 5, 2009, or is approved pursuant to review under Subsection 706.06(C).

#### 706.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Habitat Conservation Area District (HCAD) unless such development is exempt pursuant to Subsection 706.04.

- A. A Construction Management Plan (CMP), consistent with Subsection 706.08, shall be required for development in the HCAD, regardless of whether development will occur within an HCA. However, if an area is in the HCAD solely because it is less than 100 feet outside the boundary of an HCA located on a different parcel, Subsection 706.06(A) shall not apply unless HCA Map Verification required pursuant to Subsection 706.06(B) determines that an HCA exists on the same parcel as the area for which development is proposed. An application for a CMP shall be reviewed pursuant to one of the following processes:
  1. The application shall be reviewed pursuant to Subsection 104.01(C); or
  2. The application shall be filed concurrently with an application for review under Subsection 706.06(B) or 706.06(C), in which case the applications will be consolidated and reviewed pursuant to the process required by Subsection 706.06(B)(4) or 706.06(C)(3), respectively;
- B. In order to confirm the location of an HCA, HCA Map Verification, consistent with Subsection 706.09, shall be required or allowed as follows:
  1. HCA Map Verification shall be required for:
    - a. Development that is proposed to be either in an HCA or less than 100 feet outside of the boundary of an HCA, as shown on the HCA Map; or
    - b. A parcel that:
      - i. Either contains an HCA, or any part of which is less than 100 feet outside the boundary of an HCA, as shown on the HCA Map; and
      - ii. Is the subject of a land use application for a partition, subdivision, or any other land use application the approval

of which would authorize new development on the subject parcel.

2. An application for HCA Map Verification may be submitted even if one is not required pursuant to Subsection 706.06(B)(1).
  3. If a parcel is subject to Subsection 706.06(B)(1)(b), an application for HCA Map Verification shall be filed concurrently with the other land use application referenced in Subsection 706.06(B)(1)(b)(ii) unless a previously approved HCA Map Verification for the subject property remains valid.
  4. An application for HCA Map Verification shall be reviewed pursuant to Subsection 1305.02 unless the application is filed concurrently with another land use application that requires review by the Hearings Officer, in which case the applications will be consolidated and reviewed pursuant to the Hearings Officer review provisions of Section 1300.
  5. Notice required by Subsection 1302.01(B) or 1305.02(F) shall be provided to Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property.
- C. An HCA Development Permit, consistent with Subsection 706.10, shall be required for:
1. Development in an HCA or for a parcel that:
    - a. Contains an HCA; and
    - b. Is the subject of a land use application for a partition or subdivision.
  2. If a parcel is subject to Subsections 706.06(C)(1)(a) and (b), an application for an HCA Development Permit shall be filed concurrently with the application for a partition or subdivision.
  3. An application for an HCA Development Permit shall be reviewed pursuant to Subsection 1305.02 unless the application is filed concurrently with another land use application that requires review by the Hearings Officer, in which case the applications will be consolidated and reviewed pursuant to the Hearings Officer review provisions of Section 1300.
- D. Approval of HCA Map Verification ~~and~~ an HCA Development Permits shall be valid for ~~four~~ five years from the date of the final written decision, ~~except~~. 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, or the approval will become void.

1. For an HCA Development Permit directly related to an application for a partition or subdivision, "implemented" means that the final plat of the partition or subdivision shall be recorded with the County Clerk.

2. For any other HCA Development Permit, "implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved HCA Development Permit, "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 or manufactured dwelling placement permit for a new primary structure that was part of the HCA Development Permit approval; or

b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the HCA Development Permit approval.

3. For HCA Map Verification, "implemented" has the meaning set forth in Subsection 706.06(D)(1) and (2), except that under Subsection 706.06(D)(2), if the approval did not contemplate a specific development proposal, "implemented" means at least one County development permit shall be obtained and maintained.

E. If the approval of HCA Map Verification or an HCA Development Permit is not implemented within the initial approval period established by Subsection 706.06(D), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

1. If development lawfully commences within the five-year time period, HCA Map Verification and HCA Development Permits shall remain valid until the development is complete or has been abandoned. Development will be considered to be abandoned if building or grading permits authorizing the development have lapsed or work not requiring a building or grading permit has been discontinued for more than one year; and

F. 2.HCA Map Verification that was valid on the date when the final plat for a subdivision or partition was recorded with the County Clerk shall

remain valid for subsequent development on the lots or parcels created by the subdivision or partition.

706.07 SUBMITTAL REQUIREMENTS

Applications filed pursuant to Section 706 shall comply with the following submittal requirements.

- A. An application for a Construction Management Plan shall include:
1. A completed land use application on a form provided by the ~~County Planning Director~~ Division;
  2. A site plan of the subject property, drawn to scale and identifying the following:
    - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards. Label each element as existing or proposed;
    - b. Location and width of existing adjacent roads and road rights-of-way;
    - c. Location of the Habitat Conservation Area (HCA) as shown on the HCA Map or as identified pursuant to an approved HCA Map Verification;
    - d. Drip lines outside the HCA of trees that are inside the HCA;
    - e. Distance between the HCA boundary and proposed development outside the HCA;
    - f. The site ingress and egress proposed to be used by construction vehicles;
    - g. Proposed equipment and material staging and stockpile areas; and
    - h. Proposed orange construction fencing required pursuant to Subsection 706.08(B);
  3. An Erosion Prevention and Sediment Control (EPSC) plan. This plan may be included on the site plan if acceptable to the EPSC regulatory authority; and
  4. If a modification or waiver of the construction fencing requirement of Subsection 706.08(B) is proposed, a narrative demonstrating compliance with Subsection 706.08(B)(1) or (2).

- B. An application for HCA Map Verification shall include:
1. A completed land use application on a form provided by the ~~County Planning Director~~ Division;
  2. A summer 2002 aerial photograph of the subject property, with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of at least one map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);
  3. For an application filed pursuant to Subsection 706.09(A)(2), either:
    - a. A documented demonstration of the misalignment between the HCA Map (generated from the summer 2002 aerial photographs) and the tax lot lines of the subject property. For example, the applicant could compare the road rights-of-way boundaries shown on the tax lot layer for roads within 500 feet of the subject property with the location of such roads as viewed on the summer 2002 aerial photograph of the same area to provide evidence of the scale and amount of incongruity between the HCA Map and the tax lot lines, and the amount of adjustment that would be appropriate to accurately depict habitat on the subject property; or
    - b. A documented demonstration of another type of computer mapping error that was made in the creation of the HCA map;
  4. For an application filed pursuant to Subsection 706.09(A)(3):
    - a. A site plan of the subject property, drawn to scale and identifying the following:
      - i. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards. Label the elements that were developed after August 1, 2002;
      - ii. Location and width of existing adjacent roads and road rights-of-way;
      - iii. Location of the HCA as shown on the HCA Map, including off-site HCA where review is required due to proposed development within 100 feet outside the HCA boundary and including the location of High, Moderate, and Low HCA; and

- iv. Location of the HCA as proposed by the applicant, including the location of High, Moderate, and Low HCA;
  - b. A summer 2005 aerial photograph of the subject property (or, if available, an aerial photograph taken closer to, but not after, January 5, 2009), with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of at least one map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);
  - c. Any approved development permits (e.g. building, grading, land use) and site plans related to the development of the property that took place between August 1, 2002, and January 5, 2009; and
  - d. A narrative that correlates with the submitted site plan and development permits and identifies the type and scope of the new development that has occurred and the previously identified habitat that no longer exists because it is now part of a developed area; and
5. For an application filed pursuant to Subsection 706.09(A)(4):
- a. A site plan of the subject property, drawn to scale and identifying the following:
    - v. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards;
    - vi. Location and width of existing adjacent roads and road rights-of-way;
    - vii. Location of the HCA as shown on the HCA Map, including off-site HCA where review is required due to proposed development within 100 feet outside the HCA boundary and including the location of High, Moderate, and Low HCA;
    - viii. Location of the HCA as proposed by the applicant, including the location of High, Moderate, and Low HCA;
    - ix. Location of any rivers, streams, wetlands, and flood areas;
    - x. Location of agricultural areas (e.g. pastures, orchards);
    - xi. Location of naturalized areas (e.g. meadows, woods); and
  - b. A report prepared and signed by either a qualified natural resource professional - such as a wildlife biologist, botanist, or

hydrologist - or an environmental engineer registered in Oregon. The report shall include:

- i. A description of the qualifications and experience of all persons that contributed to the report, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;
- ii. Additional aerial photographs if the applicant believes they provide better information regarding the subject property, including documentation of the date and process used to take the photographs and an expert's interpretation of the additional information they provide;
- iii. A topographic map of the subject property, drawn to scale and shown by contour lines of two-foot intervals for slopes less than 15 percent and 10-foot intervals for slopes 15 percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed; and
- iv. A narrative analysis and any additional documentation necessary to address each step of the verification process set forth in Subsection 706.09(E).

C. An application for an HCA Development Permit under Subsection 706.10(A) shall include:

1. A completed land use application on a form provided by the ~~County Planning Director~~ Division;
2. A site plan of the subject property, drawn to scale and identifying the following:
  - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards. Label each element as existing or proposed;
  - b. Location and width of existing adjacent roads and road rights-of-way;
  - c. Location of the HCA as identified pursuant to a valid HCA Map Verification, and including the location of High, Moderate, and Low HCA;
  - d. Location of any rivers, streams, wetlands, and flood areas;
  - e. Location of agricultural areas (e.g. pastures, orchards);
  - f. Location of naturalized areas (e.g. meadows, woods);



- g. Drip lines outside the HCA of trees that are inside the HCA;
  - h. For a property containing less than one acre of HCA, the location of all trees within the HCA that are greater than six inches diameter at breast height (DBH), identified by DBH and species. For properties containing one acre or more of HCA, the applicant may approximate the number of trees within the HCA that are greater than six inches DBH and the DBH range, and provide a listing of the dominant species;
  - i. The location of all trees with a DBH of six inches or greater that are proposed to be removed, identified by DBH and species;
  - j. The site ingress and egress proposed to be used by construction vehicles;
  - k. Proposed equipment and material staging and stockpile areas; and
  - l. Location of any Water Quality Resource Area regulated by Section 709;
3. A mitigation plan that demonstrates compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8);
4. If offsite mitigation is proposed pursuant to Subsection 706.10(A)(7)(b), the mitigation plan required by Subsection 706.07(C)(3) shall address both the subject property and the alternate mitigation site and shall document the following:
- a. The number of trees and shrubs that can be planted onsite;
  - b. The onsite location where those trees and shrubs can be planted;
  - c. An explanation of why it is not practicable for the remainder of the mitigation to occur onsite; and
  - d. Identification of the proposed location for off-site mitigation and documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, documentation that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication;
5. If the applicant proposes to vary the number and size of required trees and shrubs pursuant to Subsection 706.10(A)(8), a report, prepared and signed by a qualified professional, such as a botanist or a certified landscape architect, that:

- a. Explains why the numbers and sizes of trees and shrubs that the applicant proposes to plant will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsection 706.10(A)(6)(a) through (c); and
  - b. Discusses site preparation, including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control;
- D. An application for an HCA Development Permit under Subsection 706.10(B) shall include:
1. The items listed in Subsections 706.07(C)(1) and (2);
  2. A topographic map of the subject property, drawn to scale and shown by contour lines of two-foot intervals for slopes less than 15 percent and 10-foot intervals for slopes 15 percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed;
  3. If grading will occur within the HCA, a grading plan showing the proposed alteration of the ground at one-foot vertical contours in areas of slopes less than five percent, two-foot vertical contours in areas of slopes from five percent to 15 percent, and five-foot vertical contours in areas of slopes greater than 15 percent;
  4. An Impact Evaluation and Alternatives Analysis, prepared and signed by either a qualified natural resource professional—such as a wildlife biologist, botanist, or hydrologist—or an environmental engineer registered in Oregon. The report shall include:
    - a. A description of the qualifications and experience of all persons that contributed to the analysis, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;
    - b. Identification of the ecological functions of the HCA on the subject property. The ecological functions to be evaluated are those identified in Subsections 706.10(B)(2)(b)(i) through (iii);
    - c. Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce significant detrimental impacts on the HCA and the ecological functions provided by the HCA. At a minimum, the approaches identified in Subsections 706.10(B)(1)(a) through (g) shall be considered; and

- d. Determination of the alternative that best meets the applicable approval criteria, and identification of unavoidable significant detrimental impacts; and
5. A mitigation plan that demonstrates compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8) or an alternative mitigation plan. An alternative mitigation plan shall be prepared and signed by a qualified professional, such as a botanist or a certified landscape architect. The report shall include:
- a. A description of the qualifications and experience of all persons that contributed to the plan, and, for each person that contributed, a description of the elements of the plan to which the person contributed;
  - b. An explanation of how the proposed mitigation will adequately compensate for the impacts to ecological functions described in the Impact Evaluation and Alternatives Analysis. The mitigation that would be required under Subsections 706.10(A)(6) and (7)(a) may be used as the baseline mitigation required to compensate for disturbance to an HCA that provides an average level of ecological functions. The explanation shall include:
    - i. If the mitigation that would be required under Subsections 706.10(A)(6) and (7)(a) is used as the baseline mitigation required to compensate for disturbance to an HCA, a calculation of the number of trees and shrubs that would be required under Subsection 706.10(A)(6)(a);
    - ii. A site plan showing where the specific mitigation activities will occur and the numbers and sizes of trees and shrubs that are proposed to be planted; and
    - iii. A discussion of site preparation, including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control;
  - c. Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies;
  - d. A list of all parties responsible for implementing and monitoring the mitigation plan and, if mitigation will occur offsite, the names of the owners of property where mitigation plantings will occur;
  - e. A mitigation site monitoring and reporting plan;
  - f. If the proposed mitigation will not be conducted onsite, a map and accompanying narrative that details the following:

- i. The number of trees and shrubs that can be planted onsite;
  - ii. The onsite location where those trees and shrubs can be planted;
  - iii. An explanation of why it is not practicable for the remainder of the mitigation to occur onsite; and
  - iv. The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, documentation that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication;
- g. If the mitigation area is offsite and not within the same subwatershed (6<sup>th</sup> Field Hydrologic Unit Code) as the disturbed HCA, an explanation of why it is not practicable to conduct the mitigation within the same subwatershed and of why and how, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed; and
- h. An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting and a contingency plan. If in-stream work in fish-bearing streams is proposed as part of the mitigation plan, documentation that such work will be done in accordance with the Oregon Department of Fish and Wildlife in-stream work timing schedule shall be submitted.
- E. Except for utility facilities reviewed pursuant to Subsection 706.10(A)(1) and notwithstanding any other provisions of Subsection 706.07, for utility facilities developed by public utilities on property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within 300 feet of the proposed disturbance area.

706.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

- A. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the EPSC regulatory authority.
- B. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed on or outside the boundary of the HCA, except where the drip line of a protected tree extends outside the HCA, in which case the drip line shall be included inside the fencing. This requirement may be modified or waived if:
  - 1. Disturbance of the HCA is authorized pursuant to Subsection 706.04 or 706.10, in which case the fencing shall be installed in such a manner as to protect the area of the HCA not authorized for disturbance; or
  - 2. The HCA is already lawfully developed, in which case the fencing shall be installed in such a manner as to protect any water resource that is the basis for the HCA designation and any area of the HCA where naturalized vegetative cover exists.
- C. Trees in the HCA shall not be used as anchors for stabilizing construction equipment.
- D. Native soils disturbed during development shall be conserved on the subject property.
- E. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 706.08(A) and (B) are in place.
- F. Compliance with the CMP shall be maintained until the development is complete.

706.09 HCA MAP VERIFICATION

HCA Map Verification shall be subject to the following criteria.

- A. An applicant for HCA Map Verification shall use one or more of the following methods to verify the Habitat Conservation Area (HCA) boundary and, if applicable, the boundary between High, Moderate, and Low HCA.
  - 1. The applicant may concur with the accuracy of the HCA Map of the subject property;
  - 2. The applicant may demonstrate that a computer mapping error was made in the creation of the HCA map (e.g., the mapped vegetative cover layer—which was derived from aerial photographs taken in

the summer of 2002 and was used to establish the Vegetative Cover Map and the HCA Map—in Metro’s geographic information system database does not align precisely with the tax lot layer, thereby resulting in an HCA Map of the subject property that is also misaligned with tax lot lines);

3. The applicant may demonstrate that the subject property was developed lawfully between August 1, 2002 (when the taking of the aerial photographs used to determine the regional habitat inventory commenced) and January 5, 2009 and, therefore, that the HCA boundary or category (High, Moderate, or Low) is inaccurate; or
  4. If the identified HCA is riparian habitat rather than publicly-owned upland habitat, the applicant may demonstrate that the HCA Map is inaccurate for a reason other than those described in Subsections 706.09(A)(2) and (3).
- B. The Planning Director or, if the application is reviewed pursuant to the Hearings Officer review provisions of Section 1300, the Hearings Officer, shall determine the location of any HCA on the subject property by considering information submitted by the applicant, information collected during any site visit that may be made to the subject property, information generated by prior HCA Map Verification that has occurred on adjacent properties, and any other relevant information that has been provided.
- C. For applications filed pursuant to Subsection 706.09(A)(1) or (2), the HCA Map shall be deemed to be accurate unless, as described in Subsection 706.09(A)(2), there was a computer mapping error (e.g., an alignment error) made in the creation of the HCA map.
- D. For applications filed pursuant to Subsection 706.09(A)(3), developed areas not providing vegetative cover shall be removed from the HCA, provided that they were developed lawfully between August 1, 2002, and January 5, 2009, and are more than 50 feet from the water resource. Developed areas not providing vegetative cover that were developed lawfully between August 1, 2002, and January 5, 2009, and are 50 feet or less from the water resource, shall remain classified as HCA, but the HCA category shall be changed if necessary to remain consistent with Tables 1 and 2.
- E. For applications filed pursuant to Subsection 706.09(A)(4), the HCA boundary shall be established as follows:
1. Locate the water resource that was inventoried by Metro and is the basis for the HCA designation, including: Bankfull stage of

streams, rivers, and bodies of open water on or within 200 feet of the subject property; flood areas on or within 100 feet of the subject property; and wetlands on or within 150 feet of the subject property based on the 1994 Clackamas County Wetland Inventory maps adopted by reference in Chapter 3 of the Comprehensive Plan and the Metro 2002 Wetland Inventory Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.

2. Identify the vegetative cover status of all areas on the subject property that are within 200 feet of the bankfull stage of streams, rivers, and bodies of open water; are wetlands or are within 150 feet of wetlands; and are flood areas or are within 100 feet of flood areas.
  - a. Vegetative cover status shall be as identified on the Metro Vegetative Cover Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742); or
  - b. Vegetative cover status may be adjusted if the property was developed lawfully between August 1, 2002, and January 5, 2009, or an error was made at the time the vegetative cover status was determined by Metro. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the definitions of the different vegetative cover types provided in Subsection 706.03.
  
3. Determine whether the degree that the land slopes upward from all streams, rivers, and bodies of open water on or within 200 feet of the subject property is greater than or less than 25 percent. A minimum of three slope measurements along the water resource shall be made on the subject property. The measurements shall be made at no more than 100-foot increments, which means that more than three measurements may be required, depending on the length of the water resource on the subject property. Slope shall be measured in 25-foot increments away from the water resource until a point 200 feet from the starting point of measurement is reached. Where the protected water resource is confined by a ravine or gully, the top of ravine is the break in the greater-than-25-percent slope; and
  
4. Using Table 1 and the data identified pursuant to Subsections 706.09(E)(1) through (3), identify all Class I and II riparian areas

on the subject property. The riparian class may vary within a single property.

**Table 1: Method for Locating Boundaries of Class I and II Riparian Areas**

Distance from Water Resource	Vegetative Cover Status <sup>1</sup>			
	Developed areas not providing vegetative cover	Low structure vegetation or open soils	Woody vegetation	Forest canopy
<b>Streams</b>				
0-50'	Class II	Class I <sup>2</sup>	Class I	Class I
50'-100'		Class II <sup>3</sup>	Class I	Class I
100'-150'		Class II if slope>25% <sup>3</sup>	Class II if slope>25% <sup>3</sup>	Class II <sup>3</sup>
150'-200'		Class II if slope>25% <sup>3</sup>	Class II if slope>25% <sup>3</sup>	Class II if slope>25% <sup>3</sup>
<b>Wetlands (Wetland itself is a Class I Riparian Area)</b>				
0-100'		Class II <sup>3</sup>	Class I	Class I
100'-150'				Class II <sup>3</sup>
<b>Flood Areas</b>				
Within 300' of river or surface stream		Class I	Class I	Class I
More than 300' from river or surface stream	See footnote 4.	Class II <sup>3</sup>	Class II <sup>3</sup>	Class I
0-100' from edge of flood area			Class II <sup>3,5</sup>	Class II <sup>3</sup>

<sup>1</sup> The vegetative cover type assigned to any particular area is based on two factors: the type of vegetation and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belongs. For example, in order to qualify as “forest canopy,” the forested area has to be part of a larger patch of forest of at least one acre in size.

<sup>2</sup> These areas shall be Class II riparian areas if the stream is a high gradient stream. High gradient streams are identified on the Metro Vegetative Cover Map. If the applicant believes the gradient of a stream was incorrectly identified, then the applicant may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro’s Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to Metro Ordinance No. 05-1077C.



- <sup>3</sup> Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742), shall be Class I riparian areas, unless additional information is provided that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.
- <sup>4</sup> If development prior to January 5, 2009, within a contiguous, undeveloped flood area (to include contiguous flood areas on adjacent properties) that was not mapped as having any vegetative cover has reduced the size of that contiguous flood area to less than one half of an acre in size, then the remaining flood area shall also be considered a developed flood area and shall not be identified as habitat.
- <sup>5</sup> Only if within 300 feet of a river or surface stream.
5. Use the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742) to identify the urban development value of the subject property.
    - a. An upward adjustment of the subject property's urban development value designation shall be made if the Metro 2040 Design Type designation for the subject property has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). The urban development value categories of the 2040 Design Types are identified in the footnotes to Table 2.
    - b. If the subject property is owned by a regionally significant educational or medical facility, as designated by Title 13 of the Metro Urban Growth Management Functional Plan, it is designated as of high urban development value.
    - c. If the subject property is located outside the Portland Metropolitan Urban Growth Boundary and therefore does not have a Metro 2040 Design Type designation, it is designated as of high urban development value.
  6. Use Table 2 to cross-reference habitat class with urban development value in order to categorize identified HCA as High, Moderate, or Low HCA.

**Table 2: Method for Identifying Habitat Conservation Areas (HCA)**

Fish & wildlife habitat classification	High urban development value <sup>1</sup>	Medium urban development value <sup>2</sup>	Low urban development value <sup>3</sup>	Publicly Owned Parks and Open Spaces
Class I Riparian	Moderate HCA	High HCA	High HCA	High HCA <sup>4</sup>
Class II Riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA <sup>4</sup>
Class A Upland Wildlife	No HCA	No HCA	No HCA	High HCA <sup>4</sup>
Class B Upland Wildlife	No HCA	No HCA	No HCA	High HCA <sup>4</sup>

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when making an adjustment pursuant to Subsection 706.09(E)(5)(a).

<sup>1</sup> Primary 2040 design type: Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas

<sup>2</sup> Secondary 2040 design type: Main Streets, Station Communities, Other Industrial Areas, and Employment Centers

<sup>3</sup> Tertiary 2040 design type: Inner and Outer Neighborhoods and Corridors

<sup>4</sup> HCAs in publicly owned parks and open spaces designated as natural areas shall be considered High HCA+. HCAs in other publicly owned parks and open spaces shall be designated as shown in Table 2.

**706.10 HABITAT CONSERVATION AREA DEVELOPMENT PERMITS**

A Habitat Conservation Area (HCA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with either Subsection 706.10(A) or (B). However, if the proposed development is in a Water Quality Resource Area (WQRA) regulated pursuant to Section 709, it shall comply with either Subsection 706.10(B) or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.

- A. Development in an HCA shall be permitted subject to the following criteria:
  - 1. Except as provided in Subsections 706.10(A)(2) through (5), a maximum disturbance area (MDA) shall apply to the subject property.
    - a. For property inside the Portland Metropolitan Urban Growth Boundary (UGB), the MDA shall be calculated pursuant to

Table 3 for property with a Comprehensive Plan designation of Urban Low Density Residential and Table 4 for property with any other Comprehensive Plan designation.

**Table 3: Maximum Disturbance Area for Urban Low Density Residential Property**

HCA Type <sup>1</sup>	Maximum Disturbance Area
High	50 percent of the area of the subject property, up to a maximum of 5,000 square feet
Moderate/Low <sup>2</sup>	65 percent of the area of the subject property, up to a maximum of 6,000 square feet

<sup>1</sup> If more than one HCA Type is present on the subject property, the MDA shall be based on the predominant type. For the purpose of this provision, High HCA shall be the predominant type if at least 50 percent of the area of the HCA on the subject property is High HCA.

<sup>2</sup> For the purpose of Table 3, Moderate and Low HCA shall be combined as one HCA Type.

**Table 4: Maximum Disturbance Area for Other Property Inside the UGB**

HCA Type	Maximum Disturbance Area <sup>1</sup>
High	10 percent of High HCA on the subject property
Moderate	15 percent of Moderate HCA on the subject property
Low	50 percent of Low HCA on the subject property

<sup>1</sup> The MDA refers only to the maximum percentage of each type of HCA that may be disturbed. Table 4 imposes no limit on disturbance area outside an HCA.

b. For property outside the Portland Metropolitan Urban Growth Boundary, the MDA shall be calculated pursuant to Table 5, except that the MDA shall be calculated pursuant to Table 4 for:

- i. Commercial development;
- ii. Industrial development;
- iii. Buildings associated with farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use; and
- iv. Buildings associated with forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930.

**Table 5: Maximum Disturbance Area Outside the UGB**

HCA Type <sup>1</sup>	Maximum Disturbance Area
High	5 percent of the area of the subject property or 5,000 square feet, whichever is greater
Moderate/Low <sup>2</sup>	5 percent of the area of the subject property or 6,000 square feet, whichever is greater

<sup>1</sup> If more than one HCA Type is present on the subject property, the MDA shall be based on the predominant type. For the purpose of this provision, High HCA shall be the predominant type if at least 50 percent of the area of the HCA on the subject property is High HCA.

<sup>2</sup> For the purpose of Table 3, Moderate and Low HCA shall be combined as one HCA Type.

c. For property subject to Table 3 or 5, the MDA shall be located outside the HCA except:

i. If the MDA exceeds the non-HCA area, the excess MDA may be located in Low HCA; and

ii. If the MDA exceeds the area of non- and Low HCA combined, the excess MDA may be located in Moderate HCA; and

iii. If the MDA exceeds the area of non-, Low, and Moderate HCA combined, the excess MDA may be located in High HCA.

d. In determining compliance with the MDA standard, both existing and proposed disturbance area shall be included in the calculation.

2. The following disturbance area limitations shall apply to certain utility facilities. Utility facilities other than those addressed in Subsections 706.10(A)(2)(a) through (c) shall be subject to Subsection 706.10(A)(1).

a. The disturbance area for private connections of utility lines, pipes, or cables to other utility facilities shall be no greater than 10 feet wide.

b. The disturbance area for the upgrade of existing utility lines, pipes, or cables shall be no greater than 15 feet wide.

c. The disturbance area for new underground utility lines, pipes, or cables shall be no greater than 25 feet wide and shall disturb no more than 200 linear feet of Water Quality Resource Area regulated pursuant to Section 709, within any 1,000 linear foot stretch of Water Quality Resource Area regulated pursuant to Section 709, provided that this disturbance area, with the

exception of necessary access points to the utility facility, shall be restored by the planting of native vegetation.<sup>32</sup>

3. A partition of a parcel that contains an HCA shall comply with one of the following options:
  - a. There shall be no more than a 30 percentage point difference in the percentage of each parcel's area that is in an HCA. For example, a partition that produces two parcels, one that is 55 percent HCA and the other that is 35 percent HCA, is permissible; whereas a partition that produces two parcels, one that is 75 percent HCA and the other that is 30 percent HCA, is not permissible. In this case, development in the HCA shall be subject to further review under Section 706;
  - b. The partition shall comply with Subsection 706.10(A)(4); or
  - c. The applicant shall demonstrate, through an analysis of different possible partition plans based on the characteristics and zoning of the subject property, that it is not practicable to comply with Subsection 706.10(A)(3)(a) or (b) and that the applicant's alternate plan will result in the smallest practicable percentage point difference in the percentage of each parcel's area that is in an HCA.
4. A subdivision of property that contains an HCA shall require that a minimum of 90 percent of the subject property's High HCA and a minimum of 80 percent of its Moderate HCA shall be platted as a tract rather than as part of any lot. Any HCA that remains outside such a tract may be developed, subject to compliance with the mitigation standards of Subsection 706.10(A) or (B). Unless any HCA that remains outside an HCA tract is protected from development by a restrictive covenant or a conservation easement, it shall be assumed that such areas eventually will be developed, and mitigation shall be required. Mitigation shall be completed, or a performance bond in an amount sufficient to cover the cost of mitigation shall be posted with the County, prior to approval of the final plat.
  - a. If over 50% of the HCA on the subject property is High HCA, the entire calculation is for High (i.e., 90% of the HCA shall be placed within a separate tract).
  - b. If over 50% of the HCA on a property is Moderate HCA, the entire calculation is for Moderate (i.e., 80% of the HCA shall be placed within a separate tract).
  - c. An HCA tract shall be protected from development by restrictive covenant, conservation easement, or public dedication. However, the tract may be subject to an easement

conveying storm and surface water management rights to the surface water management authority. The tract shall be designated as one of the following prior to final plat approval:

- i. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
  - ii. A public natural area where the tract has been dedicated to a public entity.
5. The MDA for publicly owned parks and open spaces designated as natural areas shall be five percent of the HCA on the subject property. Subsection 706.10(A)(5) imposes no limit on disturbance area outside an HCA for such natural areas.
6. If development in an HCA is approved pursuant to Subsection 706.10(A), compliance with the following mitigation standards shall be required, except that the mitigation standards for development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.
- a. Required Plants and Plant Densities. All trees, shrubs and ground cover shall be native vegetation. An applicant shall comply with Subsection 706.10(A)(6)(a)(i) or (ii), whichever results in more tree plantings, except that where the disturbance area is one acre or more, the applicant shall comply with Subsection 706.10(A)(6)(a)(ii).
    - i. The mitigation requirement shall be calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table 5. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs; or

**Table 6: Tree Replacement**

Size of Tree to be Removed (inches in diameter at breast height)	Number of Trees and Shrubs to be Planted
6 to 12	2 trees and 3 shrubs
over 12 to 18	3 trees and 6 shrubs
over 18 to 24	5 trees and 12 shrubs
over 24 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

- ii. The mitigation requirement shall be calculated based on the size of the disturbance area within the HCA. Native trees and shrubs shall be planted at a rate of five trees and 25 shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times five equals 3.3, so three trees shall be planted, and 0.66 times 25 equals 16.5, so 17 shrubs shall be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.
- b. Plant Size. Replacement trees shall be at least one-half inch in caliper, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one-gallon size. Shrubs shall be in at least a one-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.
- c. Plant Spacing. Trees shall be planted between eight and 12 feet on center, and shrubs shall be planted between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.
- d. Plant Diversity. Shrubs shall consist of at least two different species. If 10 trees or more are planted, then no more than 50 percent of the trees may be of the same genus.
- e. Invasive Vegetation. Invasive non-native or noxious vegetation shall be removed within the mitigation area prior to planting, and shall be removed or controlled for five years following the date that the mitigation planting is completed.
- f. Mulching. Mulch shall be applied around new plantings at a minimum of three inches in depth and 18 inches in diameter.
- g. Tree and Shrub Survival. Trees and shrubs that die shall be replaced in kind to the extent necessary to ensure that a minimum of 80 percent of the trees initially required and 80 percent of the shrubs initially required shall remain alive on the

fifth anniversary of the date that the mitigation planting is completed.

- h. **Monitoring and Reporting.** Monitoring of the mitigation site shall be the ongoing responsibility of the property owner. For a period of five years following the date that the mitigation planting is completed, the property owner shall submit an annual report to the Planning Director documenting the survival of the trees and shrubs on the mitigation site. In lieu of complying with the monitoring and reporting requirement, the property owner may post with the County a performance bond, or other surety acceptable to the County, in an amount sufficient to cover costs of plant material and labor associated with site preparation, planting, and maintenance. An applicant who elects to post a surety shall be subject to Subsections 1104.03 through 1104.05.
7. The mitigation area required by Subsection 706.10(A)(6) shall be located as follows:
    - a. All vegetation shall be planted on the subject property, either within the HCA or in an area contiguous to the HCA, provided, however, that if the vegetation is planted in an area contiguous to the HCA, such area shall be protected from development by a restrictive covenant, conservation easement, or public dedication.
    - b. Off-site mitigation within the same subwatershed (6<sup>th</sup> Field Hydrologic Unit Code) as the HCA within which development is proposed, may be approved for part or all of the required mitigation, if the applicant provides evidence substantiating that:
      - i. It is not practicable to complete the mitigation on-site; and
      - ii. The applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication.
  8. An applicant may request to proportionally vary the number and size of trees and shrubs required pursuant to Subsections 706.10(A)(6)(a) and (b)—for example, to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs—and a corresponding modification of the plant spacing requirements of Subsection 706.10(A)(6)(c). The request shall be approved if the



applicant provides evidence substantiating that the proposed planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsections 705.10(A)(6)(a) through (c).

- B. Development in an HCA that does not comply with Subsection 706.10(A) shall be permitted subject to the following criteria:
1. Development in the HCA shall be avoided to the extent practicable. If there is more than one category (High, Moderate, or Low) of HCA on the subject property, then the applicant shall first avoid the intrusion of development into the higher-valued HCA, to the extent practicable. To comply with these requirements, the following approaches shall be used, to the extent practicable:
    - a. Multi-story construction;
    - b. Minimizing building and development footprint;
    - c. Maximizing the use of native landscaping materials and meeting applicable landscaping requirements by preservation of the HCA as permitted by Section 1009;
    - d. Minimal excavation foundation systems (e.g., pier, post, or piling foundation);
    - e. Transfer of density from the HCA to another part of the subject property as permitted by Section 1012;
    - f. Placing facilities that are required to infiltrate stormwater onsite, including associated piping, within the HCA, provided that such facilities comply with Subsection 706.04(R); and
    - g. Complying with the setback standards of Subsection 706.11 rather than those of the underlying zoning district.
  2. If there is no practicable alternative that will avoid disturbance of the HCA, then significant detrimental impacts to the HCA shall be minimized as follows:
    - a. The proposed development shall minimize loss of habitat as compared to other practicable alternatives, including significantly different practicable alternatives that would result in less development within the HCA.
    - b. The proposed development shall minimize significant detrimental impacts to ecological functions of the HCA on the subject property as compared to other practicable alternatives, including significantly different practicable alternatives that would result in less development within the HCA. The ecological functions that shall be considered are:

- i. Connectivity of the habitat to water;
- ii. Connectivity of the habitat to other habitat areas; and
- iii. The functions identified in Table 7.

**Table 7: Ecological functional values of riparian corridors**

Ecological function	Landscape features providing functional values
Microclimate and shade	Forest canopy or woody vegetation within 100 feet of a stream; a wetland <sup>1</sup> ; or a flood area <sup>2</sup>
Streamflow moderation and water storage	A wetland or other water body <sup>3</sup> with a hydrologic connection to a stream; or a flood area <sup>2</sup>
Bank stabilization, sediment and pollution control	All sites within 50 feet of a surface stream; Forest canopy, woody vegetation, or low structure vegetation/open soils within 100 feet of a stream or a wetland; or forest canopy, woody vegetation, or low structure vegetation/open soils within a flood area; and Forest canopy, woody vegetation, or low structure vegetation/open soils within 100-200 feet of a stream if the slope is greater than 25 percent
Large wood and channel dynamics	Forest canopy within 150 feet of a stream or wetland, or within a flood area; and The channel migration zone is defined by the flood area, but where there is no mapped flood area, a default of 50 feet is established to allow for the channel migration zone.
Organic material sources	Forest canopy or woody vegetation within 100 feet of a stream or wetland, or within a flood area

<sup>1</sup> Refers to “hydrologically-connected wetlands,” which are located partially or wholly within ¼ mile of a surface stream or flood area.

<sup>2</sup> Developed flood areas are not identified as HCAs because they do not provide primary ecological functional value.

<sup>3</sup> “Other water body” could include lakes, ponds, reservoirs, or manmade water resource that is not a water quality facility or farm pond.

- c. If there is more than one category of HCA on the subject property, then development within a higher-valued HCA shall be considered more detrimental than development within a lower-valued HCA.
- d. To the extent practicable, development in the HCA shall be designed, located, and constructed to:
  - i. Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches required by Subsection 706.08, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation);
  - ii. Minimize adverse hydrological impacts on water resources, such as by using the techniques described in Part (a) of Table 8, unless their use is prohibited by an applicable and required state or federal permit issued to a unit of local government having jurisdiction in the area, such as a permit

required under the federal Clean Water Act, 33 U.S.C. §§1251 et seq., or the federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit;

- iii. Minimize impacts on wildlife corridors and fish passage, such as by using the techniques described in Part (b) of Table 8; and
- iv. Consider using the techniques described in Part (c) of Table 8.

**Table 8: Habitat-Friendly Development Practices<sup>1</sup>**

<b>Part (a): Design and Construction Practices to Minimize Hydrologic Impacts</b>
<ol style="list-style-type: none"> <li>1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.</li> <li>2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.</li> <li>3. Incorporate stormwater management in road right-of-ways.</li> <li>4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.</li> <li>5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.</li> <li>6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.</li> <li>7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.</li> <li>8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems.</li> <li>9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.</li> <li>10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure.</li> <li>11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.</li> <li>12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.</li> <li>13. Use shared driveways.</li> <li>14. Reduce width of residential streets, depending on traffic and parking needs.</li> <li>15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.</li> <li>16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.</li> <li>17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).</li> </ol>

<b>Part (a): Design and Construction Practices to Minimize Hydrologic Impacts</b>
<p>18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.</p> <p>19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.</p> <p>20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.</p>
<b>Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage</b>
<p>1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.</p> <p>2. Use bridge crossings rather than culverts wherever possible.</p> <p>3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.</p> <p>4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.</p> <p>5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.</p>
<b>Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices</b>
<p>1. Use native vegetation throughout the development (not just in HCA).</p> <p>2. Locate landscaping (required by other sections of this Ordinance) adjacent to HCA.</p> <p>3. Reduce light spill-off into HCAs from development.</p> <p>4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.</p>

<sup>1</sup> These development practices represent the state of scientific knowledge at the time of the adoption of Section 706. If more effective habitat-friendly practices become available, they may be used.

3. If development in an HCA is approved pursuant to Subsection 706.10(B), compliance with the following mitigation standards shall be required, except that the mitigation standards for development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.
  - a. Compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8) shall be required; or
  - b. An alternative mitigation plan (e.g., a proposal to create an alternative plant community type such as an oak savannah or a low-structure plant community, or where an applicant

demonstrates that a portion of identified HCA on the subject property provides only impaired ecological functions) may be approved, subject to the following criteria:

- i. The mitigation plan shall demonstrate that it compensates for significant detrimental impacts to the ecological functions provided by the HCA on the subject property, after taking into consideration efforts to minimize such significant detrimental impacts through the use of the techniques described in Table 8 and through any additional or innovative techniques.
  - ii. Mitigation shall occur on the subject property, except that offsite mitigation may be approved pursuant to Subsection 706.10(A)(7)(b). In addition, off-site mitigation outside the subwatershed (6<sup>th</sup> Field Hydrologic Unit Code) in which the disturbed HCA is located—but inside the Metropolitan Service District boundary or the Portland Metropolitan Urban Growth Boundary—may be approved if it is not practicable to complete the mitigation within the same subwatershed and if, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.
  - iii. All mitigation plantings shall be native vegetation.
  - iv. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream work-timing schedule.
  - v. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting.
4. Municipal potable water, stormwater (drainage), and wastewater utility facilities, which may include, but are not limited to, water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines, terminal storage reservoirs, and outfall devices, shall not have to comply with Subsection 706.10(B)(1), provided that:
- a. Where practicable, the development shall not encroach closer to a water resource than existing operations and development, or for new projects where there are no existing operations or development, the development shall not encroach closer to a water resource than practicable; and

- b. Best management practices shall be employed that accomplish the following:
  - i. Account for watershed assessment information in project design;
  - ii. Minimize the trench area and tree removal within the HCA;
  - iii. Utilize and maintain erosion prevention and sediment control measures until other site stabilization measures are established, post-construction;
  - iv. Replant immediately after backfilling or as soon as effective;
  - v. Preserve wetland soils and retain soil profiles;
  - vi. Minimize compactions and the duration of the work within the HCA;
  - vii. Complete in-water construction during appropriate seasons, or as approved within requisite state or federal permits;
  - viii. Monitor water quality during the construction phases, if applicable; and
  - ix. Implement a full inspection and monitoring program during and after project completion, if applicable.

706.11 SETBACKS

For parcels that contain a Habitat Conservation Area and are inside the Portland Metropolitan Urban Growth Boundary, the minimum front, rear, and side yard setbacks shall be zero, except:

- A. Garages and carports shall comply with the minimum front yard setback of the underlying zoning district; and
- B. A greater setback may be required to comply with applicable fire or life safety requirements.

**709 WATER QUALITY RESOURCE AREA DISTRICT (WQRAD)**

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**709.01 PURPOSE**

Section 709 is adopted to implement the policies of the Comprehensive Plan for Water Quality Resource Areas.

**709.02 AREA OF APPLICATION**

- A. Section 709 applies in the Water Quality Resource Area District (WQRAD). The WQRAD applies to all parcels containing a Water Quality Resource Area (WQRA), provided that such parcels are inside the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary and outside the boundaries of both Clackamas County Service District No. 1 and Surface Water Management Agency of Clackamas County. WQRAs are protected water resources and adjacent vegetated corridors as established by Section 709. Protected water resources are classified as primary or secondary.
- B. A wetland shall be a primary protected water resource if the wetland meets any one of the following criteria and is not a constructed wetland:
1. The wetland is fed by surface flows, sheet flows, or precipitation, has evidence of flooding during the growing season, has 60 percent or greater vegetative cover, and is over one-half acre in size;
  2. The wetland qualifies as having “intact water quality function” under the 1996 Oregon Freshwater Wetland Assessment Methodology;
  3. The wetland is in the Flood Management District, has evidence of flooding during the growing season, is five acres or more in size, and has a restricted outlet or no outlet;
  4. The wetland qualifies as having “intact hydrologic control function” under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
  5. The wetland or a portion of it is within a horizontal distance of less than one-fourth mile from a water body that meets the Oregon Department of Environmental Quality’s definition of a “water quality limited water body.”
- C. Rivers, perennial streams, intermittent streams draining more than 100 acres, natural lakes, and springs that feed streams and wetlands and have year-round flow are primary protected water resources.
- D. Intermittent streams draining 100 acres or less are secondary protected water resources.



E. The width of the vegetated corridor included within a WQRA is specified in Table 1. However, if an improved, public road right-of-way runs parallel to and—based on Table 1—would be included within a WQRA, the WQRA shall not extend beyond the improved, public road right-of-way.

Table 1: Width of WQRA Vegetated Corridor

Protected Water Resource Type	Slope Adjacent to Protected Water Resource <sup>1</sup>	Starting Point for Measurements from Water Resource	Width of Vegetated Corridor <sup>2</sup>
Primary Protected Water Resource	<25 percent	•Edge of bankfull stage •Delineated edge of protected wetland	50 feet
Primary Protected Water Resource	≥25 percent for 150 feet or more	•Edge of bankfull stage •Delineated edge of protected wetland	200 feet <sup>3</sup>
Primary Protected Water Resource	≥25 percent for less than 150 feet	•Edge of bankfull stage •Delineated edge of protected wetland	Distance from starting point of measurement to break in 25 percent slope plus 50 feet <sup>3,4</sup>
Secondary Protected Water Resource	<25 percent	•Edge of bankfull stage	15 feet
Secondary Protected Water Resource	≥25 percent	•Edge of bankfull stage	50 feet <sup>3</sup>

<sup>1</sup> At least three slope measurements along the water resource, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending on the slope measurements, the width of the vegetated corridor may vary. Slope shall be measured in 25-foot increments away from the water resource until slope is less than 25 percent or a point 150 feet from the starting point of measurement is reached, whichever occurs first. The 25-foot increments shall be measured horizontally. Where the protected water resource is confined by a ravine or gully, the top of ravine is the break in the greater-than-25-percent slope.

<sup>2</sup> The width of the vegetated corridor shall be measured horizontally.

<sup>3</sup> Vegetated corridors in excess of 50 feet for primary protected resources, or in excess of 15 feet for secondary protected resources, apply on steep slopes only in the uphill direction from the protected water resource.

<sup>4</sup> A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that the slope is stable.

F. The text of Section 709 shall determine the boundaries of a WQRA.

1. Certain protected water resources are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the WQRA Map). The WQRA Map shall be a reference for identifying areas likely to be regulated by Section 709, but the WQRA Map is not intended to provide field-verified locations of the protected resources or delineate the edge of the vegetated corridors.
2. In addition, there may be WQRAs not shown on the WQRA Map. If credible evidence (e.g. aerial photographs, topographic maps, expert studies) indicates that the subject property may contain a WQRA that is not identified on the WQRA map, the provisions of Section 709 shall apply.

### 709.03 DEFINITIONS

Unless specifically defined in Subsection 709.03, words or phrases used in Section 709 shall be interpreted to give them the same meaning as they have in common usage and to give Section 709 its most reasonable application.

- A. **Bankfull Stage:** The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. The bankfull stage may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.
- B. **Created Wetlands:** Wetlands developed in an area previously identified as a non-wetland to replace, or mitigate, wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.
- C. **Constructed Wetlands:** Wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and separated from naturally occurring or created wetlands.
- D. **Debris:** Discarded manmade objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic, or Styrofoam. Debris does not include objects necessary to a use allowed by Section 709, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials that are left after flooding, downed or standing dead trees, or trees that have fallen into protected water resources.
- E. **Development:** Any manmade change defined as structures, roads, utilities, mining, dredging, paving, vegetation removal, filling, or grading in amounts greater than 10 cubic yards. In addition, "development" is any other activity that results in the removal of more than 10 percent of the Water Quality

Resource Area vegetation on a lot of record. The calculation of the amount of vegetative cover removed shall be done separately for each lot of record and shall include all vegetative cover removed after January 5, 2009, regardless of whether the removal is done as one project or a series of projects. When individual trees are removed, the area contained within the tree's drip line shall be the basis for calculating the square footage of vegetation removed.

- F. Disturb: Manmade changes to the existing physical status of the land, which are made in connection with development.
- G. 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.
- H. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- I. Enhancement: The process of improving upon the natural functions and/or values of an area or resource that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and resources that occur naturally.
- J. Erosion: The movement of soil particles resulting from actions of water or wind.
- K. Fill: Any material such as, but not limited to, sand, soil, rock, or gravel that is placed in a wetland or flood area for the purposes of development.
- L. Invasive Non-Native or Noxious Vegetation: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.
- M. Mitigation: The reduction of adverse effects of a proposed project by considering, in the following order:
  1. Avoiding the impact altogether by not taking a certain action or parts of an action;
  2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
  3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
  5. Compensating for the impact by replacing or providing comparable substitute Water Quality Resource Areas.
- N. Native Vegetation: Vegetation native to the Portland metropolitan area provided that it is not invasive non-native or noxious vegetation.
- O. Ordinary Mean High Water Line: The line on the bank or shore to which water ordinarily rises in season.
- P. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.
- Q. Restoration: The process of returning a disturbed or altered area or water resource to a previously existing natural condition. Restoration activities re-establish the structure, function, or diversity to that which existed prior to impacts caused by human activity.
- R. Riparian: Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- S. Stormwater: The surface water runoff that results from all natural forms of precipitation.
- T. Stormwater Pretreatment Facility: Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement.
- U. Stream: A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- V. Stream, Intermittent: A stream that flows only part of the year, or seasonally, during years of normal precipitation.
- W. Stream, Perennial: A stream that flows year-round during years of normal precipitation.
- X. Structure: A building or other major improvement that is built, constructed, or installed, not including minor improvements—such as fences, utility poles,

flagpoles, or irrigation system components—that are not customarily regulated through zoning codes.

- Y. Utility Facilities: Buildings, structures, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pretreatment facilities.
- Z. Vegetated Corridor: The area between bankfull stage of a protected water resource and the delineated edge of the Water Quality Resource Area as defined in Table 1.
- AA. Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

709.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 709, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 709.06(A):

- A. Uses and activities that do not constitute development, except if the use or activity is prohibited by Subsection 709.05;
- B. Farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use, except that this exemption does not apply to buildings associated with farm practices or farm uses;
- C. Forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930, outside the Portland Metropolitan Urban Growth Boundary;
- D. Installation of erosion prevention and sediment control (EPSC) measures pursuant to an EPSC plan approved by the EPSC regulatory authority.
- E. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, regional, state, or federal restoration or enhancement plan;
- F. Placement of structures that do not require a grading or building permit;

- G. Maintenance of existing structures, roadways, driveways, utility facilities, accessory uses, and other development;
- H. Removal of invasive non-native or noxious vegetation and the planting or propagation of native vegetation, provided that:
  - 1. Handheld tools are used to remove invasive non-native or noxious vegetation; and
  - 2. After such removal, all open soil areas greater than 25 square feet are replanted with native vegetation;
- I. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist's report, or other credible evidence, is provided by the owner of the subject property and verifies the dead, diseased, or hazardous condition of the trees proposed for removal;
- J. Removal of vegetation, except trees of 1.5 inches or greater caliper, provided such removal shall not result in more than 10 percent of the area of the vegetated corridor being devoid of vegetation;
- K. Repair, replacement, or improvement of utility facilities where the disturbed portion of the Water Quality Resource Area (WQRA) is restored and vegetation is replaced with native vegetation;
- L. Additions, alterations, rehabilitation, or replacement of existing structures, roadways, driveways, accessory uses, and other development that do not increase existing structural footprints in the WQRA where the disturbed portion of the WQRA is restored and vegetation is replaced with native vegetation;
- M. Measures to remove or abate nuisances, or any other violation of statute, administrative rule, or ordinance, where such measures are required by government order and the disturbed portion of the WQRA is restored and vegetation is replaced with native vegetation; and
- N. Work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses, and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with Table 2.

709.05 PROHIBITED USES

The following uses and activities are prohibited within a Water Quality Resource Area:

- A. The planting of invasive non-native or noxious vegetation; and

- B. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality.

#### 709.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Water Quality Resource Area District (WQRAD) unless such development is exempt pursuant to Subsection 709.04.

- A. A Construction Management Plan (CMP), consistent with Subsection 709.08, shall be required for development in the WQRAD, regardless of whether development will occur within a Water Quality Resource Area (WQRA). An application for a CMP shall be reviewed pursuant to one of the following processes:
  1. The application shall be reviewed pursuant to Subsection 104.01(C); or
  2. The application shall be filed concurrently with an application for review under Subsection 709.06(B), in which case the applications will be consolidated and reviewed pursuant to the process required by Subsection 709.06(B).
- B. In order to confirm the location of a WQRA, WQRA Boundary Verification, consistent with Subsection 709.09, shall be required or allowed as follows:
  1. WQRA Boundary Verification shall be required for:
    - a. Development that is proposed to be in the WQRAD; or
    - b. A parcel that:
      - i. Is in the WQRAD; and
      - ii. Is the subject of a land use application for a partition, subdivision, or any other land use application the approval of which would authorize new development on the subject parcel.
  2. Notwithstanding Subsection 709.06(B)(1)(a), if credible evidence (e.g. aerial photographs, topographic maps, expert studies) indicates that the proposed development is clearly outside a WQRA, the requirement for WQRA Boundary Verification may be waived.
  3. An application for WQRA Boundary Verification may be submitted even if one is not required pursuant to Subsection 709.06(B)(1).
  4. If a parcel is subject to Subsection 709.06(B)(1)(b), an application for WQRA Boundary Verification shall be filed concurrently with the other land use application referenced in Subsection 709.06(B)(1)(b)(ii) unless a previously approved WQRA Boundary Verification for the subject property remains valid.

5. An application for WQRA Boundary Verification shall be reviewed pursuant to Subsection 1305.02 unless the application is filed concurrently with another land use application that requires review by the Hearings Officer, in which case the applications will be consolidated and reviewed pursuant to the Hearings Officer review provisions of Section 1300.
- C. A WQRA Development Permit, consistent with Subsection 709.10, shall be required for development in a WQRA. However, if the proposed development is in a Habitat Conservation Area (HCA) regulated pursuant to Section 706, it shall comply with either Subsection 706.10(B) or 709.10. An application for a WQRA Development Permit shall be reviewed pursuant to Subsection 1305.02 unless the application is filed concurrently with another land use application that requires review by the Hearings Officer, in which case the applications will be consolidated and reviewed pursuant to the Hearings Officer review provisions of Section 1300.
  - D. Property that contains a WQRA and is the subject of a land use application for a partition or subdivision shall comply with Subsection 709.11, except that if the subject parcel contains a WQRA and an HCA, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.
  - E. Approval of WQRA Boundary Verification ~~or~~ a WQRA Development Permits shall be valid for ~~five~~ four years from the date of the final written decision, ~~except: 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, or the approval will become void.~~
    1. For a WQRA Development Permit directly related to an application for a partition or subdivision, "implemented" means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
    2. For any other WQRA Development Permit, "implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WQRA Development Permit, "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 or manufactured dwelling placement permit for a new primary structure that was part of the WQRA Development Permit approval; or



- b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WQRA Development Permit approval.
- 3. For WQRA Boundary Verification, "implemented" has the meaning set forth in Subsection 709.06(E)(1) and (2), except that under Subsection 709.06(E)(2), if the approval did not contemplate a specific development proposal, "implemented" means at least one County development permit shall be obtained and maintained.
- F. If the approval of WQRA Boundary Verification or a WQRA Development Permit is not implemented within the initial approval period established by Subsection 709.06(E), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.
  - ~~1. If development lawfully commences within the five-year time period, WQRA Boundary Verification and WQRA Development Permits shall remain valid until the development is complete or has been abandoned. Development will be considered to be abandoned if building or grading permits authorizing the development have lapsed or work not requiring a building or grading permit has been discontinued for more than one year; and~~
- G. 2. WQRA Boundary Verification that was valid on the date when the final plat for a subdivision or partition was recorded with the County Clerk shall remain valid for subsequent development on the lots or parcels created by the subdivision or partition.

709.07 SUBMITTAL REQUIREMENTS

Applications filed pursuant to Section 709 shall comply with the following submittal requirements.

- A. An application for a Construction Management Plan shall include:
  - 1. A completed land use application on a form provided by the ~~County Planning Director~~ Division;
  - 2. A site plan of the subject property, drawn to scale and identifying the following:
    - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards. Label each element as existing or proposed;

- b. Location and width of existing adjacent roads and road rights-of-way;
  - c. Location of the Water Quality Resource Area (WQRA) as identified pursuant to Subsection 709.09;
  - d. Drip lines outside the WQRA of trees that are inside the WQRA;
  - e. Distance between the WQRA boundary and proposed development outside the WQRA;
  - f. The site ingress and egress proposed to be used by construction vehicles;
  - g. Proposed equipment and material staging and stockpile areas; and
  - h. Proposed orange construction fencing required pursuant to Subsection 709.08(B);
- 3. An Erosion Prevention and Sediment Control (EPSC) plan. This plan may be included on the site plan if acceptable to the EPSC regulatory authority; and
  - 4. If a modification or waiver of the construction fencing requirement of Subsection 709.08(B) is proposed, a narrative demonstrating compliance with Subsection 709.08(B)(1) or (2).
- B. An application for WQRA Boundary Verification shall include a site plan that complies with the following requirements:
- 1. The site plan shall be drawn at a scale of no less than one inch equaling 20 feet.
  - 2. The site plan shall show the location of the proposed development and the lot lines of the property on which development is proposed.
  - 3. The site plan shall show the location of the protected water resource. If the protected water resource is a wetland, the delineation shall be made by a qualified wetlands specialist pursuant to the Division of State Lands' recommended wetlands delineation process. For all other protected water resources, the location shall be established by a registered professional engineer or surveyor licensed by the State of Oregon.
  - 4. The site plan shall show the location of the WQRA, including slope and drainage information sufficient to classify the protected water resource under Table 1.
- C. An application for a WQRA Development Permit shall include the following information in a report stamped by a registered professional engineer or surveyor licensed by the State of Oregon:

1. A topographic map of the site at contour intervals of five feet or less showing a delineation of the WQRA;
  2. The location of all existing natural features including, but not limited to, all trees of a caliper greater than six inches diameter at a height of four feet, natural or historic drainages on the site, springs, seeps, outcroppings of rocks and boulders within the WQRA;
  3. Location of wetlands that qualify as primary protected water resources. Where such wetlands are identified, a delineation shall be made by a qualified wetlands specialist pursuant to the Division of State Lands' recommended wetlands delineation process;
  4. An inventory and location of existing debris, nuisance vegetation, and any noxious or hazardous materials;
  5. An assessment of the existing condition of the WQRA in accordance with Table 2;
  6. An inventory of vegetation, including percentage ground and canopy coverage;
  7. An Impact Evaluation and Alternatives Analysis that addresses the requirements of Subsections 709.09(A) and (B); and
  8. A mitigation plan containing the following information:
    - a. A description of adverse impacts that will be caused as a result of development;
    - b. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not necessarily limited to, Table 2;
    - c. A list of all responsible parties including, but not necessarily limited to, the owner, applicant, contractor or other persons responsible for work on the subject property;
    - d. A map showing where the specific mitigation activities will occur; and
    - e. An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule; and
- D. Data from sources other than a field-verified delineation of the protected water resource may be used to satisfy the submittal requirements only if the protected water resource is not located on the subject property and access to the water resource is denied for the purposes of supplying the required

delineation. In order to use alternate data, an applicant shall submit the following:

1. A copy of a letter addressed to the owner of the property on which the protected water resource exists requesting access to the property for the purpose of completing a delineation of the protected water resource; and
2. A copy of a return receipt from the US Postal Service verifying that the letter was mailed certified and was received or refused.

#### 709.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

- A. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the EPSC regulatory authority.
- B. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed on or outside the boundary of the Water Quality Resource Area (WQRA), except where the drip line of a protected tree extends outside the WQRA, in which case the drip line shall be included inside the fencing. This requirement may be modified or waived if:
  1. Disturbance of the WQRA is authorized pursuant to Subsection 709.04 or 709.09, in which case the fencing shall be installed in such a manner as to protect the area of the WQRA not authorized for disturbance; or
  2. The WQRA is already lawfully developed, in which case the fencing shall be installed in such a manner as to protect any water resource that is the basis for the WQRA designation and any area of the WQRA where naturalized vegetative cover exists.
- C. Trees in the WQRA shall not be used as anchors for stabilizing construction equipment.
- D. Native soils disturbed during development shall be conserved on the subject property.
- E. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 709.08(A) and (B) are in place.
- F. Compliance with the CMP shall be maintained until the development is complete.

#### 709.09 WATER QUALITY RESOURCE AREA BOUNDARY VERIFICATION

The standards of Subsection 709.02 shall be applied to an application for Water Quality Resource Area Boundary Verification and shall determine the boundary of any WQRA on the subject property.

#### 709.10 WATER QUALITY RESOURCE AREA DEVELOPMENT PERMITS

A Water Quality Resource Area (WQRA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with the following criteria. However, if the proposed development is in a Habitat Conservation Area (HCA) regulated pursuant to Section 706, it shall comply with either Subsection 706.10(B) or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.10, and if the provisions conflict, the most restrictive standard shall apply.

- A. No practicable alternative locations exist for the requested development that will not disturb the WQRA;
- B. No reasonably practicable alternative design or method of development exists that would have a lesser impact on the WQRA than the one proposed. If no such reasonably practicable alternative design or method of development exists, the development shall be conditioned to:
  - 1. Limit its disturbance and impact on the WQRA to the minimum extent necessary to achieve the proposed development; and
  - 2. Ensure that impacts to the functions and values of the water quality resource area will be mitigated or impacted areas restored to the extent practicable.
- C. The WQRA shall be restored and maintained as required by Table 2.
- D. To the greatest extent practicable, existing native vegetation shall be retained and protected;
- E. Walkways and bike paths shall be subject to the following standards:
  - 1. Where it is not practicable to maintain a setback of greater than 30 feet from a protected water resource, a maximum of 10 percent of the total area of a gravel, earthen, tree bark product or equivalent walkway or bike path may be within 30 feet of the protected water resource.
  - 2. For any paved walkway or bike path, the width of the water quality resource area on the subject property shall be increased by a distance equal to the width of the paved path. Where it is not practicable to maintain a setback of greater than 30 feet from a protected water resource, a

maximum of 10 percent of the total area of the walkway or bike path may be within 30 feet of the protected water resource.

3. A walkway or bike path approved under Subsection 709.09(E)(1) or (2) shall not exceed 10 feet in width, shall not be constructed closer than 10 feet from the boundary of the protected water resource, and shall be constructed so as to minimize disturbance to existing vegetation.
- F. Stormwater pretreatment facilities shall be subject to the following standards:
1. A stormwater pretreatment facility may encroach a maximum of 25 feet into the outside boundary of the WQRA of a primary protected water resource.
  2. A stormwater pretreatment facility may encroach a maximum of five feet into the outside boundary of the WQRA of a secondary protected water resource.
  3. The area of encroachment shall be replaced by adding an equal area to the WQRA on the subject property.
  4. All stormwater shall be collected on-site and passed through a treatment facility, such as a detention/composting facility or filter as approved by the surface water management regulatory authority, prior to being discharged into the WQRA.

**Table 2: Water Quality Resource Area Mitigation Requirements**

Existing Condition of Water Quality Resource Area	Mitigation Requirements
<p><b><u>Good Existing Corridor:</u></b></p> <p>Combination of trees, shrubs and groundcover are 80 percent present, and there is more than 50 percent tree canopy coverage in the vegetated corridor.</p>	<p><b><u>If area is disturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Restore and mitigate according to approved plan using native vegetation.</li> <li>2. Remove debris.</li> <li>3. Prior to construction, a qualified professional shall prepare and submit a plan for mitigating water quality impacts related to the development, including: sediments, temperature nutrients, sediment control, temperature control, or any other condition that may have caused the protected water resource to be listed on DEQ's 303(d) list.</li> <li>4. Re-vegetation must occur during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.</li> </ol> <p><b><u>If area is undisturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Remove debris.</li> </ol>

**Table 2: Water Quality Resource Area Mitigation Requirements**

<p><b><u>Marginal Existing Corridor:</u></b></p> <p>Combination of trees, shrubs and groundcover are 80 percent present, and there is 25 to 50 percent tree canopy coverage in the vegetated corridor.</p>	<p><b><u>If area is disturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Restore and mitigate according to approved mitigation plan using native vegetation that would reasonably represent the vegetative composition that would naturally occur on the site.</li> <li>2. Remove debris.</li> <li>3. Re-vegetate during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.</li> </ol> <p><b><u>If area is undisturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Remove debris.</li> </ol>
<p><b><u>Degraded Existing Corridor:</u></b></p> <p>Less vegetation and canopy coverage than marginal vegetated corridors, and/or greater than 10-percent surface coverage of any non-native vegetation.</p>	<p><b><u>If area is disturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Restore and mitigate according to approved mitigation plan using native vegetation that would reasonably represent the vegetative composition that would naturally occur on the site.</li> <li>2. Remove debris.</li> <li>3. Re-vegetate during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site..</li> </ol> <p><b><u>If area is undisturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Vegetate bare areas with native vegetation.</li> <li>2. Remove non-native vegetation and re-vegetate with native vegetation.</li> <li>3. Remove debris.</li> </ol>



709.11 PARTITIONS AND SUBDIVISIONS

- A. A partition or subdivision of property that contains a WQRA shall require that the WQRA shall be platted as a tract rather than as part of any lot. The tract shall be protected from development by restrictive covenant, conservation easement, or public dedication. However, the tract may be subject to an easement conveying storm and surface water management rights to the surface water management authority. The tract shall be designated as one of the following prior to final plat approval:
1. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
  2. A public natural area where the tract has been dedicated to a public entity.

**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. (5/22/03)

- 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 OCCUPATION

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.

#### 822.04 LEVEL TWO MAJOR HOME OCCUPATION

The Planning Director may approve a Level Two Major Home Occupation, pursuant to Subsection 1305.02, if the applicant provides evidence substantiating compliance with the following standards:

- 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.
- 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 OCCUPATION

The Planning Director may approve a Level Three Major Home Occupation, pursuant to Subsection 1305.02, if the applicant provides evidence substantiating compliance with the following standards:

- 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.
- 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. The Hearings Officer may approve a Level Two or Level Three Major Home Occupation that includes an exception to any of the standards identified in Subsections 822.04(C) through (M) or 822.05(C) through (M), pursuant to Section 1300, if the applicant provides evidence substantiating the following:
1. The subject property takes 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 V-2a or V-2b.
  2. The use remains 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 are 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.
- C. A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a home occupation under Subsection 822.06.

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

#### 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 ~~mMajor~~ ~~hHome~~ ~~oOccupation~~ permit ~~is 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.~~and~~
- 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.
- CB. Renewals of a ~~mMajor~~ ~~hHome~~ ~~oOccupation~~ permits, including ~~one~~ those for a home occupations with previously approved exceptions under Subsection 822.06, shall be reviewed by the Planning Director pursuant to Subsection 1305.02. However, if the renewal application includes a request for an exception not approved under the prior home occupation permit, the renewal shall be reviewed by the Hearings Officer pursuant to Section 1300.

**836 HOME OCCUPATIONS FOR CANINE SKILLS TRAINING**

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**836.01 APPLICABILITY**

Section 836 shall apply in the Exclusive Farm Use, Timber, and Ag/Forest zoning districts.

**836.02 DEFINITIONS**

Unless specifically defined in Subsection 836.02, words or phrases used in Section 836 shall be interpreted to give them the same meaning as they have in common usage and to give Section 836 its most reasonable application.

- A. Canine Skills Training: Canine obedience, agility, tracking, lure coursing, herding, and similar canine training programs and activities.
- B. Employee: Any on-site person, whether they work full-time or part-time in the home occupation business, including, but not limited to, the operator, partners, assistants, and any other persons or family members participating in the operation of the business.
- C. Operator: The person who conducts the home occupation, has majority ownership interest in the business, lives full-time in a dwelling on the subject property, and is responsible for strategic decisions and day-to-day operations of the business.

**836.03 CONDITIONAL STANDARDS**

A home occupation for canine skills training shall comply with the following standards:

- A. The home occupation shall be sited on a lot of record that contains a lawfully established dwelling.
- B. The operator of the home occupation shall be a resident of the property on which the home occupation is located.
- C. The home occupation shall have no more than five full-time or part-time employees on the site at any time.
- D. The home occupation shall be operated substantially within the operator's dwelling or other buildings normally associated with uses permitted in the zone in which the subject property is located.
- E. The construction of any structure that would not otherwise be allowed in the zoning district in which the subject property is located shall be prohibited.

This standard will not permit the construction of new buildings for which the sole intent is to house the proposed home occupation.

- F. The use shall not take an outward appearance nor manifest any characteristics of a business or operation of a service commercial nature, except for those characteristics normally associated with or allowed for a primary use in the subject zoning district, on non-training session days.
- G. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- H. Prior to operating the home occupation, the applicant shall record a written irrevocable statement in the deed records of the County binding upon the landowner, and the landowner's successors in interest, acknowledging the right of adjacent and nearby farm and forest operators to employ accepted farm and forest management practices and prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes 30.936 or 30.937. Impacts from farming and forest practices may include, but are not limited to: noise, dust, spray, smoke, vibrations, and visual impacts.
- I. The evaluation of compliance with Subsection 1203.01(D) shall include consideration of impacts on dwellings even though dwellings are not primary uses in the Exclusive Farm Use, Timber, and Ag/Forest zoning districts.
- J. Noise shall be regulated as follows:
1. From 8:00 a.m. until 10:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise create 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 836.03(J)(1).
    - b. Subsection 836.03(J)(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 806.03(I)(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.

- K. The home occupation shall comply with Section 1015, except as modified by Subsection 836.03(K).
1. The minimum parking requirement shall be one off-street space per canine handler, based upon the maximum number of handlers permitted for any single training session. An additional space shall be provided for each employee.
  2. One or more Americans with Disabilities Act (ADA) spaces may be required as deemed necessary by the Building Codes Division and, if required, the ADA space(s) shall be appropriately surfaced and signed to meet ADA accessibility requirements.
  3. The minimum parking space requirements for the home occupation shall be in addition to the parking required for other permitted uses on the subject property.
  4. On-street parking shall be prohibited.
- L. Signs: Signs shall be permitted pursuant to Section 1010.

**1002 PROTECTION OF NATURAL FEATURES**

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1002.01 PURPOSE

Section 1002 is adopted to:

- A. Protect the natural environmental and scenic features of the County;
- B. Encourage site planning and development practices which protect and enhance significant natural features such as streams, swales, hillsides, ridges, rock outcroppings, views, large trees, and wooded areas;
- C. Provide ample open space; and
- D. Create a human environment compatible and harmonious with the natural environment.

1002.02 GENERAL TERRAIN PREPARATION

- A. All developments shall be planned, designed, constructed, and maintained with maximum regard to significant natural terrain features and topography, such as hillside areas, floodplains, and other significant land forms.
- B. Developments shall be planned, designed, constructed, and maintained to:
  - 1. Avoid substantial probability of:
    - a. Accelerated erosion;
    - b. Pollution, contamination, or siltation of lakes, rivers, and streams;
    - c. Damage to vegetation; and
    - d. Injury to wildlife and fish habitats; and
  - 2. Minimize the removal of trees and other native vegetation that stabilize hillsides; retain moisture; reduce erosion, siltation, and nutrient runoff; and preserve the natural scenic character.

1002.03 HILLSIDES

All development proposed on slopes of 20 percent or greater shall be subject to the following standards:

- A. No partition or subdivision shall create any new lot or parcel which cannot be developed under the provisions of Subsection 1002.03.
- B. Development on land over 35-percent slope—and residential development on land over 25-percent slope in the RR, MRR, and HR zoning districts—shall be



subject to Planning Director review pursuant to Subsection 1305.02.

1. Approval shall not be granted unless the following conditions are satisfied:

~~1.~~ a. An engineering geologic study approved by the County establishes that the site is stable for the proposed development, and any conditions and recommendations based on the study are incorporated into the plans and construction of the development. The study shall include the items listed in Subsection 1003.02(B)(2).

~~2.~~ b. Access to the site is approved by the County and the affected fire district pursuant to the engineering geologic study and associated conditions. Design review shall be required if construction of such access requires cut and fill, blasting, tree cutting, retaining walls, or other terrain alterations which detract from the natural scenic quality of the site.

~~3.~~ c. Design review of the proposed design of structures and re-vegetation plans shall be required to ensure preservation or rapid reestablishment of the scenic quality of the site.

~~3.~~ d. A plan for storm drainage and erosion control is approved by the County pursuant to Subsection 1008.02.

4. e. Other provisions of Subsection 1002.03 are addressed and satisfied by the proposal.

~~5.~~ f. When a building is proposed, the applicant shall, in addition to satisfying the above conditions, demonstrate that at least one of the following conditions applies:

a. i. It is not feasible to either transfer the density (in the case of residential development) or to develop on a portion of the site which is less sloped; or

b. ii. Unique characteristics of the site, such as, but not limited to, vistas or solar exposure, could be better utilized by the proposed siting of structures with less or equal overall disturbance of the property than would occur otherwise under the provisions of this Ordinance.

2. Approval of a permit under Subsection 1002.03(B) 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, or the approval will become void.

a. "Implemented" means all major development permits shall be obtained and maintained for the approved development, or if no major

development permits are required to complete the development contemplated by the approved permit, “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:

- i. A building or manufactured dwelling placement permit for a new primary structure that was part of the approved development; or
- ii. A permit issued by the County Engineering Division for parking lot or road improvements required by the approved development.

3. If the approval of a permit is not implemented within the initial approval period established by Subsection 1002.03(B)(2); a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

- C. Grading, stripping of vegetation, and lot coverage by structures and impervious surfaces shall be limited to no more than 30 percent of slopes 20 percent or greater. Variances to this standard may be granted pursuant to Section 1205. A variance shall not be granted unless the proposed development satisfies the following conditions:
1. The proposed lot coverage shall not exceed the maximum lot coverage standard of the zoning district;
  2. The additional lot coverage, grading, or stripping shall not:
    - a. Decrease the stability of the slope;
    - b. Appreciably increase erosion, sedimentation, or drainage flow from the property; or
    - c. Adversely impact high priority open space as defined in Section 1011.
  3. Measures shall be employed to minimize grading or filling to accomplish the development.
  4. Disturbed areas shall be compacted if necessary and re-vegetated as soon as practical and before the annual wet season.
- D. Buildings shall be clustered to reduce alteration of terrain and provide for preservation of natural features.
- E. Creation of building sites through mass pad grading and successive padding or terracing of building sites shall be avoided.
- F. Roads shall be of minimum width, with grades consistent with County specifications. One-way streets may be allowed.

- G. Re-vegetation of all graded areas shall be the responsibility of the developer and shall occur as soon as feasible following the final grading. Maintenance of the slopes shall be the responsibility of the developer until the property ownership is transferred.

1002.04 DEVELOPMENT RESTRICTION FOLLOWING EXCESSIVE TREE REMOVAL

Subsection 1002.04 applies to land inside the Portland Metropolitan Urban Growth Boundary, except land specially assessed as forestland on September 28, 2010.

- A. Definitions: Unless specifically defined in Subsection 1002.04(A), words or phrases used in Subsection 1002.04 shall be interpreted to have the same meaning as they have in common usage and to give Subsection 1002.04 its most reasonable application.
1. Christmas Tree: A tree of a marketable species and evidencing periodic maintenance practices of shearing for Douglas fir, fir, and pine species, weed and brush control, and one or more of the following practices: basal pruning, fertilizing, insect and disease control, and soil cultivation.
  2. Diameter Breast Height (d.b.h.): A tree's diameter measured by diameter tape at four and one-half feet above grade on the uphill side. On multi-stem trees, the stem with the largest diameter shall be measured.
  3. Hazardous Tree: A tree that, by reason of disease, infestation, age, or other condition, presents a known or immediate hazard to people or property.
  4. Nuisance Tree: Any tree of the following species: tree of heaven (*Alianthus altissima*), single seed hawthorn (*Crataegus monogyna*), English holly (*Ilex aquifolium*), plums (*Prunus* hybrids, which are not commercial nursery species), sweet cherry (*Prunus avium*), English laurel (*Prunus laurocerasus*), Portuguese laurel (*Prunus lusitanica*), black locust (*Robinia pseudoacacia*), European mountain ash (*Sorbus aucuparia*), and any listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.
  5. Orchard Tree: A tree maintained for the production of fruit or nuts for human consumption.
  6. Tree: Any woody plant with at least one well-defined stem.
  7. Tree Removal: The act of removing a tree by digging up or cutting down, or the effective removal through damage to a tree or its root system. Effective removal shall include any procedure the natural result of which is to cause the death or substantial destruction of a tree, including, but not

limited to: topping and severe cutting back of limbs to such a degree as to destroy or adversely affect the normal growth pattern of the tree, girdling, and placing fill in excess of six inches deep over the root zone. Tree removal does not include routine pruning or trimming.

- B. Excessive Tree Removal: Excessive tree removal is the removal of more than three trees—excluding those identified as exempt in Subsection 1002.04(E)—on a lot of record in a calendar year.
- C. Development Restriction: If excessive tree removal occurred in the five years immediately preceding the date that a complete application is filed for design review, a subdivision, a partition, or a conditional use, the application will be denied. (This restriction applies to a conditional use under Section 1203, but not to a greenway conditional use under Section 705.)
- D. Exception to Development Restriction: Notwithstanding Subsection 1002.04(C), a minor modification of a previous design review, subdivision, partition, or conditional use approval may be approved pursuant to Subsection 1305.01(L).
- E. Exempt Trees: Removal of the following exempt trees is not excessive tree removal, regardless of the number of such trees removed. However, removal of the listed trees may be regulated under other provisions of this Ordinance, such as Section 705, *Willamette River Greenway*, Section 706, *Habitat Conservation Area District*, and Section 709, *Water Quality Resource Area District*, or by conditions of approval on a previous land use decision.
1. Trees with a d.b.h. of less than six inches;
  2. Trees required to be removed by local, state or federal law or regulation, or by a fire official;
  3. Trees removed by a public utility—or required by a public utility to be removed—in order to maintain, repair, or replace an existing utility line;
  4. Trees removed by a public utility—or required by a public utility to be removed—in order to construct a new utility line, unless the purpose of the new line is to serve future development of the subject property;
  5. Orchard trees;
  6. Christmas trees;
  7. Trees planted on the site of a commercial nursery and grown for commercial purposes;
  8. Nuisance trees;

9. Dead trees, where death resulted from an accident or non-human cause;
10. Diseased or hazardous trees, where the condition resulted from an accident or non-human cause;
11. Trees, the removal of which is authorized by approval of an administrative action under this Ordinance; and
12. Trees removed prior to September 28, 2010.

1002.05 TREES AND WOODED AREAS

- A. Existing wooded areas, significant clumps or groves of trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible. The preservation of these natural features shall be balanced with the needs of the development, but shall not preclude development of the subject property, or require a reduction in the number of lots or dwelling units that would otherwise be permitted. Site planning and design techniques which address incorporation of trees and wooded areas in the development plan include, but are not limited to, the following:
  1. Siting of roadways and utility easements to avoid substantial disturbance of significant clumps or groves of trees;
  2. Preservation of existing trees within rights-of-way and easements when such trees are suitably located, healthy, and when approved grading allows;
  3. Use of flexible road standards as provided in Subsection 1007.04(B)(3), including one-way roads or split-level roads, to preserve significant trees and avoid unnecessary disturbance of terrain;
  4. Retention of specimen trees or clumps of trees in parking area islands or future landscape areas of the site as provided for in Section 1009.
  5. Use of wooded areas of the site for recreation, or other low-intensity uses, or structures, not requiring extensive clearing of large trees, grading, or filling activity which substantially alters the stability or character of the wooded area;
  6. Retention of trees which are necessary to ensure the stability of clumps or groves of trees considering the type of trees, soil and terrain conditions, exposure to prevailing winds, and other site-specific considerations;
  7. Use of trees and wooded areas to buffer, screen, or provide transitions between different or conflicting uses on and off the site;

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8. Use of flexible-lot-size and planned unit development designs to minimize disturbance of wooded areas;
  9. Siting of uses and structures to utilize the natural microclimates created by wooded areas and trees to reduce extremes in temperature, provide wind protection, filter pollutants, and replenish oxygen and moisture to the air; and
  10. Use of other development techniques described in Subsection 1011.03(C).
- B. Trees and wooded areas to be retained shall be protected during site preparation and construction according to County design and specifications by:
1. Avoiding disturbance of the roots by grading and filling activity;
  2. Providing for water and air filtration to the roots of trees which will be covered with impermeable surfaces;
  3. Pruning or topping of trees which will be in parking areas or near buildings, as necessary, to maintain proper balance between top growth and roots, reduce windfall potential, and provide adequate vision clearances for safe vehicular circulation; and
  4. Requiring, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection of specified wooded areas or specimen trees, as recommended by the arborist or horticulturist.

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

1002.06 RIVER AND STREAM CORRIDORS

The following standards shall apply to land that is outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary.

- A. Developments shall be planned, designed, constructed, and maintained so that:
1. River and stream corridors are preserved to the maximum extent feasible and water quality is protected through adequate drainage and erosion control practices; and
  2. Buffers or filter strips of natural vegetation are retained along all river and stream banks.
- B. Except in the case of a river or stream subject to Section 704 or 705, the minimum structure setback from a river or perennial streambed shall be equal

to the distance necessary to maintain or improve upon existing water quality. This distance shall be determined by a site investigation, but will not exceed 150 feet. Investigation shall consider:

1. Soil types;
  2. Types and amount of vegetative cover;
  3. Bank stability;
  4. Slope of the land abutting the river or stream;
  5. Hazards of flooding;
  6. River or stream character; and
  7. Any special Comprehensive Plan designation or management program.
- C. For water impoundments, diversions, and hydropower facilities, reasonable mitigation of adverse impacts to fisheries, wildlife, water quality, and flow shall be required commensurate with the intensity of the proposed use and resulting generating capacity.

1002.07 WILDLIFE HABITATS AND DISTINCTIVE RESOURCE AREAS

- A. Developments on land that is outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary shall be designed to:
1. Protect native plant species, aquatic habitats, and endangered or otherwise important wildlife species; and
  2. Minimize adverse wildlife impacts in sensitive habitat areas, such as deer and elk winter range below 3,000 feet in elevation, riparian areas, and wetlands.
- B. Development in areas shown as Resource Protection Open Space on Comprehensive Plan Maps X-MH-1 through X-MH-3 proposed in or within 100 feet of natural wetlands shall be designed to:
1. Preserve functions of groundwater recharge, water storage, turbidity reduction, nutrient filtration, biologic or botanical production, and protective habitat cover;
  2. Provide compatibility with the continued performance of wetland functions, such as:
    - a. Conservation of soil, vegetation, water, fish, and wildlife;

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- b. Low-intensity, dispersed outdoor recreation, such as hiking and nature study; and
    - c. Utility easements, but only on peripheral areas and where alternative alignments are impractical;
  3. Eliminate the need for filling, dumping, and/or excavating in the wetland proper, unless approved pursuant to Subsection 1011.04; and
  4. Maintain the runoff coefficient and erosion equilibrium for lands bordering the wetland substantially the same as if such lands were undeveloped. Pier construction, elevated pedestrian boardwalks, semi-impervious surfacing, bridging of natural drainageways, and retention of vegetation in areas not intended for buildings or roads are recommended design methods.
- C. In significant natural areas identified by the County, building and road construction, filling and excavation, paving, and tree removal shall be restricted to the extent necessary to protect the unique or fragile character or features that are the basis for their designation in the Comprehensive Plan. Restrictions may be modified pursuant to Subsection 1011.04. Outside the Portland Metropolitan Urban Growth Boundary, forest practices on forestlands shall be subject to the Oregon Forest Practices Act.



## 1007 ROADS AND CONNECTIVITY

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[The title of Section 1007 changed by Ord. ZDO-224, 5/31/11]

### 1007.01 PURPOSE

Section 1007 is adopted to:

- A. Provide for safe, efficient, convenient, and economical movement of vehicles, freight, transit, bicycles, and pedestrians on a balanced and sustainable transportation system network;
- B. Implement the provisions of Chapters 5 and 10 of the Comprehensive Plan pertaining to the design and construction of necessary transportation system improvements required in conjunction with new development;
- C. Protect public safety through functional, efficiently designed improvements addressing the impact of new development upon the roadway system;
- D. Support sustainable development by efficient utilization of land and resources;
- E. Facilitate and encourage the use of non-auto modes of transportation, such as transit, walking, and bicycling;
- F. Provide a highly interconnected transportation system with suitable access and route choices for pedestrians, bicyclists, and drivers;
- G. Support improved public health by providing safe and attractive pedestrian and bicycle facilities;
- H. Reduce vehicle miles traveled;
- I. Create walkable centers, corridors, and neighborhoods with pedestrian, bicycle, and vehicular connections within and between destinations;
- J. Reduce impacts from the transportation system on vegetation, natural features, neighborhoods, and public facilities; and
- K. Recognize and support the importance of streets and streetscapes as an ubiquitous aspect of the public realm in our landscape, and build streets that support and enhance community interaction.

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

## 1007.02 APPLICABILITY

Section 1007 applies to the design of new and reconstructed transportation improvements in public rights-of-way, private roads, and accessways required through development permit approvals that are subject to Section 1007.

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

## 1007.03 GENERAL PROVISIONS

- A. The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.
- B. Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- C. New developments shall have access points connecting with existing private, public, county, or state roads.
  - 1. Intersection spacing and access control shall be based on Comprehensive Plan Table V-5, *Access Requirements by Functional Classification, Urban Areas Only*; Comprehensive Plan Map V-4, *Undeveloped Sites Larger Than 5 Acres*; Chapter 10 of the Comprehensive Plan; and the Clackamas County Roadway Standards.
  - 2. Access control shall be implemented pursuant to Chapter 5 of the Comprehensive Plan and the Clackamas County Roadway Standards considering best spacing for pedestrian access, traffic safety, and similar factors as deemed appropriate by the Department of Transportation and Development.
  - 3. Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other vehicles, pedestrians, and bicyclists.

4. Joint access and circulation drives utilizing reciprocal easements shall be utilized as deemed necessary by the Department of Transportation and Development.
5. Access to state highways shall require a road approach permit issued by the Oregon Department of Transportation pursuant to Oregon Revised Statutes Chapter 374.

- D. Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.
- E. All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.
- F. Roadways shall be designed to accommodate transit services where transit service is existing or planned and to provide for the separation of motor vehicles, bicycle, and pedestrian traffic, and other modes as appropriate.
- G. The needs of all modes of transportation shall be balanced to provide for safe and efficient flow of traffic. Where practical, pedestrian crossings lengths shall be minimized and the road system shall be designed to provide frequent pedestrian connections.

[Renumbered and amended by Ord. ZDO-224, 5/31/11]

#### 1007.04 VEHICLE ACCESS

[Moved to Subsections 1007.03 and 1007.04 and amended by Ord. ZDO-224, 5/31/11]

#### 1007.04 PUBLIC AND PRIVATE ROADWAYS

- A. All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.
  1. Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.

2. Development along streets identified as Regional or Community Boulevards on Comprehensive Plan Map V-3, *Regional Street Design Types*, shall:
  - a. Comply with the design guidelines in Comprehensive Plan Table V-4, *Regional Street Design Types*, or demonstrate why compliance is not feasible;
  - b. Provide pedestrian, bicycle, transit, and visual amenities in the public right-of-way. Such amenities may include, but are not limited to, the following: street trees, landscaping, kiosks, outdoor lighting, outdoor seating, bike racks, bus shelters, other transit amenities, pedestrian spaces and access to the boulevard, landscaped medians, noise and pollution control measures, other environmentally sensitive uses, aesthetically designed lights, bridges, signs, and turn bays as appropriate rather than continuous turn lanes; and
  - c. Strictly control vehicle access and sight distance requirements.
3. Development adjacent to scenic roads identified on Comprehensive Plan Map V-5, *Scenic Roads*, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:
  - a. Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and
  - b. Turnouts shall be provided at viewpoints or for recreational needs.
4. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, roads shall be designed to minimize the length of street crossings and to maximize connectivity for pedestrians as deemed appropriate by the Department of Transportation and Development. Other streetscape design elements in these areas include:
  - a. On-street parking;
  - b. Street trees;
  - c. Street lighting;
  - d. Pedestrian amenities; and
  - e. Truck routes shall be specified for deliveries to local businesses.

5. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, on local streets within the Portland Metropolitan Urban Growth Boundary (UGB), and in unincorporated communities, when conflicts exist between the dimensional requirements for vehicles and those for pedestrians, pedestrians shall be afforded additional consideration in order to increase safety and walkability. In industrial and rural areas, the needs of vehicles shall take precedence.
- B. The layout of new public and county roads shall provide for the continuation of roads within and between the development and adjoining developments when deemed necessary and feasible by the Department of Transportation and Development.
1. When public access to adjoining property is required, this access shall be improved and dedicated to the County.
  2. Street stubs shall be provided to allow for future access to adjacent undeveloped property as deemed necessary by the Department of Transportation and Development.
  3. These standards may be deviated from when the County finds that safe and efficient alternate designs would better accommodate:
    - a. Sustainable development features such as “Green Streets” as defined in the Clackamas County Roadway Standards;
    - b. Sustainable surface water management solutions such as low infiltration planters and basins, swales, ponds, rain gardens, trees, porous pavement, and minimal disruption to natural drainage systems;
    - c. Preservation of existing significant trees and native vegetation;
    - d. Preservation of natural terrain and other natural landscape features;
    - e. Achievement of maximum solar benefit for new development through orientation and block sizing;
    - f. Existing forest or agricultural uses;
    - g. Existing development;
    - h. Scenic qualities;
    - i. Planned unit developments;

- j. Local access streets less than 200 feet in length which are not extendible; and
  - k. Interior vehicular circulation for multifamily, commercial, institutional, and industrial developments.
- C. New county and public roads terminating in cul-de-sacs or other dead-end turnarounds are prohibited except where natural features (such as topography, streams, or wetlands), parks, dedicated open space, or existing development preclude road connections to adjacent properties, existing street stubs, or existing roads.
- D. Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:
  - 1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and
  - 2. Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.
- E. New developments, subdivisions, and partitions may be required to dedicate land for right-of-way purposes and/or make road frontage improvements to existing rights-of-way as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- F. Road frontage improvements in the UGB and Mt. Hood urban villages shall include:
  - 1. Surfacing, curbing, or concrete gutters as specified in Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards;
  - 2. Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.06;
  - 3. Transit amenities as specified in Subsection 1007.07; and
  - 4. Street trees as specified in Subsection 1007.08.

- G. Within public and county rights-of-way, the following uses may be permitted, subject to compliance with the Clackamas County Roadway Standards:
1. Solar energy systems owned and operated by a public entity or utility;
  2. Electric vehicle charging stations owned and operated by a public entity or utility; and
  3. On-street parking within the UGB.

[Renumbered and amended by Ord. ZDO-224, 5/31/11]

1007.05 PRIVATE ROADS AND ACCESS DRIVES

- A. Private roads and access drives shall be developed according to classifications and guidelines listed in Section 1007, Comprehensive Plan Tables V-2, *Roadway Classifications and Guidelines*, and V-3, *Roadway Classification and Guidelines (Continued)*, Chapter 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards, except:
1. When easements or “flag-pole” strips are used to provide vehicular access to lots or parcels, the minimum width shall be 20 feet, unless a narrower width is approved by the Department of Transportation and Development and the applicable fire district’s Fire Marshal;
  2. Where the number of lots served exceeds three, a wider width may be required as deemed appropriate or necessary by the Department of Transportation and Development consistent with other provisions of Section 1007, the Comprehensive Plan, and/or the Clackamas County Roadway Standards;
  3. Access easements or “flag-pole” strips may be used for utility purposes in addition to vehicular access;
  4. The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and
  5. The intersection of private roads or access drives with a public or county road and intersections of two private roads or access drives shall comply with the sight distance and clear zone standards pursuant to Subsection 1007.04(D).

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

#### 1007.06 PEDESTRIAN AND BICYCLE FACILITIES

- A. General Standards: Pedestrian and bicycle facilities shall be developed according to the classifications and guidelines listed in Section 1007, Comprehensive Plan Tables V-2, *Roadway Classifications and Guidelines*, and V-3, *Roadway Classification and Guidelines (Continued)*, Chapter 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- B. Pedestrian and Bicycle Facility Design: Pedestrian and bicycle facilities shall be designed to:
1. Minimize conflicts among automobiles, trucks, pedestrians, and bicyclists;
  2. Provide safe, convenient, and an appropriate level of access to various parts of the development and to locations such as schools, employment centers, shopping areas, adjacent developments, recreation areas and open space, and transit corridors;
  3. Allow for unobstructed movements and access for transportation of disadvantaged persons; and
  4. Be consistent with Comprehensive Plan Maps V-7a, *Planned Bikeway Network, Urban*, V-7b, *Planned Bikeway Network, Rural*, and V-8, *Essential Pedestrian Network*, North Clackamas Parks and Recreation District's Park and Recreation Master Plan, and Metro's Regional Trails and Greenways Map.
- C. Requirements for Pedestrian and Bicycle Facility Construction: Within the Portland Metropolitan Urban Growth Boundary (UGB), sidewalks, pedestrian pathways, and accessways shall be constructed as required in Subsection 1007.06 for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, development of such facilities shall be required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet.
- D. Requirement for Sidewalk Construction: Within the UGB, sidewalks shall be constructed, as required in Subsection 1007.06(F), for two-family dwellings, detached single-family dwellings, attached single-family dwellings where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.



- E. Sidewalks or Pedestrian Pathways in Unincorporated Communities: In an unincorporated community, either a sidewalk or a pedestrian pathway shall be constructed on arterial or collector street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed.
- F. Sidewalk Location: Sidewalks required by Subsection 1007.06(C) or (D) shall be constructed on:
1. Both sides of a new or reconstructed road, except that sidewalks may be constructed on only one side of the road if:
    - a. The road is not a through road;
    - b. The road is 350 feet or less in length and cannot be extended; or
    - c. In consideration of the factors listed in Subsection 1007.04(B)(3).
  2. The street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed; and
  3. Local or collector road street frontage(s) of a lot upon which a two-family dwelling, a detached single-family dwelling, an attached single-family dwelling where two dwelling units are attached to one another, or a manufactured dwelling is proposed. This requirement shall be imposed as a condition on the issuance of a conditional use permit, building permit, or manufactured dwelling placement permit, but
    - a. The requirement shall be waived if the dwelling is a replacement for one destroyed by an unplanned fire or natural disaster; and
    - b. The sidewalk requirement shall apply to no more than two street frontages for a single lot.
- G. Pedestrian Pathways: Inside the UGB, a pedestrian pathway may be constructed as an alternative to a sidewalk on a local or collector road when it is recommended by the Department of Transportation and Development; the surface water management regulatory authority approves the design; and at least one of the following criteria is met:
1. The site has topographic or natural feature constraints that make standard sidewalk construction unusually problematic;

2. No sidewalk exists adjacent to the site;
3. Redevelopment potential along the road is limited; or
4. The road is identified for a pedestrian pathway by the River Forest Neighborhood Plan adopted by the City of Lake Oswego.

H. Sidewalk and Pedestrian Pathway Width: Sidewalks and pedestrian pathways shall be constructed to the minimum widths shown in Table 1007-1.

Table 1007-1: Minimum Sidewalk and Pedestrian Pathway Width

<b>Street Type</b>	<b>Residential Sidewalk</b>	<b>Commercial or Institutional Sidewalk</b>	<b>Industrial Sidewalk</b>
Local	5 feet	7 feet	5 feet
Connector	5 feet	7 feet	5 feet
Collector	5 feet	8 feet	5 feet
Arterial	6 feet	8 feet	6 feet

1. The entire required width of sidewalks and pedestrian pathways shall be unobstructed.
2. Sidewalks and pedestrian pathways at transit stops shall be a minimum of eight feet wide for a distance of 20 feet centered on the transit shelter or transit stop sign.
3. A sidewalk set back from the curb by at least five feet may be one foot narrower (but not less than five feet) than the standard listed above. This five-foot separation strip shall be landscaped and shall be maintained by the adjacent property owner. The separation strip may contain fixed objects provided that sight distance and roadside clear zone standards are satisfied pursuant to the Clackamas County Roadway Standards.
4. Uses located in the Campus Industrial, Light Industrial, General Industrial, or Business Park District and containing over 5,000 square feet of office space shall comply with the requirements for Commercial and Institutional uses.

- I. Accessways: Accessways shall comply with the following standards:
1. Accessways shall be required where necessary to provide direct routes to destinations not otherwise provided by the road system and where topography permits. Developments shall not be required to provide right-of-way for accessways off-site to meet this requirement. If right-of-way is available off-site, the developer may be required to improve an accessway off-site up to 150 feet in length.
  2. Accessways shall provide safe, convenient access to facilities generating substantial pedestrian or bicycle trips, such as an existing or planned transit stop, school, park, church, daycare center, library, commercial area, or community center. Facilities such as these shall be accessible from dead-end streets, loops, or mid-block locations. Where required, accessways shall be constructed at intervals of no more than 330 feet, unless they are prevented by barriers such as topography, railroads, freeways, pre-existing development, or environmental constraints such as streams and wetlands.
  3. An accessway shall include at least a 15-foot-wide right-of-way and an eight-foot-wide hard surface. For safety, accessways should be as straight as practicable and visible from an adjacent use if practicable. Removable bollards or other large objects may be used to bar motor vehicular access.
  4. So that they may be safely used at night, accessways shall be illuminated by street lights or luminaires on shorter poles. Separate lighting shall not be required if existing lighting adequately illuminates the accessway.
  5. Fences are not required, but the height of a fence along an accessway shall not exceed six feet.
  6. Ownership and maintenance responsibility for accessways shall be resolved during the development review and approval process.
- J. Bikeways: Bikeways shall be required as follows:
1. Shoulder bikeways, bike lanes, or bike paths shall be included in the reconstruction or new construction of any street if a bikeway is indicated on Comprehensive Plan Maps V-7a, *Planned Bikeway Network, Urban*, or V-7b, *Planned Bikeway Network, Rural*, North Clackamas Parks and Recreation District's Park and Recreation Master Plan, or Metro's Regional Trails and Greenways Map.
  2. Shoulder bikeways, bike lanes, or bike paths shall be considered in the reconstruction or new construction of any other arterial or collector.

3. Within urban growth boundaries, shoulder bikeways, bike lanes, or bike paths shall be constructed from new public or private elementary, middle school, and high school facilities to off-site bikeways to provide continuous bicycle route connections within and between surrounding developments, unless precluded by existing development.

K. Trails:

1. Trail dedications or easements shall be provided and developed as shown on Comprehensive Plan Map IX-1, *Open Space Network & Recreation Needs*, the Facilities Plan (Figure 4.3) in North Clackamas Parks and Recreation District's Park and Recreation Master Plan, and Metro's Regional Trails and Greenways Map.
2. Off-road sections of trails shall have a minimum 30-foot right-of-way or easement width.

[Renumbered and amended by Ord. ZDO-224, 5/31/11]

1007.07 OFFSTREET PARKING REGULATIONS

[Moved to Section 1015 and amended by Ord. ZDO-224, 5/31/11]

1007.07 TRANSIT AMENITIES

All residential, commercial, institutional, and industrial developments on existing and planned transit routes shall be reviewed by Tri-Met or other appropriate transit provider to ensure appropriate design and integration of transit amenities into the development. The design shall not be limited to streets, but shall ensure that pedestrian/bikeway facilities and other transit-supportive features such as shelters, bus pull-outs, park-and-ride spaces, and signing will be provided. The designs shall comply with Tri-Met standards and specifications.

[Renumbered and amended by Ord. ZDO-224, 5/31/11]

1007.08 OFFSTREET LOADING REGULATIONS

[Moved to Section 1015 and amended by Ord. ZDO-224, 5/31/11]

1007.08 STREET TREES

- A. Street trees are required for developments fronting on designated boulevards in the Comprehensive Plan and shall comply with the following standards:
  1. Partial or complete exemptions from the requirement to plant street trees may be granted on a case-by-case bases. Exemptions may be granted, for

example, if the exemption is necessary to save existing significant trees which can be used as a substitute for street trees, or where trees approved under Subsection 1007.08(A)(2) are to be planted on the property adjoining the street right-of-way.

2. Street trees to be planted shall be chosen from a County-approved list of street trees (if adopted), unless approval for planting of another species is given by the Department of Transportation and Development.
3. Location and planting of street trees may be influenced by such conditions as topography, steep terrain, soil conditions, existing trees and vegetation, preservation of desirable views, and solar access.
4. Planting of street trees shall be coordinated with other uses which may occur within the street right-of-way, such as bikeways, pedestrian paths, storm drains, utilities, street lights, shelters, and bus stops.
5. Street trees at maturity shall be of appropriate size and scale to complement the width of the street or median area.

B. Street trees are required for developments in the Clackamas Regional Center Area as shown on Comprehensive Plan Map X-CRC-1, *Regional Center, Corridors, and Station Community*, and shall comply with the following standards:

1. Street trees are required along all streets, except for drive aisles in parking lots.
2. When determining the location of street trees, consideration should be given to accommodating normal retail practices in front of buildings such as signage, outdoor display, loading areas, and pullout lanes.
3. Street trees are required along private access streets under the following conditions:
  - a. On both sides when the access point is a signalized intersection;
  - b. On both sides when the street section has four or more lanes at the access point;
  - c. On both sides when the private street is developed to comply with building orientation standards;
  - d. On a minimum of one side when the street section has one or two lanes, and the street is not at a signalized intersection or is not used to

meet the structure orientation standards of Subsections 1700.03(C) and 1700.04(B); and

- e. On a minimum of one side of the street when access is shared with adjacent property. Adjoining property shall be required to install trees on its side of the access street when the property is developed.
4. In the Fuller Road Station Community, as identified on Comprehensive Plan Map X-CRC-1, *Regional Center, Corridors, and Station Community*, street trees are required along both sides of all street types, and as shown in Comprehensive Plan Figure X-CRC-11 for Type E pedestrian/bicycle connections. Street trees shall be spaced from 25 to 40 feet on center, based on the selected tree species and any site constraints. Street trees shall otherwise comply with the other provisions of Subsections 1007.08(A) and (B).
- C. In the Business Park District, street trees are required at 30- to 40-foot intervals along periphery and internal circulation roads, except where significant trees already exist.
  - D. In the Campus Industrial District, street trees are required.
  - E. Street trees are required for developments in the Sunnyside Village Community Plan area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*, along both sides of all connector and local streets. In addition:
    1. One to two street trees are required per interior lot, and two to four for corner lots depending on the canopy of the tree species proposed. If a small canopy (less than or equal to 25 feet in diameter at maturity) is proposed, then two per interior lot and four per corner lot are required. If a larger canopy (greater than 25 feet in diameter at maturity) is proposed, then one per interior lot and two per corner lot are required.
    2. As each portion of a project is developed, a specific species of street tree will be chosen for each street. The developer may choose the species of street tree to be planted so long as the species is not known to cause sidewalks to buckle, does not have messy fruits or pods, is not prone to insects or having weak wood, and is not on the list of prohibited trees. The County will have final approval regarding the type of street tree to be planted.
    3. Along connector streets or streets with a higher classification, metal grating, non-mortared brick, grasscrete, or similar material shall be installed at grade over the planting area around street trees, or raised

planters shall be constructed to prevent soil compaction and damage to the trunk. Planting strips or tree wells are required along streets with a classification below connector status.

4. The trees listed in Table 1007-2 are prohibited as street trees.

Table 1007-2: Prohibited Street Trees in the Sunnyside Village Community Plan Area

Scientific Name	Common Name	Reason for Prohibition
Acer macrophyllum	Big-leaf Maple	Leaves block drainage; Roots buckle sidewalks
Acer negundo	Box Elder	Insect prone; Weak wood
Acer saccharinum	Silver Maple	Shallow roots; Weak wood
Aesculus hippocastanum	Common Horsechestnut	Messy fruits
Betulus species	Birches	Insect prone; Weak wood
Carya species	Hickories	Fruits cause litter and safety problems
Catalpa species	Catalpas	Seed pods cause litter problem
Corylus species	Filberts	Fruits cause litter and safety problems
Crataegus species	Hawthorns	Thorns; Fruits cause litter and safety problems
Fraxinus species	Ashes	Seed pods cause litter problem
Gleditsia triacanthos	Honey Locust (species, does not include horticultural variants)	Seed pods cause litter problem

Juglans species	Walnuts	Fruits cause litter problem
Morus species	Mulberries	Fruits cause litter and safety problems
Populus species	Poplars	Shallow roots; Weak wood
Robinia species	Locusts	Weak wood; Suckers
Salix Species	Willows	Shallow roots; Weak wood
Ulmus fulva	Slippery Elm	Insect prone; Shallow roots; Weak wood
Ulmus pumila	Siberian Elm	Shallow roots; Weak wood

- F. For additional street tree requirements in the Sunnyside Village Community Plan area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan, Land Use Plan Map*, see Subsection 1600.03.

[Moved from Sections 601, 606, 1009, 1600, and 1700 and amended by Ord. ZDO-224, 5/31/11]

#### 1007.09 TRANSPORTATION FACILITIES CONCURRENCY

- A. The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development.
- B. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.
- C. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:
1. Development that is located:
    - a. In the Light Industrial, General Industrial, or Business Park District; and
    - b. North of the Clackamas River; and



- c. West of Highway 224 (south of Highway 212) or 152<sup>nd</sup> Drive (north of Highway 212); and
  - d. South of Sunnyside Road (east of 82<sup>nd</sup> Avenue) or Harmony Road (west of 82<sup>nd</sup> Avenue) or Railroad Avenue (west of Harmony Road); and
  - e. East of Interstate 205 (south of Milwaukie Expressway) or the city limits of Milwaukie (north of the Milwaukie Expressway).
2. Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result;
  3. Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;
  4. Mass transit facilities, such as light rail transit stations and park-and-ride lots;
  5. Home occupations to host events, which are approved pursuant to Section 806; and
  6. Development in the Government Camp Village, as shown on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan Land Use Plan & Boundary*, that is otherwise consistent with the Comprehensive Plan and zoning designations for the Village.
- D. As used in Subsection 1007.09(C), “adequate” means a minimum of Level-of-Service (LOS) D, except:
1. Portions of 82<sup>nd</sup> Avenue, Sunnyside Road, and Johnson Creek Boulevard located in the Clackamas Regional Center or the Fuller Road Station Community, as identified on Comprehensive Plan Map X-CRC-1, *Regional Center, Corridors, and Station Community*, shall be subject to the following minimums:
    - a. LOS E during the weekday midday peak one-hour period; and
    - b. LOS F during the first hour and LOS E during the second hour of the weekday PM peak two-hour period.

2. Portions of 82<sup>nd</sup> Avenue, Sunnyside Road, and Johnson Creek Boulevard located in the Clackamas Regional Center Area but outside the Clackamas Regional Center and the Fuller Road Station Community, as identified on Comprehensive Plan Map X-CRC-1, *Regional Center, Corridors, and Station Community*, shall be subject to the following minimums:
    - a. LOS D during the weekday midday peak one-hour period; and
    - b. LOS E during the first hour and LOS E during the second hour of the weekday PM peak two-hour period.
  3. Roadways—other than 82<sup>nd</sup> Avenue and Sunnyside Road—in the Clackamas Regional Center, as identified on Comprehensive Plan Map X-CRC-1, *Regional Center, Corridors, and Station Community*, shall be subject to the following minimums:
    - a. LOS E during the weekday midday peak on-hour period; and
    - b. LOS E during the first hour and LOS E during the second hour of the weekday PM peak two-hour period.
  4. Except as established by Subsections 1007.09(D)(1) through (3), LOS E shall apply to developments proposed on property in a Campus Industrial, Light Industrial, General Industrial, Rural Industrial, or Business Park zoning district.
  5. Except as established by Subsections 1007.09(D)(1) through (3), LOS E shall apply to high-employment developments. A high-employment development is one that provides a minimum of 50 FTE per acre. Only jobs where the employee reports to work at the subject property shall be included in this calculation.
  6. The performance standards identified in the latest edition of the Oregon Highway Plan shall apply to facilities under the jurisdiction of the State of Oregon, with the exception of those facilities identified in Subsections 1007.09(D)(1) and (2).
- E. For the purpose of calculating capacity as required by Subsections 1007.09(C) and (D), the following standards shall apply:
1. Both the method of calculating LOS and the definitions given to the LOS letter designations are established by the Clackamas County Roadway Standards. The method of calculating capacity on state facilities is established by the Oregon Highway Plan.

2. The minimum capacity standards shall apply to all roadways and intersections within the impact area of the proposed development. The impact area shall be established by the Clackamas County Roadway Standards.
3. Capacity shall be evaluated for motor vehicle traffic only.
4. Except as established by Subsections 1007.09(D)(1) through (3), capacity shall be evaluated for the peak 15-minute period of both the AM weekday and PM weekday peak hours of the transportation system within the impact area. The requirement to evaluate either the AM or the PM peak hour, or both, may be waived if the proposed use will not generate motor vehicle trips during the period(s).

F. As used in Subsection 1007.09(C), “timely” means:

1. For facilities under the jurisdiction of the County, necessary improvements are included in the Five-Year Capital Improvement Program, fully funded, and scheduled to be under construction within three years of the date land use approval is issued;
2. For facilities under the jurisdiction of the State of Oregon, necessary improvements are included in the Statewide Transportation Improvement Plan and scheduled to be under construction within four years of the date land use approval is issued;
3. For facilities under the jurisdiction of a city or another county, necessary improvements are included in that jurisdiction’s capital improvement plan, fully funded, and scheduled to be under construction within three years of the date land use approval is issued.
4. Alternatively, “timely” means that necessary improvements will be constructed by the applicant or through another mechanism, such as a local improvement district. Under this alternative:
  - a. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:
    - i. Complete the necessary improvements; or
    - ii. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county

staff pursuant to Section 1104. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.

5. For a phased development, the first phase shall satisfy Subsections 1007.09(F)(1) through (4) at the time of land use approval. Subsequent phases shall be subject to the following:
  - a. At the time of land use approval, necessary improvements shall be identified and the phase for which they are necessary shall be specified.
  - b. Necessary improvements for a particular phase shall either:
    - i. Comply with Subsections 1007.09(F)(1) through (3) at the time of building permit approval, except that the improvements shall be scheduled to be under construction within three years of building permit approval rather than within three years of land use approval; or
    - ii. Comply with Subsection 1007.09(F)(4), in which case the improvements shall be completed or guaranteed prior to issuance of a certificate of occupancy or recording of the final plat for the applicable phase.

G. As used in Subsection 1007.09(F), "necessary improvements" are:

1. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.09(D).
  - a. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
  - b. If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.

- H. As an alternative to compliance with Subsection 1007.09(C), the applicant may make a voluntary substantial contribution to the transportation system.
1. As used in this subsection, “substantial contribution” means construction of a roadway or intersection improvement that is all of the following:
    - a. A complete project or a segment of a roadway identified in the Clackamas County 20-Year Capital Improvement Plan (CIP), the Statewide Transportation Improvement Plan (STIP), or the capital improvement plan (CIP) of a city or another county.
      - i. For a segment of a roadway to qualify as a substantial contribution, the roadway shall be on or abutting the subject property; no less than the entire segment that is on or abutting the subject property shall be completed; and there shall be a reasonable expectation that the entire project—as identified in the Clackamas County 20-Year CIP the STIP or the CIP of a city or another county—will be completed within five years;
    - b. Located within the impact area of the proposed development. The impact area shall be established by the Clackamas County Roadway Standards;
    - c. Estimated to have a minimum construction cost of \$527,000 in year 2004 dollars. The minimum construction cost shall on January 1<sup>st</sup> of each year following 2004 be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land, except resource properties, in the County according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:
      - i.  $\text{Change in Average Market Value} \times 0.50 + \text{Change in Construction Cost Index} \times 0.50 = \text{Minimum Construction Cost Adjustment Factor}$
      - ii. After the adjustment factor is applied to the previous year’s minimum construction cost, the result shall be rounded to the nearest thousand.
  2. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final

plat for a subdivision or partition, the applicant shall do one of the following:

- a. Complete the substantial contribution; or
- b. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1104. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.

[Moved from Section 1022 and amended by Ord. ZDO-224, 5/31/11]

#### 1007.10 FEE IN LIEU OF CONSTRUCTION

For all or part of the road frontage improvements required by Section 1007; located within the Portland Metropolitan Urban Growth Boundary (UGB) and required for a partition, a two- or three-family dwelling (where no more than one such dwelling is proposed), an attached or detached single-family dwelling, or a manufactured dwelling; the developer may elect to pay a fee in lieu of construction as follows. ()

- A. The fee in lieu of construction may be paid if the road frontage improvements are located on a local or collector road that is not identified on Comprehensive Plan Map V-8, *Essential Pedestrian Network*, and payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; or ()
- B. The fee in lieu of construction may be paid if the road frontage improvements are located on a road that is identified on Comprehensive Plan Map V-8, *Essential Pedestrian Network*; payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; and at least one of the following criteria is met:
  1. The improvements are included in the Five-Year Capital Improvement Program;
  2. The improvements are located on a road where significant topographical or natural feature constraints exist; or

3. The improvements are located on a local or collector road where a sidewalk or pathway does not exist within 200 feet of the required improvements.
- C. For a two-family dwelling, a detached single-family dwelling, an attached single-family dwelling where two dwelling units are attached to one another, or a manufactured dwelling, the fee in lieu of construction shall be \$25.00 per lineal foot of frontage. The fee shall be adjusted annually to account for the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index. The annual adjustment shall be made in January on the date that the ENR publishes its first index of the year.
  - D. For a partition, a three-family dwelling, or an attached single-family dwelling where three or more dwelling units are attached to one another, the fee in lieu of construction shall be equal to the estimated cost of constructing the required frontage improvements and shall be calculated as follows.
    1. A frontage improvement cost construction estimate acceptable to the Department of Transportation and Development shall be completed by an engineer who is registered by the State of Oregon.
    2. The elements to be considered when calculating the fee shall include, but shall not necessarily be limited to, mobilization/start-up, grading, rock, drainage, asphalt, curb, sidewalk, and retaining wall.
  - E. All fees in lieu of improvements collected, and interest thereon, shall be placed in a "Sidewalk Improvement Fund." Fees shall be spent on sidewalk or pedestrian pathway construction on local or collector roads within the UGB.

[Moved from Subsection 1007.03 (renumbered as 1007.04) and amended by Ord. ZDO-224, 5/31/11]

**1016 MULTI-USE DEVELOPMENT**

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1016.01 PURPOSE

Section 1016 is adopted to:

- A. ~~To~~ Implement the goals and policies of the Comprehensive Plan for multi-use developments;
- B. ~~To~~ Accommodate and encourage innovation and design excellence in the development of multi-use centers containing a mixture of different uses in close proximity;
- C. ~~To~~ Ensure functionally coordinated, aesthetically pleasing, and cohesive site planning and design ~~that~~ which maximizes the benefits of multi-use to all individual components of the development;
- D. ~~To~~ Ensure compatibility of multi-use developments with the surrounding area and minimize off-site impacts associated with the development;
- E. ~~To~~ Provide for the development of sites that, because of their strategic location, can be developed to a higher and better land use development pattern than would otherwise be allowed in the ~~underlying zoning districts in which the sites are located;~~
- F. ~~To~~ Provide focal points for various levels of transportation service (roads, transit, etc.) that can better serve areas of mixed uses and higher concentrations of development;
- G. ~~To~~ Recognize the need for a higher level of economic activity, development and employment ~~that~~ which multi-use developments generally provide in a community;
- H. ~~To~~ Accommodate the changing land use and economic dynamics of the region, including the decentralization of many businesses and services into subregional centers to better serve their clients;
- I. ~~To~~ Recognize and accommodate the need to provide for cultural, social, and entertainment interests of the larger community;
- J. ~~To~~ Recognize the increasing importance of tourism on the economy of the County, and provide for a variety of attractions and tourist-related services to increase the County's share of this market; and
- K. Facilitate the economic objectives of the Comprehensive Plan, and other adopted County plans.

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



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1016.02 AREA OF APPLICATION

Section 1016 may be applied to sites within the Portland Metropolitan Urban Growth Boundary, or the Hoodland Residential or Mountain Recreational Resort zoning districts, when the sites satisfy the following conditions, and the specific development plan satisfies the criteria under Subsection 1016.03:

- A. The zoning underlying district in which the site is located allows mMulti-uUse dDevelopments as a conditional use.
- B. The ownerships or parcels are large enough to satisfy the dimensional requirements under Subsection 1016.08(B).
- C. The subject property and affected area is presently provided with adequate public facilities, services, and transportation networks to support the use, or such facilities, services, and transportation networks are planned to be provided to accommodate the development of the subject property.
- D. The site is suited to and desirable for a mix of different categories of use, one or more of which is not allowed outright in the subject zoning underlying district, considering location, size, shape, access, topography, transportation networks existing or planned for the area, visibility, natural features and existence of improvements and uses which support the higher intensity use of the site associated with mMulti-uUse dDevelopments.
- E. The use of the site for a multi-use development will not substantially limit, impair, or preclude the use of surrounding properties for uses allowed in the zoning underlying district(s) in which the surrounding properties are located.

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

1016.03 PROCEDURE FOR REVIEW OF A MULTI-USE DEVELOPMENT

- A. Conditional Use: A Multi-Use Development shall be a conditional use, subject to public hearing review under the provisions of Section 1300. Approval shall be granted when the applicant demonstrates that the site and master plan satisfy the requirements of this Section.
- B. Conceptual Approval/Master Plan: Application for a Multi-Use Development shall include a master plan for the entire property for which the conditional use is requested. The master plan shall address the standards and requirements of Section 1016, and shall be reviewed by the Design Review Committee pursuant to Section 1102.

The recommendation of the Design Review Committee shall be incorporated into the staff report and recommendation to the Hearings Officer. The application and master plan shall include:

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1. Identification of proposed use categories, square footage of building area included in each category, and percentage of total building/land area to be used for each category of use, satisfying the provisions of Subsection 1016.04.
  2. Identification of major uses - those uses within the development most likely to generate the most traffic, or otherwise impact public services and facilities - and those uses for which special use provisions have been adopted under Section 800.
  3. A site analysis including the requirements under Subsections 1102.05(A)(7) and (8).
  4. A preliminary site plan including the requirements under Subsections 1102.05(A)(9) through (12), and addressing the purposes under Subsection 1016.01, the site planning and design objectives under Subsection 1016.09(A), and dimensional requirements under Subsection 1016.08.
  5. Proposed phasing of the development, if applicable to satisfy the requirements of Subsection 1016.04(G).
  6. Other information and plans necessary to address the special use provisions of Section 800 for affected uses within the proposed development.
- C. Final Approval Period: Conditional use approval of a multi-use development 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, or the approval will become void, shall automatically become final if, within two years of the date of approval of the final action approving the master plan and conditional use, the following is accomplished: "Implemented" means:
1. Plans, as required under Subsections 1102.05(A)(7) through (12), are submitted, reviewed, and approved by the Design Review Committee, and staff; and
  2. All major development permits shall be obtained and maintained for the approved multi-use development. A "major development permit" is:
    - a. A building permit for a new primary structure that was part of the multi-use development approval; or
    - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the multi-use development approval.

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2. ~~At least one building permit for a major component of the development is issued and construction is actively pursued.~~
  3. In the case of phased developments, the initial application shall specify a timetable for each phase. This proposed timetable shall be subject to review, modification, and/or approval by the Hearings Officer.
- D. ~~Time Extension: If the conditional use approval of a multi-use development is not implemented within the initial approval period established by Subsection 1016.03(C), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.~~
- D. ~~Expiration of Approval/Time Extensions: The conditional use approval of a Multi-Use Development, or any phase thereof, shall expire if the provisions under Subsection 1016.03(C) are not satisfied. Time extensions of up to three years each may be granted by the Planning Director, pursuant to Subsection 1305.02, when the following conditions and findings are satisfied:~~
1. ~~A time extension must be requested in writing at least 30 days prior to the expiration of the approval.~~
  1. ~~The applicant demonstrates:~~
    - a. ~~There exists good cause for the failure to proceed with final approval and construction of the development.~~
    - b. ~~There is reasonable expectancy that the final plans will be submitted for approval, and building permits will be issued within the extension period.~~
- E. ~~Modification of Approved Plans: A major modification to an approved multi-use development shall be subject to the same procedure as the original application. Minor modifications shall be subject to review and approval by the Design Review Committee. All other modifications shall be subject to the same procedure as the original application.~~
1. ~~Criteria for Determination of Major or Minor Status: The Planning Director shall determine the status of a proposed modification. A modification shall be considered minor only if the portion of the Master Plan being proposed for change:~~
    - a. Is consistent with the conditions of the prior approval;
    - b. Complies with the provisions of Section 1016 which are in effect at the time of the modification request;
    - c. Does not involve a change in use which results in any of the following:

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- i. ~~The~~ addition of a new category of use not included in the original application;
  - ii. ~~The~~ deletion of a category of use approved in the original application;
  - iii. ~~An~~ increase in the square footage of land area (la) or floor area (fa) exceeding five percent of the "limited" uses, or 10 percent of the "permitted" and/or "required" uses approved in the Master Plan; ~~or~~
  - iv. ~~The~~ addition of a major use, such as a large commercial amusement, public use, entertainment, or educational facility, which will generate more traffic or use more public facility capacity than anticipated in the findings or record supporting the original application approval;
- d. Will not result in an increase in traffic or use of public facilities which exceed those capacities on which the original approval was based;
  - e. Will not cause a disturbance to an open space feature, as defined in Subsection 1011.02, and identified and preserved in the Master Plan approval; and
  - f. Does not result in a reduction in required pavement widths or a change in major access locations or major circulation patterns which force more traffic maneuvers onto public, County, or State roads.
2. ~~Review of a Minor Modification:~~ A modification ~~that~~ which satisfies the criteria under Subsection 1016.03(E)(1) shall be reviewed by the Design Review Committee. The Committee may approve, deny, or approve with conditions the proposed modification, in consideration of the following:
- a. The Ordinance provisions in effect at the time of the original approval of the Master Plan for the development; ~~and~~
  - b. The consistency of the proposed modification with the design approved in the Master Plan, including site layout, architectural design, vehicle and pedestrian circulation, transit amenities, parking areas, scale of structures and treatment of open spaces, plazas, and landscaping.

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

1016.04 DETERMINATION OF USES

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The following provisions shall determine the uses allowed in a multi-use development. See Table 1016-1 for specific information about what categories of use may be allowed in each district.

- A. Use Selection: Uses shall be selected from those categories (or subcategories) of uses which are "Required," "Permitted" or "Limited" in the underlying district, as specified in Table 1016-1.
- B. "Required" Uses: Those uses which are "required" shall be included at the minimum percent of floor area or land area specified in Table 1016-1.
- C. "Limited" Uses: The total area occupied by "limited" uses shall not exceed the maximum percent of floor area or land area specified in Table 1016-1.
- D. "Permitted" Uses: Uses which are "permitted" may occupy whatever floor area or land area remains after satisfying the minimum "required" use area and subtracting the amount of "limited" use area proposed in the development.

Total area - ("required" + "limited" areas) = "Permitted" area.

- E. Residential District/"Limited" Uses: In low density residential districts at least one-half of the proposed residential units shall be constructed prior to the introduction of "limited" uses into the development. In multifamily districts limited uses located within the same building as dwelling units may be developed concurrently provided the maximum allowed percent of developed floor area for limited uses is not exceeded at any time.
- F. Residential Districts/"Required" Uses: In residential zoning districts the total land area may be used to calculate the base density, as provided under Section 1012, for the underlying zoning district. At least 80 percent of the base density in the Medium Density Residential and High Density Residential zoning districts, and 50 percent of the base density in the Special High Density Residential zoning district shall be provided in the development. Residential units may be clustered to provide for limited uses and preserve natural features or protect restricted areas. However, the density on any acre of land shall not exceed that allowed in the next highest residential Comprehensive Plan category.
- G. Commercial/Industrial Phased Developments: In commercial or industrial zoning district phased developments, the floor area/land area developed for "limited" uses in each phase shall not exceed the floor area/land area developed for other uses in that phase. An increase in the ratio of "limited" to other uses may be proposed and approved for any phase when other protection measures are used, such as binding development agreements, bonding, or other suitable controls over the total development percentages.

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- H. Minimum Mix: In commercial and industrial districts, the Master Plan shall include uses from at least three of the primary use categories under Subsection 1016.05.

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

1016.05 USE CATEGORIES

Uses listed under the following use categories may be included in a Multi-Use Development when allowed in the zoning district pursuant to Table 1016-1, subject to the requirements under Subsection 1016.04.

A. Office/Manufacturing:

1. Business and professional offices, including legal, financial, architectural, engineering, governmental, manufacturers' representatives, corporate facilities; medical and dental, chiropractic, counseling, and other similar services and clinics; insurance, real estate, travel agencies and membership organization headquarters; studios for artists, photographers, writers, radio and television broadcasting (but not transmission towers).
2. Research and development operations and testing laboratories; manufacturing and assembly of medical equipment, communications equipment, electronic components, measuring and analyzing instruments; printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting and photo finishing; and similar uses, except those prohibited under Subsection 1016.07, provided that no operation shall be conducted or equipment or chemicals used which would create a hazard or offensive noise, odor, vibration, smoke, dust, or other similar condition.
3. Other industrial uses listed under Subsection 602.03 or 603.03.

B. Hospitality/Public Use:

1. Hotels, motels, guest lodges and associated convention facilities; gift shops, newsstands and eating and drinking establishments located within the same building with a motel, hotel, or public use facility; tourist facilities and information services.
2. Health, recreation and exercise facilities, including health clubs, swimming pools, spas, tennis, racquetball, handball courts, golf courses and driving ranges and similar uses.
3. Large scale public use facilities such as auditoriums for live entertainment, operas, concerts and plays; convention facilities not part of a hotel or motel; indoor or outdoor stadia and arenas, spectator sport and multi-use facilities, such as coliseums or domes; exhibition halls, galleries and

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museums; movie theaters; other public use gathering places of similar nature.

4. A "destination restaurant" may be allowed as a "hospitality" use in the Campus Industrial and Office Commercial zoning districts. A "destination restaurant," for purposes of this Ordinance, is a "full menu establishment" (as defined by the U.S. Census Bureau) with no drive-through service, which satisfies five of the criteria listed below. On sites 40 acres or larger, up to two restaurants meeting four of the seven criteria listed below may be allowed as a "hospitality" use.
  - a. Has a minimum seating capacity of 75;
  - b. Specializes in gourmet, ethnic, or specialty cuisine;
  - c. Includes banquet facilities and services;
  - d. Provides live entertainment at least two nights a week;
  - e. Utilizes custom architectural design and/or collections of artistic, cultural, or historic items to produce a distinctive thematic decor or atmosphere;
  - f. Has an OLCC license to serve beer and wine;
  - g. Employs only chefs who have graduated from a recognized culinary institute, or who have outstanding qualifications or reputations for their culinary skills.

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C. Commercial:

1. Neighborhood retail and service commercial uses listed under Subsection 501.03 which primarily serve the tenants and/or residents of the Multi-Use Development and the immediate surrounding area.
2. Commercial amusement uses such as bowling alleys, game rooms, billiard and pool halls, miniature golf, roller or ice skating rinks, and similar uses, but not those included in Category B, or prohibited under Subsection 1016.07.
3. All retail and service commercial uses except those included under Subsection 1016.05(C)(4); eating and drinking establishments except those qualifying as "hospitality" uses under Subsection 1016.05(B); banks, credit unions, and financial institutions.
4. Sales lots and repair services for automobiles, trucks, boats, motorcycles, recreational vehicles, trailers, manufactured dwellings, farm or construction equipment and other heavy machinery; lumber yards, fuel yards, carpentry or sheet metal shops; mini-storage and vehicle storage facilities, moving equipment rental; funeral parlors; gasoline service stations. In the Light Industrial and General Industrial zoning districts, those uses listed above which are allowed as primary uses shall not be included in the "limited" use land area.

D. Residential:

1. Low density residential zoning district primary uses, as specified in the underlying zoning district (i.e., R-7 through R-30 and Hoodland Residential).
2. Medium Density Residential zoning district primary uses, subject to Section 302.
3. High Density Residential zoning district primary uses, subject to Section 303.
4. Special High Density Residential zoning district primary uses, subject to Section 304.
5. Mountain Recreational Resort zoning district primary uses, subject to Section 306.

- E. Educational: Colleges, universities or graduate centers; business, trade and craft schools; specialty schools in the arts, music, counseling, etc.; and rehabilitation and worker training/retraining centers and facilities.

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



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1016.06 ACCESSORY USES

The following uses may be provided in conjunction with any category of use, or uses, approved under Subsection 1016.03.

- A. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.
- B. Transit stations, bus shelters, bike racks, pedestrian amenities, and transit amenities.
- C. Parking structures.
- D. Utility carrier cabinets.
- E. Solar energy systems.
- F. Cogeneration facilities.
- G. Radio and television earth stations and dishes.
- H. Daycare facilities associated with a principal use.
- I. Cafeterias, delicatessens, and other such facilities provided for employees of a principal use.
- J. Recycling collection containers, provided all materials are presorted, no processing occurs on-site, and all materials are stored within an enclosed structure or area between pickup days.
- K. Private recreational facilities as part of a multifamily residential complex.
- L. Helistops.
- M. Rainwater collection systems.
- N. Electric vehicle charging stations .
- O. Other uses and structures customarily accessory and incidental to a primary use, as determined by the Design Review Committee.

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

1016.07 PROHIBITED USES

The following uses shall be prohibited in a multi-use development.

- A. Any category of use, or major use not included on the approved site plan for a multi-use development shall be prohibited in that development. A

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modification of the approved plan, as provided under Subsection 1016.03(E), shall be required prior to the addition of a new category of use or major use.

- B. New dwellings, manufactured dwellings and manufactured dwelling parks, except as permitted within low density or medium density residential districts.
- C. Outdoor storage of materials or products.
- D. Drive-thru window service, except those associated with a bank, credit union, or other financial institution, subject to Section 827.
- E. Industrial uses listed as Conditional Uses in the General Industrial zoning district under Subsection 603.06(A), except as specifically allowed under Subsection 1016.05.

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

1016.08 DIMENSIONAL STANDARDS

- A. The dimensional standards are intended to:
  - 1. Provide for and encourage coordinated development and the most efficient use of property within a multi-use development.
  - 2. Ensure adequate structure separation for light, air, fire safety and protection of all uses and structures within the development, and between the development and uses and structures on adjacent properties.
  - 3. Protect adjacent properties and uses from incompatible uses, and provide adequate buffering and transitioning between different uses within the development.
  - 4. Ensure an attractive appearance through the use of open spaces, setbacks, landscaping and pedestrian amenities, plazas, buffering, and retention of significant natural features.
  - 5. Ensure adequate access to property and minimum traffic conflicts and impacts.
- B. A multi-use development shall comply with the following dimensional requirements:
  - 1. Minimum Site Area: For purposes of this section, "site area" shall be as defined in Subsection 304.09(B).
    - a. Low Density Residential (R-7 through R-30): 30 acres
    - b. Hoodland Residential (HR): 30 acres

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- c. Medium Density Residential (MR-1): 10 acres
  - d. Mountain Recreational Resort (MRR): 10 acres
  - e. High Density Residential (HDR): 5 acres
  - f. Special High Density Residential (SHD): 5 acres
  - g. General Commercial (C-3): 1 acre
  - h. Office Commercial (OC): 10 acres
  - i. Campus Industrial (CI): 20 acres
  - j. Light Industrial (I-2): 10 acres
  - k. General Industrial (I-3): 20 acres
  - l. Open Space Management (OSM): 20 acres
  - m. A site area less than the above requirements may be allowed when such site is physically separated from all other undeveloped or underdeveloped properties in the underlying district.
2. Minimum front yard setbacks:
- a. From major periphery roads: 25 feet.
  - b. From interior access driveways and circulation roads: 10 feet.
3. Minimum side and rear setbacks: 15 feet.
4. Minimum building separation: The minimum separation between a multifamily residential use located in a separate building on the same site, or on an adjacent site, and any building housing another category of use shall be 50 feet. However, this shall not preclude the mixing of multifamily residential with other categories of use within one building.
5. Minimum site area street frontage: 200 feet, except in the C-3 zoning district, the minimum street frontage shall be 100 feet.
6. Maximum building height: Same as underlying zoning district.
7. Minimum landscaping/open space area requirements: The minimum landscaped area standards under Table 1009-1. shall be modified as follows:
- a. In the C-3, I-2, and I-3 zoning districts, a minimum of 20 percent of the net site area shall be utilized for landscaping and open space. In

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phased developments, landscaped areas may be reduced to a minimum of 15 percent for any phase when the applicant demonstrates how the minimum 20-percent requirement will be satisfied.

- b. In the R-7 through R-30, MR-1, HDR, SHD, MRR, HR, OSM, CI, and OC zoning districts, a minimum of 25 percent of the net site area shall be utilized for landscaping and open space. In phased developments, landscaped areas may be reduced to a minimum of 20 percent for any phase when the applicant demonstrates how the minimum 25-percent requirement will be satisfied.

- C. **Exceptions to Dimensional Requirements:** The requirements of this subsection are not subject to modification pursuant to the provisions of Section 900. However, except for minimum landscape provisions, these requirements may be reduced up to 20 percent by the Design Review Committee during the review process when such modification is consistent with the purposes under Subsections 1016.01 and 1016.08(A). The effect of the proposed modification on the natural features of the site and on the use and preservation of solar access shall be considered when applicable. Proposed modifications which exceed 20 percent of the requirement shall be subject to Section 1205.

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

1016.09 DEVELOPMENT STANDARDS

A multi-use development shall comply with the development standards in Section 1000. In addition, the following standards and objectives shall apply:

- A. **Site Planning and Design:** The master plan and siting of individual uses and buildings within a multi-use development shall address the following objectives:
  - 1. **Identity:** To create a stimulating environment through the siting of various uses, the use and articulation of open spaces, structure scale, design and texture, and the provision of pedestrian level amenities to produce a strong "sense of place."
  - 2. **Pedestrian Circulation:** To provide pedestrian access and movement through the site in a manner that maximizes foot traffic exposure to goods and services, and minimizes conflicts with vehicle circulation areas.
  - 3. **Transit:** To maximize the use of mass transit services through the provision of transit and pedestrian facilities and amenities in cooperation with the regional transit provider.
  - 4. **Parking:** To minimize the visual impact of parking areas. This may be accomplished through the use of: landscaping techniques; the

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incorporation of parking structures, as provided under Subsection 1016.09(D); the siting of uses to maximize the "shared parking" provisions of Section 1015; or a combination of these methods.

5. Access/Circulation: To minimize the number of access points onto the site from adjacent roads and provide for traffic circulation between on-site uses, as appropriate.
6. Visual Access/Traffic Impacts: To maximize visibility and access for uses most dependent upon impulse shopping, or off-the-street business while minimizing traffic impacts on other uses within the development.
7. Natural Features: To protect the aesthetic and location advantages provided by the terrain and natural features of the site and minimize the alteration thereof as far as practicable.
8. Impacts: To minimize negative impacts of proposed uses on adjacent properties and uses and ensure the livability of residential areas of the site, when applicable.

B. Building Design: In addition to the provisions of Section 1005, a multi-use development shall require:

1. Buildings and structures to be designed using materials, architectural styling and features, pedestrian plazas and amenities, and color, texture and scale of architectural elements to produce a mix of complimentary styles which are in scale with each other and demonstrate comparable excellence in design and implementation.
2. Buildings housing retail commercial uses shall provide ample window area oriented toward pedestrian walkways or plazas, and, when single-story construction is used, shall incorporate design techniques and elements to enhance the scale of the building(s).

C. Landscaping/Open Space: The minimum percent of landscaping/open space required shall be as specified under Subsection 1016.08(B)(7). In addition to the requirements under Section 1009, the design and development of open space and landscaping in a multi-use development shall:

1. Include street trees and parking area trees which are in scale with the development.
2. Provide a cohesive open space and pedestrian network within the development, with appropriate connections to surrounding properties and uses.
3. Provide pleasing transitions between uses, soften and buffer utility and loading areas, visually break up parking areas into identifiable subareas,

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and provide pleasing textures and variety, particularly next to buildings, along walkways, and within plazas.

4. Include open spaces and plazas which are in scale with the development, invite activity appropriate to adjoining uses, and incorporate plant materials, seating, waste receptacles, lighting, and a focal element such as a fountain, sculpture, mural, or other visual art object.

D. Parking and Circulation: In addition to the standards of Section 1015, the County may require parking structures to serve intensive uses. Factors to be considered include:

1. Topography and other physical characteristics of the site;
2. Effects on distinctive natural features of the site;
3. Effects on surface drainage and associated facilities;
4. Effect on the capacity of the site to absorb the parking and traffic impacts of the intensive use(s);
5. Effects on the quality of the overall site design in addressing the objectives under Subsection 1016.09(A); and
6. The benefits associated with structure parking, such as the increase in development intensity and provision of open space amenities, and the ability or inability of such benefits to recoup the added expense associated with such facilities.

E. Identification/Signing: The provisions of Section 1010 shall be modified as follows:

1. Signing Master Plan: Applications for Multi-Use Developments shall include a comprehensive Signing Plan which shall include:
  - a. elevations illustrating the major sign and sign types;
  - b. maps and drawings indicating location of all proposed signs;
  - c. descriptions of sizes and heights of signs;
  - d. description of how the proposed sign plan satisfies the criteria set forth in this ordinance pertaining to size, design, placement, height, and number of signs.
2. Standards: The Design Review Committee shall review the Signing Master Plan under the provisions of Section 1010, except as specifically provided below:

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- a. **Freestanding Signs:** One freestanding identification sign may be provided on each public, County or State road from which the development takes access. One additional freestanding sign may be allowed on a public, County or State road when the frontage on that road exceeds 1,000 feet, and two or more major access points are provided. In no case shall the number of freestanding signs exceed four for any Multi-Use Development. The maximum size and height for each freestanding sign shall be determined by the Design Review Committee under Subsection 1010.05(A)(3).
  - b. **On-Building Signs:** Individual on-building tenant identification signs shall be allowed under the provisions of Subsection 1010.05(B).
  - c. **Ground-Mounted Signs:** Ground-mounted signs may be used to identify an individual building within a multi-use development provided that:
    - i. no onbuilding sign with the same message is facing in the same direction;
    - ii. the sign area does not exceed 30 square feet;
    - iii. the sign does not exceed five feet in height;
    - iv. architectural features may be added to the sign structure provided the total sign size and height are not increased by more than one-third of the above requirements.
3. **Addresses/Road Signs:** Street addresses shall be clearly displayed on or in front of each separate building or commercial tenant space. The Planning Division may require that interior circulation roads be named. Such names shall be subject to Planning Division approval. Signs identifying roads within the development shall be installed and maintained by the developer or management association. Directional signs to various uses within the development may be included on the road signs.
- F. **Management Association/Easements:** The County may require the formation of a management association or other suitable mechanism approved by the County to assure that the following maintenance and liability duties are adequately addressed:
1. To improve, operate, and maintain common facilities, including open space, landscaping, parking and service areas, streets, recreation areas, signing, and lighting.
  2. To provide and maintain cross-easements between uses and parcels within the development for parking, circulation, drainage facilities, utilities, and similar elements shared in common.

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3. To adopt and enforce restrictions on the use of open space, landscaping, plazas, and service areas, malls, and other public access areas of the site.
4. To maintain liability insurance and pay local taxes, unless other legally binding mechanism is provided.
5. To assess and collect from members their pro rata share of the cost associated with the responsibilities herein described. The association shall be able to adjust the assessment to meet changes as needed.
6. To make revisions to the bylaws as necessary, subject to County review and approval, when the County determines that such changes protect the intent and purpose of this ordinance and are in the public's interest.



**DETERMINATION OF USE CHART (DUC)**

	RESIDENTIAL					COMMERCIAL				INDUSTRIAL			
DISTRICTS	LDR	MR-1	HDR	SHD	MRR	C-3		OC		CI	I-2	I-3	OSM
Minimum Site Area*	30 ac	10 ac	5 ac	5 ac	10 ac	1 ac		10 ac		20 ac	10 ac	20 ac	20 ac
Minimum % <u>R</u> la or fa required	80% la	70% fa	50% fa	50% fa	70% fa	N/A		N/A		60% fa	70% la	70% la	70% la
Minimum % bd required		80% bd	80% bd	50% fa									
Maximum % (L) la or fa allowed	20% la	15% fa	20% fa	25% fa	20% fa	N/A		35% fa		35% fa	10% la	10% la	30% la
<b>CATEGORY A</b>													
1. Offices	(L)	P	P	P	P	P		P		<u>R</u>	P	(L)	(L)
2. High Tech	X	X	X	X	X	P		P		<u>R</u>	<u>R</u>	<u>R</u>	X
3. Other I-2/I-3	X	X	X	X	X	X		X		X	<u>R</u>	<u>R</u>	X
<b>CATEGORY B</b>													
1. Hospitality	X	P	P	P	P	P		P		P	(L)	(L)	(L)
2. Health/Recreation	(L)	P	P	P	P	P		P		P	(L)	(L)	<u>R</u>
3. Public Use/Cultural	X	P	P	P	P	P		P		P	P	P	(L)
<b>CATEGORY C</b>													
1. Neighborhood Commercial	(L)	(L)	(L)	(L)	(L)	P		(L)		(L)	(L)	(L)	(L)
2. Commercial Amusement	X	X	(L)	(L)	(L)	P		(L)		(L)	X	X	(L)

**DETERMINATION OF USE CHART (DUC)**

3. Retail/Service	X	X	X	(L)	X	P		(L)		(L)	X	X	X
4. Strip/Auto	X	X	X	X	X	P		X		X	X	(L)	X
<b>CATEGORY D</b>													
1. Residential (District Density)	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	MR-1 to HDR		HDR		HDR	X	X	X
<b>CATEGORY E</b>													
1. Education	(L)	P	P	P	P	P		P		P	P	P	(L)

**SYMBOL KEY:**

P	Permitted Use
<u>R</u>	Required Use (See Minimum % Required)
la	Land Area
bd	Base Density
(L)	Limited Use (See Maximum % allowed)
X	Prohibited Use
fa	Floor Area
*	See 1016.08(B)(1)(m) and 1016.08(C) for exceptions

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

**1102 DESIGN REVIEW**

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1102.01 APPLICABILITY

Section 1102 applies to all development, redevelopment, expansions, and improvements in all commercial, industrial, and multifamily zoning districts and to other uses as required by the Planning Director, the Hearings Officer, or the Board of County Commissioners. For purposes of this provision, the Medium Density Residential District and the Medium High Density Residential District shall be considered “multifamily zoning districts,” even though attached single-family dwellings are a primary use.

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

1102.02 CRITERIA AND PROCEDURE

- A. A design review application may be approved pursuant to Subsection 1305.02 if the applicant provides evidence substantiating that the proposed development complies with Section 1000, the standards of the zoning district in which the subject property is located, and all other applicable provisions of this Ordinance.
- B. The Planning Director may review and render a decision on an application for design review or forward the application to the Design Review Committee for review and decision. In deciding whether to forward an application to the Design Review Committee, the Planning Director shall consider:
  - 1. The size of the project, including mass of buildings, site area, landscaping, and parking requirements;
  - 2. The presence of natural features, such as wetlands, steep slopes, treed area, and riparian corridors;
  - 3. Visual significance; and
  - 4. Impact on neighboring properties, particularly where a project is adjacent to a residential area.
- C. An application shall be forwarded to the Design Review Committee for review and decision if requested by the applicant or required by the Hearings Officer or the Board of County Commissioners.
- D. The Planning Director may consult with individual members of the Design Review Committee at any point during the evaluation of a design review application or in determining compliance with conditions of design review approval.

E. Design review approval 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, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained for the approved development, or if no major development permits are required to complete the development contemplated by the design review approval, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:

i. A building permit for a new primary structure that was part of the design review approval; or

ii. A permit issued by the County Engineering Division for parking lot or road improvements required by the design review approval.

F. If the design review approval is not implemented within the initial approval period established by Subsection 1102.02(E), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

#### 1102.03 DESIGN REVIEW COMMITTEE

- A. The Board of County Commissioners shall appoint a Design Review Committee and may remove members of the Committee.
- B. Members of the Design Review Committee shall be appointed for a term of four years and may, at the discretion of the Board of County Commissioners, serve more than one term.
- C. The Design Review Committee shall consist of a minimum of seven members and shall include the following:
1. One landscape architect;
  2. One architect;
  3. One registered engineer;
  4. One graphic design representative;

5. One representative from the field of finance or the construction and development industry; and
  6. Two members from the general public, who may be from any discipline or group, including any of the above.
- D. The Design Review Committee shall adopt rules to govern its deliberations and decisions and shall keep a record of its proceedings.

1102.04 PREAPPLICATION CONFERENCE

- A. A preapplication conference between the applicant and the Planning Director shall be required prior to submission of an application for design review.
- B. The following subjects shall be reviewed at the preapplication conference:
  1. Description of existing site conditions, including:
    - a. Property location and size;
    - b. Adjacent land uses and potential cooperation or conflict in land use (e.g., shared parking or need for buffers);
    - c. Access to the site for different modes of transportation, including mass transit, trucks, passenger vehicles, bicycles, and pedestrians;
    - d. Designated Open Space or zoning overlays (e.g. Floodplain Management District; River and Stream Conservation Area; Historic Landmarks, Districts, and Corridors);
    - e. Natural features on the site (e.g., land forms, drainage, wooded areas, large trees, wetlands);
    - f. Existing and potential noise sources; and
    - g. Existing uses, structures, circulation, parking, landscaping, and setbacks;
  2. Development concepts and requirements, including:
    - a. Proposed uses, structures, circulation, parking, landscaping, and setbacks;
    - b. Applicable provisions of this Ordinance, the Comprehensive Plan, and other development regulations administered by the County or other service providers. Emphasis will be on identifying and, if possible, resolving conflicts between regulations; and
    - c. Conditions placed on previous development approvals.

1102.05 SUBMITTAL REQUIREMENTS

- A. An application for design review shall include the following:
1. A completed design review application on a form provided by the County Planning Division;
  2. A narrative describing the proposed use;
  3. Calculations demonstrating compliance with the density standards of Section 1012, if applicable;
  4. An engineering geologic study, if required pursuant to Section 1002 or 1003;
  5. Preliminary statements of feasibility, if required pursuant to Sections 1006 and 1007;
  6. A transportation impact study, if required pursuant to Section 1007;
  7. A vicinity map showing the location of the subject property in relation to adjacent properties, roads, bikeways, pedestrian access, utility access, and manmade or natural site features that cross the boundaries of the subject property;
  8. An existing conditions map of the subject property showing:
    - a. Contour lines at two-foot intervals for slopes of 20 percent or less within an urban growth boundary; contour lines at five-foot intervals for slopes exceeding 20 percent within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information.
    - b. Slope analysis designating portions of the site according to the following slope ranges and identifying the total land area in each category: zero to 20 percent, greater than 20 percent to 35 percent, greater than 35 percent to 50 percent, and greater than 50 percent;
    - c. Drainage;
    - d. Potential hazards to safety, including areas identified as mass movement, flood, soil, or fire hazards pursuant to Section 1003;
    - e. Marsh or wetland areas, underground springs, wildlife habitat areas, and surface features such as earth mounds and large rock outcroppings;

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- f. Location of wooded areas, significant clumps or groves of trees, and specimen conifers, oaks, and other large deciduous trees. Where the site is heavily wooded, an aerial photograph, of a scale not to exceed 1":400', may be submitted and only those trees that will be affected by the proposed development need be sited accurately;
  - g. Location of any overlay zones regulated by Section 700 (e.g. Floodplain Management District, Willamette River Greenway, Historic Landmark);
  - h. Noise sources;
  - i. Sun and wind exposure;
  - j. Significant views; and
  - k. Existing structures, impervious surfaces, utilities, landscaping, and easements;
9. A proposed site plan showing:
- a. The subject property, including contiguous property under the same ownership as the subject property, and adjacent properties;
  - b. Property lines and dimensions for the subject property. Indicate any proposed changes to these;
  - c. Natural features to be retained;
  - d. Location, dimensions, and names of all existing or platted roads or other public ways, easements, and railroad rights-of-way on or adjacent to the subject property;
  - e. The location of at least one temporary benchmark and spot elevations;
  - f. Location and dimensions of structures, impervious surfaces, and utilities, whether proposed or existing and intended to be retained. For phased developments, include future buildings;
  - g. Approximate location and size of storm drainage facilities;
  - h. Relation to transit; location and dimensions of parking and loading areas, including dimensions of individual parking spaces and drive aisles; bikeways and bicycle racks, sidewalks and pedestrian crossings;
  - i. Orientation of structures showing windows and doors;
  - j. Location and type of lighting;

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- k. Service areas for waste disposal, recycling, loading, and delivery;
  - l. Location of mail boxes; and
  - m. Freestanding signs;
10. A grading plan showing location and extent of proposed grading, general contour lines, slope ratios, slope stabilization proposals, and natural resources protection consistent with Sections 1002 and 1003;
11. Architectural drawings, including:
- a. Building elevations, including any building signs. Identify the dimensions, area, color, materials, and means of illumination of such signs;
  - b. Building sections;
  - c. Floor plans;
  - d. Color and type of building materials; and
  - e. Elevation of freestanding sign(s). Identify the dimensions—including total height and height between bottom of sign and ground, area, color, materials, and means of illumination;
12. A general landscape development plan, which shall include the elements required on the proposed site plan and:
- a. Existing plants and groups of plants proposed;
  - b. Description of soil conditions; plans for soil treatment such as stockpiling of topsoil or addition of soil amendments; and plant selection requirements relating to soil conditions;
  - c. Erosion controls, including plant materials and soil stabilization, if any;
  - d. Irrigation system (i.e. underground sprinklers or hose bibs);
  - e. Landscape-related structures such as fences, terraces, decks, patios, shelters and play areas; and
  - f. Open space or recreation areas, if applicable.

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

1102.06 MAINTENANCE



All approved onsite improvements shall be the ongoing responsibility of the property owner or occupant.

1102.07 COMPLIANCE

The development shall be completed pursuant to the approved final plans prior to issuance of a certificate of occupancy, except as provided under Section 1104.

1103 OPEN SPACE REVIEW

1103.01 APPLICABILITY AREA OF APPLICATION

~~Section 1103 applies to~~ Any development ~~that~~ which affects an open space resource described in Section 1011 ~~of this Ordinance~~, and shown generally on ~~the Northwest Urban Area Land Use Plan Map IV-6, North Urban Area Land Use Plan Map~~, as Resource Protection, Major Hazards, or Public and Community Use Open Space.

1103.02 STAFF REVIEW PROCEDURE

- A. ~~In all open space resource areas the~~ County staff shall review the required site analysis and development plans to ~~ensure~~ assure that all Comprehensive Plan policies, Ordinance, and development standards relevant to the open space resource designation are being satisfied.
- B. A staff review team shall be formed from the appropriate divisions within the County Department of Transportation and Development ~~D.T.D~~ to evaluate the material required in Subsection 1103.03 ~~below~~. It shall also:
1. Evaluate the probable impact of the proposed development on relevant natural systems or features, in particular on resources of areawide significance;
  2. Evaluate the potential for conservation easements, public acquisition, dedication, or any other available means of securing parts of the site as a part, trail, or other open space resource; and
  3. Identify alternative development proposals ~~that~~ which better protect the open space resources through the appropriate use of such techniques as density transfers, commonwall structures, multistory buildings, parking structures or under-structure parking, reduced parking requirements near transit lines, etc. The intent of this is to assist the applicant/developer in using the various provisions of the Comprehensive Plan, Ordinances, and development standards to achieve the best possible balance of development and open space protection.
- C. Open space review approval 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, or the approval will become void.
1. "Implemented" means all major development permits shall be obtained and maintained for the approved development, or if no major development

permits are required to complete the development contemplated by the open space review approval, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:

- i. A building or manufactured dwelling placement permit for a new primary structure that was part of the open space review approval; or
- ii. A permit issued by the County Engineering Division for parking lot or road improvements required by the open space review approval.

F. If the design review approval is not implemented within the initial approval period established by Subsection 1103.02(C), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

### 1103.03 SUBMITTAL REQUIREMENTS

An application for open space review shall include the following:

- A. Building or manufactured dwelling placement permit submittal requirements for single-family dwellings on lots of record created prior to January 31, 1980 shall include any materials reasonably necessary for adequate review of the project's impact on the open space resource. Examples are:
  1. A site plan showing existing natural features of the site and existing development, as well as proposed development, tree cutting activity, or other modification of open space resources; and
  2. Cross-section of any area within the open space resource where terrain modifications will occur.
- B. Submittal requirements for ~~minor~~ partitions shall be ~~the same as those normally required~~ identified in ~~under~~ Section 1106.
- C. Submittal requirements for planned unit developments shall include a vicinity map and an existing conditions map as required by Subsections 1102.05(A)(7) and (8), in addition to the other requirements set forth in this Ordinance.
- D. Submittal requirements for commercial, industrial, and multifamily developments shall be those identified in ~~outlined in the Design Review Section of this Ordinance (see~~ Section 1102).

**1104 DEVELOPMENT SCHEDULE, COMPLETION OF IMPROVEMENTS AND BONDING**

~~1104.01 LIMITS ON APPROVAL: Development or construction must be initiated, or plats recorded, as per the approved final development plans within two (2) years of the letter of final development review approval. When the Hearings Officer or Board of County Commissioners specify a time period for commencement of a development, that time period shall supersede~~

~~1104.012~~ OCCUPANCY PERMIT:

Before the occupancy permit is approved, the developer shall construct or install the required improvements or shall provide the County with a deposit, letter of credit, performance bond, or other surety satisfactory to the Planning Director~~staff~~, in which assurance is given to the County that all improvements will be carried out in accordance with the standards of this Ordinance, the terms of the final development review, and other required County permits.

~~1104.023~~ TERMS OF THE BOND OR SURETY:

The surety shall set the time for completion of improvements and shall be sufficient to cover the cost of work for the year that completion is anticipated. The surety shall be forfeited to the County if the permittee does not complete the improvements by the time scheduled. The surety shall remain in the custody of the County until the obligation is completed or the surety is forfeited, or shall be placed in an escrow account available to the County.

~~1104.034~~ NONCOMPLIANCE

- A. If the staff finds that a permittee has not completed improvements as required, staff shall notify, in writing, the permittee and the surety holder of the specific noncompliance. Within ~~thirty (30)~~ days of receipt of the written notice, the permittee or the surety holder shall proceed diligently to complete the obligation.
- B. If the permittee or the surety holder does not commence compliance within ~~thirty (30)~~ days, or has so commenced but fails to proceed diligently to complete the compliance, or the compliance is not completed in accordance with the requirements of the development permit, the County may take any or all of the following actions:
  - 1. Enter upon the site of the development and carry out the improvements necessary to complete the requirements of the development permit;
  - 2. Notify the permittee and the surety holder of the permittee's failure to complete the improvements;

3. Demand payment from the permittee for the costs of completion of the improvements; and
4. Notify the surety holder that the reimbursement for the costs of completion is due and payable to the County, or appropriate as much of a cash deposit, letter of credit, or other assets as is necessary to recover the costs of completion.

1104.045 INSUFFICIENT SURETY:

If the amount of the surety is not sufficient to compensate the County fully for the costs of improvements, the amount due the County is a lien in favor of the County upon the entire real property of the owner of the development subject to the development permit. The lien attaches upon the filing with the County Recorder of notice of the claim for the amount due for the completion of the improvements. The notice shall demand the amount due, allege the insufficiency of the surety to compensate the County fully for the costs of completion of the improvements, and allege the permittee's failure to complete the improvements as required by the development permit and this Ordinance.

1104.056 DAMAGE AND MAINTENANCE:

The developer of any subdivision, partition, or development shall construct, maintain, repair, replace, and shall be responsible for any damage to curbs, sidewalks, pavement, and driveway approaches, shall keep the pavement area free of debris, soil, or foreign matter at all times, shall be responsible for the efficient operation of all sumps or catchbasins in all streets included in the development, for a period of time not exceeding two-(2) years from the date set in the surety for completion of improvements, or until ninety-(90) percent of the units have been constructed, whichever occurs first.

1104.067 COUNTY ASSISTANCE:

Inspections or other assistance shall be provided by the County at reasonable cost to the developer, and may include reimbursement for related materials and services furnished by the County to assist in proper completion of improvements.

**1105 SUBDIVISIONS**

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1105.01 APPLICABILITY

Except as may be otherwise required by Section 808, Oregon Revised Statutes Chapter 97, or other applicable regulations, Section 1105 applies to subdivisions, including subdivisions for cemetery purposes.

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

1105.02 GENERAL PROVISIONS

- A. Subdivisions shall comply with this Ordinance and Oregon Revised Statutes Chapter 92.
- B. Subdivisions are subject to Section 1000.
- C. A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a subdivision.

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

1105.03 SUBMITTAL REQUIREMENTS

- A. Applications for subdivisions shall be submitted to the Planning Division on forms provided by the Planning Division.
- B. Applications shall include 20 copies of the preliminary plat prepared by an Oregon registered professional engineer or professional land surveyor, drawn to a scale of not less than one inch equals 50 feet nor more than one inch equals 200 feet. If the preliminary plat drawings are larger than 11" by 17", a minimum of five reduced-sized, legible copies of the preliminary plat shall be submitted on 8-1/2" by 14" or 11" by 17" paper. The following information shall be provided on the preliminary plat or by separate cover:
  - 1. Complete names, addresses and phone numbers of all property owners, applicants, engineers and land surveyors;
  - 2. Source of domestic water;
  - 3. Method of sewage disposal;
  - 4. Existing zoning;
  - 5. Proposed utilities;
  - 6. Calculations justifying the proposed density pursuant to Section 1012, or for zoning districts not subject to Section 1012, demonstrating compliance with the minimum lot size in the applicable zoning district;

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7. Subdivision name that has been approved pursuant to Subsection 1105.05(D);
8. Date the drawing of the preliminary plat was made;
9. Property description of the proposed subdivision by Tax Lot Numbers, Quarter Section, Section, Range and Township and if available, addresses;
10. North arrow;
11. Vicinity map showing the location of the subdivision relative to well-known landmarks in all directions, at a scale of one inch equals 2,000 feet or some other scale that better depicts the area, and at least four inches by four inches in size;
12. Identification of each lot and block by number;
13. Gross acreage of property being subdivided;
14. Locations, dimensions and area of each lot and tract;
15. Locations and widths of all roads abutting the subdivision site, and their legal and common names and numbers, direction of drainage and approximate grades;
16. Locations and widths of all proposed roads and their proposed names, approximate grades, and radii of curves and note whether public or private;
17. Location and width of legal access to the subdivision, other than public or county roads, if applicable;
18. Contour lines at two-foot intervals if 10 percent slope or less, five-foot intervals if exceeding 10 percent slope within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information;
19. Locations of all seasonal and perennial drainage channels, including their name if known, width, depth and direction of flow;
20. Locations and widths of all existing and proposed easements, to whom they are conveyed and for what purpose(s);
21. Locations and dimensions of all driveways, pedestrian walkways and existing structures on the subject property;
22. Locations and dimensions of all areas to be offered for public dedication and the intended use of such areas;

23. Contiguous property under the same ownership as the subject property, including property descriptions;
  24. Boundaries and type of restricted areas identified in Subsection 1012.05 or 1012.07, as applicable; and
  25. Locations of all significant vegetative areas, including, but not limited to, major wooded areas, specimen trees, and bearing trees.
- C. Any application involving property designated Open Space by the Comprehensive Plan shall also satisfy the submittal requirements of Subsections 1102.05(A)(7) and (8) and Section 1103. The analysis required under these provisions may be incorporated in the subdivision application review process.
  - D. Except for applications submitted pursuant to Subsection 1105.10, each application shall be accompanied by a boundary survey map of the property being platted. The survey map shall be prepared by an Oregon registered professional land surveyor and shall have been accepted for filing with the County Surveyor.
  - E. An application shall be accompanied by preliminary statements of feasibility required pursuant to Sections 1006 and 1007.

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

#### 1105.04 PRELIMINARY PLAT REVIEW

- A. Upon receipt of an application satisfying the submittal requirements of Subsection 1105.03, the Planning Division shall provide notice of the application to the following:
  1. The recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s);
  2. Any city or other entity whose dual-interest or urban growth management agreement involves the subject property and requires such notice;
  3. County Assessor;
  4. County Surveyor;
  5. Sewer district serving, or which could serve, the property;
  6. Water district serving the property;
  7. Surface water management regulatory authority;



8. Fire district serving the property;
  9. Divisions of the Department of Transportation and Development; and
  10. Others deemed by the Planning Director to have an interest in the application.
- B. Those parties provided notice pursuant to Subsection 1105.04(A) shall be given a minimum of 15 calendar days from the date of mailing to reply, unless otherwise prescribed in a dual-interest or urban growth management agreement.
- C. Major subdivisions are all divisions of property creating 11 or more lots in the same calendar year and are subject to review by the Hearings Officer, pursuant to Section 1300.
- D. Minor subdivisions are all divisions of property creating four to 10 lots in the same calendar year and are subject to review by the Planning Director, pursuant to Subsection 1305.02.

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

1105.05 FORM OF FINAL PLAT

- A. The final plat shall be prepared in a form and with information consistent with the relevant provisions of Oregon Revised Statutes (ORS) Chapter 92 and ORS 209.250.
- B. The final plat shall contain, at a minimum, the following information:
1. The lines and names of all streets and other public ways, parks, playgrounds, and easements dedicated to the public or granted for the use of the owners within the subdivision and to whom the easement will be conveyed;
  2. The length and bearings of all straight lines, curves, radii, arcs and the semi-tangents of all curves;
  3. All dimensions along the lot lines of each lot, in feet and decimals of a foot to the nearest hundredth, with the true bearings and any other data necessary for the location of any lot line in the field;
  4. Suitable primary control points, approved by the County Surveyor and description and ties to these control points, to which all dimensions, angles, bearings and similar data given on the plat map shall be referred;
  5. The location and complete physical descriptions of all permanent monuments found or set, including full physical descriptions of Public

Land Survey Corners (monument and accessories) shown on the plat.  
Record references for the found monuments shall be cited;

6. The plat numbers and, if applicable, names of all platted subdivisions, partitions, condominiums and cemeteries, and the legal numbers and names of all roads adjacent to the subdivision;
7. The date(s) monuments were set (so identified), the date(s) the final plat was prepared (so identified), a north arrow and a graphical and an engineering scales;
8. The boundary of the divided tract, with the bearings, curves and distances marked, as determined by a field survey made by an Oregon registered professional land surveyor, and to close with a linear error of closure of not more than one foot in 10,000 feet. In addition, the survey shall be performed with the reference to the Federal Geodetic Control Committee guidelines for third order class II;
9. Any easements or notes required by the County Department of Transportation and Development, County Department of Water Environment Services, other public service providers, or the County Surveyor and the locations, widths, and purposes of all existing easements of record, including instrument numbers; and
10. Open space and common ownerships within the plat shall be labeled as tracts and their use and ownership identified. Labeling of tracts shall be alphabetical beginning with the letter "A" and no missing letters shall be allowed.

C. All Homeowners Association Agreements, Articles, and Bylaws, and other similar items required or proposed shall be submitted with the final plat for review by the Planning Director~~Division~~, Office of County Counsel, and, if requested, by the County Surveyor.

1. The final plat shall not be approved by the Planning Director~~Division~~ until the Homeowners Association Agreement, Articles, and Bylaws are approved.
2. The Homeowners Association Agreement, Articles, and Bylaws shall be consistent with ORS Chapter 92 and ORS Chapter 94, if appropriate.
3. A certificate of formation of a nonprofit corporation, with a state seal, for the Homeowners Association shall be submitted with the final plat for review by the Planning Director~~Division~~.
4. After Planning Director~~Division~~ approval, signed and notarized original documents of the Homeowners Association Agreement, Articles, and Bylaws and the certificate of formation described in Subsection

1105.05(C)(3) shall be submitted for recording at the same time as the final plat is submitted to the County Clerk. The final plat shall contain references to such documents.

- D. Proposed plat names shall be subject to approval by the County Surveyor, pursuant to ORS 92.090. An applicant shall obtain plat name approval prior to submittal of the preliminary plat.

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

#### 1105.06 APPROVAL PERIOD AND TIME EXTENSION

- A. ~~Except as provided under Subsection 1105.07, a~~ Approval of a preliminary plat is valid for ~~two~~four years from the date of the final written decision. If the ~~Ce~~county's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~four~~two-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.
- B. If a final plat is not recorded within the initial approval period established by Subsection 1105.06(A), a two--years of the final written decision approving a preliminary plat, a maximum of three, one yeartime extensions of the approval may be approved by granted as a the Planning Director, decision pursuant to Subsection 1305.02, and subject to Subsection 1305.05, the following provisions:
- ~~1. A time extension shall be requested in writing, on forms provided by the Planning Division, prior to the expiration of preliminary plat approval; and~~
  - ~~2. The applicant shall demonstrate that:~~
    - ~~a. The subdivision is consistent with the provisions of this Ordinance in effect on the date a complete application for a time extension is submitted; and~~
    - ~~b. There exists good cause for failure to record the final plat with the County Clerk; and~~
    - ~~c. There is reasonable expectancy that the final plat will be recorded within the one year extension period; and~~
    - ~~d. There have been no changes in the property or surrounding area that would be cause for reconsideration of the original decision.~~

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

#### 1105.07 PHASING OF A SUBDIVISION

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- A. As part of preliminary plat approval, the Planning Director or Hearings Officer may authorize a phasing plan and schedule to allow final plat review to occur in two or more phases, each of which includes a portion of the subject property. Approval of a phasing plan and schedule may be granted in consideration of such factors as the size of the proposed development, complexity of development issues, required improvements, and other factors deemed relevant by the Planning Director or Hearings Officer.
- B. Approval Periods and Time Extensions:
1. The phasing schedule may provide a preliminary plat approval period for the first phase not to exceed four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.
  2. The phasing schedule may provide a preliminary plat approval period for each subsequent phase not to exceed two years from the end of the prior phase approval period.
  3. Each phase shall be recorded with the County Clerk within the applicable approval period, or the approval of that phase and all subsequent phases will become void.
  4. Except if prohibited by Subsection 1105.07(B)(5), if a final plat for any phase is not recorded within the initial approval period for that phase, a two-year time extension for that phase and all subsequent phases may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.
  5. In no case shall a phasing schedule or any time extensions be granted permitting the recording of any phase more than 10 years after the date of preliminary plat approval.
- C. ~~A~~The total number of lots in all recorded phases of a subdivision shall not exceed the maximum density allowed under Section 1012 for the gross site area included in all such phases.
- D. If one or more open space tracts are required as a condition of approval, the first phase shall include all required open space tracts for the entire subdivision.
- E. Future phases shall be shown upon the initial and subsequent plats as a "Tract Reserved for Future Development".
- F. As deemed necessary by the Planning Director, County Engineering Division, or special districts; dedication of rights-of-way or easements into or through

future phases may be required with the initial or subsequent phases, prior to platting of the final phase.

- ~~B. — If a subdivision is platted in two or more phases, the first phase shall be platted within two years of the date of preliminary approval of the entire subdivision, subject to Subsection 1105.06.~~
- ~~C. — If the Planning Director or the Hearings Officer has authorized a phasing schedule for the recording of subsequent phases, that schedule shall apply.
  - ~~1. The phasing schedule shall be developed in consideration of such factors as the size of the proposed development, complexity of development issues, required improvements, and other factors deemed relevant by the Planning Director or the Hearings Officer.~~~~
- ~~D. — The Planning Director may grant time extensions for recording of the first phase pursuant to Subsection 1105.06.
  - ~~1. The Planning Director may grant modifications to the phasing schedule allowing one additional year for final platting of each subsequent phase, subject to the criteria in Subsection 1105.06.~~
  - ~~1. In no case shall time extensions or modifications to the phasing schedule be granted permitting the recording of any phase more than five years after the date of preliminary approval.~~~~

[Moved from Section 1014 and amended by Ord. ZDO-224, 5/31/11]

#### 1105.08 FINAL PLAT REVIEW

- A. The final plat shall be submitted to the Planning ~~Director~~Division for review. If the plat is consistent with the approved preliminary plat and the conditions of approval have been completed, or guaranteed pursuant to Section 1104, the Planning Director shall signify ~~Planning Division~~ approval by signing the plat.
- B. After Planning ~~Director~~Division approval, the final plat shall be submitted to the following officials for review and approval. Each official shall sign the final plat when satisfied that it meets their individual requirements.
  - 1. County Assessor;
  - 2. County Surveyor;
  - 3. Board of County Commissioners; and
  - 4. County Road Official

- C. After all officials have signed the final plat, it shall be submitted to the County Clerk for recording. When the County Clerk is satisfied with the final plat, it shall be signed, assigned a permanent file number, and placed in the permanent file records of the County Clerk.

[Renumbered and amended by Ord. ZDO-224, 5/31/11]

1105.09 REPLATS OF RECORDED SUBDIVISION PLATS

- A. If a subdivision plat, or any portion thereof, is replatted, the number of lots in the replatted area shall not exceed the number previously approved for the area, unless all of the following provisions are satisfied:
1. The gross site area of the affected subdivision plat is increased, or is of sufficient size to allow additional lots, or the zoning on the property has been changed since the previous approval, permitting a greater density on all, or part, of the original platted area.
  2. The allowed density is recalculated under Section 1012 on the basis of the gross site area of the original platted area of the subdivision and any additions to the gross site area, and, if applicable, on the basis of the new zoning.
  3. All existing lots within the subdivision plat which are not affected by the replat, including additional parcels or lots which may be created by partition or subdivision under existing zoning, shall be subtracted from the base density of the original plat area in determining allowed density for the replatted portion.
  4. All open space requirements of the original subdivision, if applicable, shall be satisfied by the replatted subdivision, or portion thereof.
  5. The replat application shall be signed by all owners of the property within the portion of the plat being replatted.
  6. The replatted subdivision, or portion thereof, including any additional site area, shall be reviewed and approved under the same standards and procedures as a new land division of the same size.
  7. Notice of the Planning Director decision or public hearing on the proposed replat shall be sent to all owners of lots within the original plat.

[Moved from Section 1014 and amended by Ord. ZDO-224, 5/31/11]

1105.10 VACATION OF RECORDED PLATS OR PORTIONS THEREOF

- A. The county may initiate proceedings to vacate public property pursuant to Oregon Revised Statutes (ORS) 92.205 through 92.245, ORS 368.326 through

368.366, or other applicable statutes. The property owner may initiate vacation proceedings of public or private property by filing with the Planning ~~Director~~ Division an application that includes the following:

1. A description of the property proposed to be vacated, including any recorded legal descriptions or recorded plat;
  2. A recent title report on each property proposed to be vacated that was prepared under the criteria of the County Surveyor;
  3. A statement of the reasons for requesting that the plat, or portions thereof, be vacated;
  4. The complete names, addresses and phone numbers of all persons holding any recorded right, title or interest in or to each property proposed to be vacated;
  5. The complete names, addresses and phone numbers of all persons owning any improvements being constructed on any public property proposed to be vacated;
  6. The complete names, addresses and phone numbers of all persons owning any real property abutting any public property proposed to be vacated; and
  7. If the petition is for vacation of property that will be redivided in any manner, a preliminary subdivision or partition plat showing the proposed redivision.
- B. Approval of a plat vacation request shall be granted only if the vacation is in the public interest. The determination of whether a vacation is in the public interest shall include, but not necessarily be limited to, the following findings:
1. Will not result in the vacation of public roads necessary to serve the area or adjacent properties;
  2. Will not interfere with the need to provide public facilities such as sewer and water; and
  3. Will not jeopardize the potential for development of other properties pursuant to the Comprehensive Plan designation for the area.
- C. Plat vacations shall be reviewed by the Planning Director if the proceedings for vacation were initiated by a petition that contains the notarized signatures of owners and contract purchasers of 100 percent of property proposed to be vacated and abutting any public property proposed to be vacated. The petition must indicate the owners' and contract purchasers' approval of the proposed vacation.

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- D. Except as provided in Subsection 1105.10(C), plat vacations shall be reviewed by the Hearings Officer at a hearing conducted pursuant to Section 1300.
- E. After considering vacation proceedings pursuant to Subsection 1105.10(C) or 1105.10(D), the Hearings Officer or Planning Director shall issue a report and recommendation to the Board of County Commissioners for granting or denying the vacation of property. The report shall include an assessment of whether the vacation is in the public interest as required by Subsection 1105.10(B). Notice of the Hearings Officer's or Planning Director's recommendation shall be provided pursuant to Section 1300 or Subsection 1305.02, respectively.
- F. The Board of County Commissioners shall consider the Hearings Officer's or Planning Director's recommendation to approve or deny the proposed vacation. If the Board of County Commissioners approves the proposed vacation, the Board Order shall:
1. State that the plat, or portion thereof, is vacated;
  2. Describe the exact location of each property to be vacated using a description prepared by and bearing the seal and original signature of an Oregon registered professional land surveyor or other appropriate means of description; and
  3. Authorize the County Surveyor to mark the vacation on the plat officially recorded with the County Clerk and on the exact copy filed with the County Surveyor.
- G. The Board Order vacating a plat, or portion thereof, shall be recorded with the County Clerk and certified copies of the recorded order shall be filed with the County Surveyor and the County Assessor. The order shall become effective upon recording.

[Renumbered and amended by Ord. ZDO-224, 5/31/11]



**1106 PARTITIONS**

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1106.01 APPLICABILITY

Section 1106 applies to partitions, except as follows:

- A. Land divisions in the Exclusive Farm Use, Timber, and Ag/Forest zoning districts shall comply with the requirements for land divisions specified in Sections 401, 406, and 407, respectively, and are not subject to the partitioning process described in Section 1106. However, final plats are required pursuant to Subsection 1106.06 and Oregon Revised Statutes (ORS) Chapter 92, except as noted therein or in Subsection 1106.01(B).
- B. Parcels larger than 10 acres (based on the best available records) within a partition plat need not be surveyed; however, all partitions containing parcels smaller than 80 acres (based on the best available records) shall have a final plat that conforms to ORS Chapter 92 and Subsection 1106.06. The plat shall be prepared by an Oregon registered professional land surveyor.

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

1106.02 GENERAL PROVISIONS

- A. Partitions shall comply with this Ordinance and Oregon Revised Statutes Chapter 92.
- B. Partitions are subject to Section 1000.
- C. Development on a parcel in a recorded partition plat is subject to the requirements of the zoning district in which the parcel is located at the time of development.
- D. For partitions creating three parcels, none of the parcels within an approved partition may be redivided within the same calendar year the final partition plat is recorded, except through the subdivision process identified in Section 1105. Additionally, a partition must be recorded prior to submittal of an application for redivision of any parcel.
- E. A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a partition.

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

1106.03 SUBMITTAL REQUIREMENTS FOR PRELIMINARY PLAT REVIEW

- A. Applications for partitions shall be submitted to the Planning Director~~Division~~ on forms provided by the Planning Director~~Division~~.

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- B. Applications shall include a preliminary plat drawn to scale of not less than one inch equals 20 feet nor more than one inch equals 200 feet. The following information shall be provided on the preliminary plat or by separate cover:
1. Complete names, addresses and phone numbers of the owners of the property to be divided;
  2. Property description of the proposed partition by Tax Lot Numbers, Quarter Section, Section, Range and Township and if available, addresses;
  3. Dimensions and size in square feet or acres of all proposed parcels;
  4. Individual parcel designation, e.g. Parcel 1, Parcel 2;
  5. Contiguous property under the same ownership as the subject property, including property descriptions;
  6. North arrow;
  7. All adjacent roads (noting whether public or private), including name and road width;
  8. Location of well(s) or name of water district;
  9. Type of sewage disposal and name of sewer district if applicable;
  10. Zoning;
  11. All existing structures on the property and their setbacks from existing and proposed property lines. Note whether property lines referred to are existing or proposed;
  12. Location of any septic tank(s) and drainfield(s);
  13. Boundaries and type of restricted areas identified in Subsection 1012.05 or 1012.07, as applicable; (3/24/05)
  14. Locations of all seasonal and perennial drainage channels, including their name if known, width, depth and direction of flow;
  15. Other pending applications, including building permits, on the subject property;
  16. All easements, including widths, labeled as existing or proposed; and
  17. Contour lines at two-foot intervals if 10 percent slope or less, five-foot intervals if exceeding 10 percent slope within an urban growth

boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information.

- C. Any application involving property designated Open Space by the Comprehensive Plan shall also satisfy the submittal requirements of Subsections 1102.05(A)(7) and (8) and Section 1103. The analysis required under these provisions may be incorporated in the partition application review process.
- D. An application shall be accompanied by preliminary statements of feasibility required pursuant to Sections 1006 and 1007.

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

#### 1106.04 PRELIMINARY PLAT REVIEW

- A. Upon receipt of an application which satisfies all submittal requirements of Subsection 1106.03, the Planning ~~Director~~ ~~Division~~ shall provide notice of the application to the following:
  - 1. The recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s);
  - 2. Any city or other entity whose dual-interest or urban growth management agreement involves the subject property and requires such notice;
  - 3. Sewer district serving, or which could serve, the property;
  - 4. Water district serving the property;
  - 5. Surface water management regulatory authority;
  - 6. Fire district serving the property;
  - 7. County Assessor;
  - 8. Divisions of the Department of Transportation and Development; and
  - 9. Others deemed by the Planning Director to have an interest in the application.
- B. Those parties provided notice pursuant to Subsection 1106.04(A) shall be given a minimum of 15 calendar days from the date of mailing to reply unless otherwise prescribed in a dual-interest or urban growth management agreement.

- C. Partitions shall be processed as Planning Director decisions pursuant to Subsection 1305.02.

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

1106.05 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval of a preliminary plat is valid for ~~four~~two years from the date of the final written decision. If the ~~Ce~~County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~four~~two-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.

- B. If a final plat is not recorded within the initial approval period established by Subsection 1106.05(A), a two-~~years~~ of the final decision approving a preliminary plat, a single one-year time extension of the approval may be approved by granted as a the Planning Director, decision pursuant to Subsection 1305.02, and subject to Subsection 1305.05 the following provisions:

- ~~1. A time extension shall be requested in writing, on forms provided by the Planning Division, prior to the expiration of preliminary plat approval; and~~
- ~~2. The applicant shall demonstrate that:~~
  - ~~a. The partition is consistent with the provisions of this Ordinance in effect on the date a complete application for a time extension is submitted; and~~
  - ~~b. There exists good cause for the failure to record the final plat with the County Clerk; and~~
  - ~~c. There is reasonable expectancy that the final plat will be recorded within the one-year extension period; and~~
  - ~~d. There have been no changes in the property or surrounding area that would be cause for reconsideration of the original decision.~~

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

1106.06 FINAL PLAT REVIEW

- A. The final plat shall be submitted to the Planning ~~Director~~Division for review. If the final plat is consistent with the approved preliminary plat, and if all conditions of approval have been completed, or guaranteed pursuant to Section 1104, the Planning Director shall signify ~~Planning Division~~ approval by signing the plat and shall transmit the approved plat to the County Surveyor for inspection.

- B. No building or manufactured home placement permit shall be issued, or parcel sold, transferred, or assigned until the final plat has been approved by the County Surveyor and recorded with the County Clerk.

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

#### 1106.07 REPLATS OF PARTITIONS

- A. If a partition, or any portion thereof, is replatted, the number of parcels in the replatted area shall not exceed the number previously approved for the area, unless all of the following provisions are satisfied:
1. The gross site area of the affected partition is increased, or is of sufficient size to allow additional parcels, or the zoning on the property has been changed since the previous approval, permitting a greater density on all, or part, of the original partition.
  2. The allowed density is recalculated under Section 1012 on the basis of the gross site area of the original partition and any additions to the gross site area, and, if applicable, on the basis of the new zoning.
  3. All existing parcels within the partition which are not affected by the replat, including additional parcels which may be created by partition under existing zoning, shall be subtracted from the base density of the original partition area in determining allowed density for the replatted portion.
  4. All open space requirements of the original partition, if applicable, shall be satisfied by the replatted partition, or portion thereof.
  5. The replat application shall be signed by all owners of the property within the portion of the partition being replatted.
  6. The replatted partition, or portion thereof, including any additional site area, shall be reviewed and approved under the same standards and procedures as a new partition.
  7. Notice of the Planning Director decision or public hearing on the proposed replat shall be sent to all owners of lots within the original partition.

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

#### 1106.08 VACATION

All, or a portion of, a recorded partition plat may be vacated pursuant to Subsection 1105.10.

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[Renumbered and amended by Ord. ZDO-224, 5/31/11]

**1107 PROPERTY LINE ADJUSTMENTS**

**1107.01 ~~APPLICABILITY~~APPLICATION OF SECTION**

~~This Section 1107 applies~~ shall apply to all property line adjustments.

**1107.02 DEFINITIONS**

- A. Property Line Adjustment: A relocation of a common property line between two abutting lots of record, where an additional lot of record is not created, and any existing lot of record reduced in size by the adjustment complies with the provisions of this Ordinance.
- B. Lot of Record: See definition in Section 202. As used in this section, the words “lot” and “parcel” are synonymous with the term “lot of record”.
- C. Lot: A single unit of land created by the subdivision of land including the recording of an approved subdivision plat under the provisions of Oregon Revised Statutes (ORS) Chapter 92 ~~of the Oregon Revised Statutes and Section 1105.~~
- D. Parcel: A single unit of land created by the partitioning of land including the recording of an approved partition plat under the provisions of ORS Chapter 92 ~~of the Oregon Revised Statutes and Section 1106.~~
- E. Plat: A final recorded subdivision plat, replat or partition plat consistent with ORS Chapter 92 and this Ordinance.
- F. Property Line: The division line(s) between two abutting lots of record.
- G. Replat: The act of platting the lots, parcels, tracts and/or easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, or to increase or decrease the number of lots in the subdivision or partition.
- H. Undersized Lot or Parcel: A lot of record that does not satisfy the district land area requirement established in Subsection 1012.04 or the minimum lot size established in the underlying zoning district. A lot or parcel of land that is less than the district land area requirement or the minimum lot size and approved pursuant to the flexible-lot-size development provisions of Subsection 1014.04(B) shall not be considered an undersized lot or parcel.

## 1107.03 GENERAL PROVISIONS

Property line adjustments shall be consistent with the following provisions:

- A. Property line adjustments involving lots or parcels of land shall satisfy the setback and lot size provisions of the underlying zoning district except, when located within an urban or rural zoning district, an adjustment between undersized lots or parcels may be granted when the adjustment is consistent with all remaining provisions of this subsection. A lot or parcel exceeding the minimum lot or parcel size of the underlying zoning district shall not be reduced to less than the minimum lot or parcel size of the underlying zoning district. An existing lot or parcel containing at least 3,000 square feet of area shall not be reduced in size such that the resulting size of the lot or parcel is less than 3,000 square feet.
- B. Property line adjustments involving lots or parcels of land with nonconforming setbacks shall be granted provided the adjustment does not further reduce the setback and the adjustment satisfies the remaining provisions of this Section 1107. Setbacks for all existing structures shall be verified by a stamped site plan, or a stamped letter stating that no structures exist, shall be verified prepared by a registered professional land surveyor prior to final Planning Director approval of the required plat or pProperty Line aAdjustment "Record of Survey" map of Record.
- C. A property line adjustment shall be prohibited between lots or parcels of land separated by Urban, Rural, Forest, or Agriculture Plan boundaries, as identified on Comprehensive Plan Map IV-3, Lake Oswego Land Use Plan Map, IV-4, West Linn Land Use Plan Map, IV-5, Oregon City Land Use Plan Map, IV-6, North Urban Area Land Use Plan Map, or IV-7, Non-Urban Area Land Use Plan, and Mt. Hood Corridor Land Use Plan, except an adjustment may be granted when it results in an increase in the size of a lot or parcel of land within a natural resource zoning district. Approval of such an adjustment shall not result in the property qualifying for a rural/natural resource land division pursuant to Subsection 902.01.
- D. A property line adjustment shall not be permitted between lots or parcels of land separated by the Portland Metropolitan Urban Growth Boundary or a Mount Hood urban area village boundary.
- E. A property line adjustment shall not be used to exceed the base density in the underlying zoning district(s).
- F. A property line adjustment application shall not be used to replat duly recorded subdivision or partition plats. For purposes of this section, any proposal to reconfigure property lines within a plat that effectively vacates lots, parcels, tracts, easements, or roads; or increases or decreases the number of lots or parcels; or results in a significant reconfiguration of the plat, as determined by the



Planning Director, shall be considered a replat and reviewed pursuant to the subdivision or partition provisions of this Ordinance.

G. Property line adjustments shall satisfy the requirements of Oregon Revised Statutes Chapter 92 of the Oregon Revised Statutes. ~~The survey requirements for a property line adjustment are waived when:~~

- ~~1. Each of the resulting lots, parcels, or tracts of land are greater than 10 acres in size; or~~
- ~~2. The affected lots or parcels are located within a platted subdivision or partition and the adjusted property line is a distance of even width along the common boundary.~~

H. ~~An approved property line adjustment is valid for one year following the date of approval. If at the end of that time it has not been submitted to the County Surveyor's Office, pursuant to Subsection 1107.07, the approval shall become null and void.~~

#### 1107.04 AGRICULTURAL LANDS ZONING DISTRICTS

A. A property line adjustment shall not be used to reconfigure a lot, parcel, or tract of land, the effect of which is to qualify a lot, parcel, or tract for the siting of a dwelling.

B. A property line adjustment for a lot, parcel, or tract of land in areas designated Agriculture on Comprehensive Plan Map IV-7, Non-Urban Area Land Use Plan, and Mt. Hood Corridor Land Use Plan without an approved homestead, ~~or nonfarm use, or farm or forest management plan~~ may be permitted pursuant to the following provisions:

1. A property line adjustment for a lot, parcel, or tract of land exceeding 80 acres may be approved when the adjustment does not reduce any lot, parcel, or tract of land to less than 80 acres.
2. A property line adjustment for a lot, parcel, or tract of land less than 80 acres may be approved pursuant to the following provisions:
  - a. The property line adjustment will:
    1. Not reduce an undersized lot, parcel, or tract of land more than five percent ; and
    2. Only one reduction is approved pursuant to this provision; or
  - b. The resulting configuration (size) is determined to be at least as

appropriate for the continuation of the existing commercial agricultural enterprise ~~for the on each properties property~~, as compared to the original configuration, provided:

1. It is consistent with applicable provisions of this Ordinance and state regulations;
  2. Previous land use decisions, if any, are modified consistent with applicable provisions of this Ordinance; and
  3. The application is reviewed pursuant to Subsection 1305.02; or
- c. The undersized lot, parcel, or tract of land satisfies the provisions for siting a dwelling not in conjunction with a farm use as required by Oregon Administrative Rules (OAR) 660-33-100(11) and the underlying zoning district, and the application is reviewed pursuant to Subsection 1305.02.
- C. A property line adjustment for a lot, parcel, or tract of land in areas designated Agriculture on Comprehensive Plan Map IV-7 with an approved homestead or nonfarm use may be approved pursuant to the following:
1. Both properties have an approved homestead or nonfarm uses; or
  2. The adjustment affects only one property line and does not result in an increase in the size of the homestead or nonfarm use property; or
  3. The adjustment satisfies the provisions for siting a dwelling not in conjunction with a farm use as required by ~~OAR Oregon Administrative Rules~~ 660-33-100(11) and the underlying zoning district, and the application is reviewed pursuant to Subsection 1305.02.

#### 1107.05 FOREST LANDS ZONING DISTRICTS

- A. A property line adjustment shall not be used to reconfigure a lot, parcel, or tract of land, the effect of which is to qualify a lot, parcel, or tract for the siting of a dwelling.
- B. Property line adjustments for a lot, parcel, or tract of land without an approved homestead, nonforest use, or farm/forest management plan in areas designated Forest on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, and Mt. Hood Corridor Land Use Plan*, may be permitted when the adjustment is consistent with these provisions:
1. Property line adjustments for lots, parcels, or tracts of land exceeding 80 acres may be approved when the adjustment does not reduce any lot, parcel, or tract of land to less than 80 acres.

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2. Property line adjustments for lots, parcels, or tracts of land less than 80 acres may be approved pursuant to the following provisions:

a. The property line adjustment will:

1. Not reduce an undersized lot, parcel, or tract of land more than five percent; and
2. Only one reduction is approved pursuant to this provision.

C. A property line adjustment for a lot, parcel, or tract of land with an approved homestead or nonforest use in areas designated Forest on Comprehensive Plan Map IV-7 may be approved pursuant to the following:

1. Both properties have an approved homestead or nonforest uses; or
2. The adjustment affects only one property line and does not result in an increase in the size of the homestead or nonfarm use property.

1107.06 SUBMITTAL REQUIREMENTS

A. Applications for property line adjustments shall be submitted to the Planning Division on forms provided by the Planning Director~~Department of Transportation and Development~~.

B. Each application shall be accompanied by a tentative plan drawn to scale of not less than one inch equals 20 feet nor more than one inch equals 200 feet, and containing at a minimum, the following:

1. Complete names, addresses, and phone numbers of the owners of the tracts to be adjusted;
2. Description of the subject properties by Tax Lot Numbers, Quarter Section, Section, Township, and Range and if available, addresses;
3. Dimensions and size in square feet or acres of all proposed tracts to be adjusted;
4. Identification arrows showing the property proposed to be transferred;
5. Adjacent tracts under the same ownership as the subject properties, including description by Tax Lot Numbers, Quarter Section, Section, Township, and Range and, if available, addresses;
6. North arrow;

7. Adjacent roads (noting whether public or private), including name and road width;
8. Location of wells or name of water district, if applicable;
9. Type of sewage disposal or name of sewer district, if applicable;
10. Zoning;
11. All existing structures on the tracts and their setbacks to property lines. Note whether property lines referred to are existing or proposed;
12. Location of any septic tanks and drainfields;
13. Natural drainage ways, streams, wetlands, or other significant natural features of the tracts;
14. Other pending applications, including building permits, on the subject tracts; and
15. All easements, including widths and types, labeled as existing or proposed, specifically noting the use and whom they serve.

1107.07 REVIEW PROCESS

- A. Procedural Criteria: An application for a property line adjustment shall be processed pursuant to Subsection 104.01(CA), except when processing pursuant to Subsection 1305.02 is specifically required by this Section 1107.
- B. Approval Period: Approval of a property line adjustment application is valid for two 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 two-year period, the requirements of Subsection 1107.07(E) shall be satisfied, or the approval will become void.
- ~~C.B.~~ Property Line Adjustment-Draft Record of Survey or Plat: Within one year of a final decision approving the tentative plan~~Prior to filing of the final property line adjustment "Record of Survey" map (record of survey) or recordation of the final plat, two a copies copy of a draft record of survey or plat~~Property Line Adjustment Record of Survey map shall be submitted to the Planning Director~~Division~~ for review.
- ~~D.C.~~ Final Planning Director Approval of the Record of Survey or Plat: If the record of survey or plat~~Property Line Adjustment Record of Survey map is consistent with the approved tentative plan, and if all conditions of planning~~

approval have been satisfied, the Planning Director shall sign the record of survey or plat~~Property Line Adjustment Record of Survey map~~.

- ED. Filing and Recording of the Record of Survey and Deed(s), or Recordation of the Plat: The record of survey~~Property Line Adjustment Record of Survey map~~ shall be filed with the County Surveyor's Office pursuant to the standards and procedures of that office, the County Code and the relevant provisions of Oregon Revised Statutes (ORS) Chapters 92 and 209. Additionally, revised legal descriptions of the properties affected by the adjustment shall be prepared by a registered professional land surveyor, refer to the record of survey that is filed at the County Surveyor's Office, and be recorded with the County Clerk. Alternatively, if required, a plat consistent with the County Surveyor's standards and procedures, County Code, and the relevant provisions of ORS Chapters 92 and 209 shall be recorded with the County Clerk.
- FE. Deed Requirements: A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to the original recorded documents, and signatures of all parties with proper acknowledgement.
- GF. Building Permits: No building permits shall be issued for a tract that is dependent upon a property line adjustment until the record of survey~~Property Line Adjustment Record of Survey map~~ and the revised legal descriptions of the subject properties have been submitted to the County Surveyor's Office and recorded with the County Clerk, or until the plat is recorded with the County Clerk.

**1202 ZONE CHANGE**

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1202.01 APPROVAL CRITERIA

The Hearings Officer may approve a zone change, pursuant to Section 1300, if the applicant provides evidence substantiating the following:

- A. Approval of the zone change request is consistent with the Comprehensive Plan;
- B. If development under the new zoning district designation has a need for public sanitary sewer, surface water management, and/or water service, it can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.
- C. The transportation system is adequate, as defined in Subsection 1007.09(D), and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are exempt from ~~this~~ Subsection 1202.01(C). For the purpose of this criterion:
  - 1. The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a 20~~twenty~~-year period beginning with the year that a complete land use application is submitted.
  - 2. It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.
  - 3. It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.
  - 4. Transportation facility capacity shall be calculated pursuant to Subsection 1007.09(E).
  - 5. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
- D. The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.

- E. Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.

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

1202.02 ALTERNATE ZONING DISTRICT DESIGNATION

An applicant may request that the Hearings Officer approve an alternate zoning district designation if the Hearings Officer finds that the applicant's preferred designation does not comply with the approval criteria but the alternate designation does. An alternate designation may be substituted only if the public notice required pursuant to Section 1302 includes all requested designations in its description of the applicant's proposal.

1202.03 PREAPPLICATION CONFERENCE

A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a zone change.

1202.04 FINAL APPROVAL

Except as provided under Section 501, approval of a zone change is final on the date of the County's final written decision. If the County's final written decision is appealed, approval of a zone change is final on the date of the final appellate decision.

**1203      CONDITIONAL USE**

1203.01    APPROVAL CRITERIA AND PROCEDURE

The Hearings Officer may approve a conditional use, pursuant to Section 1300, if the applicant provides evidence substantiating ~~that all the requirements of this ordinance relative to the proposed use are satisfied and demonstrates that the proposed use satisfies the following criteria:~~

- A.     The use is listed as a conditional use in the underlying zoning district in which the subject property is located.
- B.     The characteristics of the subject property site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
- C.     The proposed use development is consistent with Subsection 1007.09, and safety of the transportation system is adequate to serve the proposed use development.
- D.     The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses allowed in the underlying zoning district(s) in which surrounding properties are located.
- E.     The proposal satisfies the goals and policies of the Comprehensive Plan that apply to the proposed use.
- F.     The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, Section 800, and Section 1000.

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

1203.02    PREAPPLICATION CONFERENCE

A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a conditional use.

1203.023   APPROVAL PERIOD AND TIME EXTENSION

- A.     Except as set forth in Subsection 1203.03(B), approval of a conditional use 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, 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 conditional use approval; or

b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.

B. Approval of a conditional use for the following uses is valid for 10 years from the date of the final written decision. With the exception of the length of the approval period, Subsection 1203.03(A) applies to these uses. Conditional use approval of these uses shall not have the effect of reserving vehicle trips for purposes of evaluating transportation concurrency for other developments. Instead, the vehicle trips these facilities are expected to generate shall be reserved upon design review approval.

~~A. A conditional use approval shall expire if it is not implemented within 2 years from the date of the final written decision unless a lesser time period is specified as a condition of approval or a time extension is approved pursuant to Subsection 1203.03. However, a conditional use approval for the following uses shall expire if the approval is not implemented within 10 years from the date of the final written decision unless a lesser time period is specified as a condition of approval or a time extension is granted pursuant to Subsection 1203.03:~~

1. Public roads;
2. Public schools, including colleges and universities;
3. Public parks;
4. Public safety facilities, including fire and police facilities;
5. Public libraries;
6. Public sanitary sewer facilities;
7. Public surface water management facilities;
8. Public water supply facilities; and
9. ~~Private facilities that are analogous to the public facilities identified above; and~~

10.9. Hospitals.

- ~~B. If the county's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.~~
- ~~C. A conditional use approval is implemented when all necessary permits for development have been secured and are maintained.~~
- ~~D. Conditional use approval of uses identified in Subsections 1203.02(A)(1) through (10) shall not have the effect of reserving vehicle trips for purposes of evaluating transportation concurrency for other developments. Instead, the vehicle trips these facilities are expected to generate shall be reserved upon design review approval.~~
- C. If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.03(A), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.
- D. If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.03(B), a five-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

~~1203.03~~ TIME EXTENSIONS

~~A single, 1 year time extension may be granted for uses that received no more than a 2 year initial approval period. Two, 5 year time extensions for uses identified in Subsections 1203.02(A)(1) through (10) may be granted. Time extensions shall be processed as Planning Director decisions pursuant to Subsection 1305.02 and subject to the following provisions:~~

- ~~A. A time extension shall be requested in writing, on forms provided by the Planning Division, prior to the expiration of the approval; and~~
- ~~B. The applicant shall demonstrate that:
  - ~~1. The conditional use is consistent with the provisions of this ordinance in effect on the date a complete application for a time extension is submitted; and~~
  - ~~1. There is reasonable expectancy that the necessary development permits will be secured within the extension period.~~~~

1203.04~~5~~ SUBMITTAL REQUIREMENTS

An application for a conditional use shall include the following:

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- A. A completed land use application on a form provided by the Planning ~~Director~~ Division;
- B. A completed conditional use supplemental application on a form provided by the Planning ~~Director~~ Division;
- C. Preliminary statements of feasibility required pursuant to Sections 1006 and 1007~~;~~;
- D. A description of the proposed use and specific reason(s) for the request;
- E. A vicinity map showing the relationship of the proposed use to the surrounding area;
- F. A site plan of the subject property, including existing and proposed improvements and other information necessary to address the requirements and conditions associated with the use;
- G. Building profiles of proposed new and remodeled structures;
- H. Information addressing the approval criteria in Subsection 1203.01; and
- I. Any applicable submittal requirements established by ~~an applicable Section 800~~ section.

1205 VARIANCE

1205.01 APPLICABILITY:

~~Under this provision, The applicant a property owner or designate may propose a modification or variance from a standard or requirement of this Ordinance, except when one or more of the following applies:~~

- A. ~~The proposed variance would allow a use which is not permitted in the zoning district in which the subject property is located (see Section 1202, 1204.01, or provisions for Interpretations of this Ordinance by the Hearings Officer);, or~~
- B. ~~Another procedure and/or criteria is specified in thisthe Ordinance for modifying or waiving the particular requirement or standard;,- or~~
- C. ~~Modification of the requirement or standard is prohibited within the zoning district in which the subject property is located;,- or~~
- D. ~~An exception from the requirement or standard is allowed in the zoning district in which the subject property is located;,- or~~
- E. ~~The proposed variance is to the minimum lot size standard or, in the case of a flexible-lot-size or planned unit development, the minimum average lot size standard and would result in reducing the minimum by more than 10 percent. The Ssubsection 1205.01(E) is not applicable to partitions of lots thatwhich are divided by a public road and located in a residential zoning district;,- or~~
- F. ~~The request is for a variance to the minimum lot size standard in the Recreational Residential, Rural Area Residential 2-Acre, Future Urban 10-Acre, Exclusive Farm Use, Timber, or Ag/ForestRR, RA 2, FU 10, EFU, TBR, or AG/F zoning district.~~

1205.02 APPROVAL CRITERIA AND PROCEDURE:

The Planning Director may ~~approve~~allow a variance from a requirement or standard of this Ordinance, ~~as provided under 1205.01, above, subject to the provisions of pursuant to Ssubsection 1305.02, if provided that~~ the applicant provides evidence substantiating the following:

- A. Compliance with the applicable requirement or standard of ~~this~~the Ordinance would create a hardship due to one or more of the following conditions:
  - 1. The physical characteristics of the land, improvements, or uses are not typical of the area. When the requested variance is needed to correct an existing violation, that violation shall not be considered as a condition "not typical of the area".

2. The property cannot be developed to an extent comparable with other similar properties in the area if the requirement or standard is satisfied.
  3. Compliance with the requirement or standard would eliminate a significant natural feature of the property.
  4. Compliance with the requirement or standard would reduce or impair the use of solar potential on the subject property or adjacent properties.
- B. Strict adherence to the requirement or standard is unnecessary because the proposed ~~modification or~~ variance from the standard or requirement will reasonably satisfy all the following objectives:
1. Will not adversely affect the function or appearance of the development and use on the subject property;~~s, and~~
  2. Will not impose limitations on other properties and uses in the area, including uses that would be allowed on vacant or underdeveloped properties;~~s, and~~
  3. Will accomplish the purpose(s) for the standard as set forth in this Ordinance.
- C. Approval of the application will allow the property to be used only for purposes authorized by ~~this~~ the Zoning and Development Ordinance; and
- D. Approval of the application complies with the Comprehensive Plan.

1205.03 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval of a variance 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, or the approval will become void.
1. For a variance directly related to an application for a partition or subdivision, "implemented" means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
  2. For any other variance, "implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved variance, "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:

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- a. A building or manufactured dwelling placement permit for a new primary structure that was part of the variance approval; or
  - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the variance approval.
- B. If the approval of a variance is not implemented within the initial approval period established by Subsection 1205.03(A), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

**1206 NONCONFORMING USE**

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1206.01 STATUS

A nonconforming use may be continued although not in conformity with the regulations for the ~~zoning district~~zone in which the use is located. Nonconforming use status applies to the lot(s) or parcel(s) upon which the nonconforming use is located and may not be expanded onto another lot or parcel, except as provided under Subsection 1206.05. A change in ownership of, or a change of operator of, a nonconforming use shall be permitted.

1206.02 DISCONTINUATION OF USE

If a nonconforming use is discontinued for a period of more than 12 consecutive months, the use shall not be resumed unless the resumed use conforms with the requirements of this Ordinance and other regulations applicable at the time of the proposed resumption.

1206.03 RESTORATION OR REPLACEMENT

If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, such use may be restored, replaced, and/or re-established consistent with the nature and extent of the use or structure lawfully established at the time of loss, subject to the following conditions:

- A. Alterations or changes to the nature and extent of the nonconforming use as lawfully established prior to the fire, other casualty, or natural disaster shall not be permitted under ~~this~~ Subsection 1206.03, but may be permitted pursuant to Subsection 1206.05.
- B. Physical restoration, replacement, or re-establishment of the nonconforming use shall be lawfully commenced within one year of the occurrence of the damage or destruction. For the purposes of this provision, “lawfully commenced” shall mean the lawful resumption of the nonconforming use and/or the filing of an application for a land use, building, septic, grading, manufactured dwelling or residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin restoration or replacement of the nonconforming use and/or structures.
- C. The nonconforming use status of the use to be restored, replaced, or re-established, and the nature and extent of the nonconforming use, shall be verified pursuant to Subsection 1206.06.

1206.04 MAINTENANCE

Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations as determined by the Planning Director. Normal maintenance may include painting, roofing, siding, interior remodeling, re-paving of access roads and parking/loading areas, replacement of landscaping elements, etc.

1206.05 ALTERATIONS AND CHANGES

- A. Alterations Required by Law: The Planning Director shall permit the alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure, subject to building, plumbing, sanitation, and other specialty code permit requirements in effect at the time the alteration is commenced. The Planning Director shall not impose additional conditions upon the continuation of a nonconforming use when an alteration is required to comply with local or state health or safety requirements, except as provided in Oregon Revised Statutes 215.215 pertaining to the re-establishment of nonfarm uses in an Exclusive Farm Use zoning district.
- B. Alterations Not Required by Law: The Planning Director shall approve an alteration of a nonconforming structure and/or other physical improvements, or a change in the use, pursuant to Subsection 1305.02, if the applicant provides evidence substantiating the following:
1. The alteration in the structure and/or other physical improvements, or change in the use, will, after the imposition of conditions as authorized below, have no greater adverse impact on the neighborhood than the existing use, structure(s), and/or physical improvements; and
  2. The nonconforming use status of the existing use, structure(s), and/or physical improvements is verified pursuant to Subsection 1206.06. The verification and alteration/change requests may be combined as a single application under this subsection.
  3. The Planning Director may impose conditions of approval on any alteration of a nonconforming use, structure(s), or other physical improvements permitted under Subsection 1206.05(B) ~~this section~~, when deemed necessary to ensure the mitigation of any adverse impacts.



1206.06 VERIFICATION OF A NONCONFORMING USE

- A. The Planning Director may approve a request for verification of nonconforming use status, pursuant to Subsection 1305.02, if the applicant:
1. Proves that the nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use; and, the nonconforming use has not been subsequently abandoned or discontinued; or
  2. Proves the existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance provisions.

1206.07 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of an alteration of a nonconforming use, pursuant to Subsection 1206.05(B), is valid for a period of 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, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained for the approved alteration of a nonconforming use, or if no major development permits are required to complete the development contemplated by the approved alteration of a nonconforming use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.

a. A "major development permit" is:

i. A building or manufactured dwelling placement permit for a new primary structure that was part of the alteration of a nonconforming use approval; or

ii. A permit issued by the County Engineering Division for parking lot or road improvements required by the alteration of a nonconforming use approval.

B. Time Extension: If the approval of an alteration of a nonconforming use is not implemented within the initial approval period established by Subsection 1206.07(A), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

1206.087 VESTED RIGHT DETERMINATION

The Planning Director may approve a request for a vested right determination, pursuant to Subsection 1305.02, if the applicant proves that the requested use was vested under common law.

**1301 GENERAL PROVISIONS**

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The review of all administrative actions under this Ordinance shall be subject to Section 1300.

1301.01 DEFINITION AND REVIEW PROCEDURE

A. An administrative action is a proceeding:

1. In which the legal rights, duties, or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.233 and 215.402 to 215.422 or any ordinance, rule, or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard; or
2. Identified as a Planning Director decision by this Ordinance.

B. Hearings Officer, Planning Commission, and Board of County Commissioners responsibilities shall be as follows:

1. The Hearings Officer shall hear all administrative actions identified under Subsection 1301.01(A)(1) and appeals of decisions issued pursuant to Subsection 1301.01(A)(2), except as set forth noted in Subsections 1301.01(B)(2) and (3) below.
2. The Planning Commission shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an application for a Comprehensive Plan amendment on the same property; and appeals of Planning Director Interpretations of the Comprehensive Plan.
  - a. On Comprehensive Plan amendments and concurrent applications on the same property, the Planning Commission shall not render a decision but may forward a recommendation to the Board of County Commissioners.
  - b. On appeals of Planning Director Interpretations of the Comprehensive Plan, the Planning Commission shall make a decision, which shall be final unless appealed to the Board of County Commissioners. An appeal must be in writing and must be received by the Planning Director within 12 days of the date of mailing of the final written decision of the Planning Commission, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.
3. The Board of County Commissioners shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an

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application for a Comprehensive Plan amendment on the same property; and appeals of Planning Commission decisions on interpretations of the Comprehensive Plan. In addition, the Board of County Commissioners may decide to hear an appeal of a Hearings Officer decision on an interpretation of this Ordinance pursuant to Subsection 1304.01. Board of County Commissioners consideration of Comprehensive Plan amendments and concurrent applications on the same property shall follow Planning Commission consideration of these applications.

C. Public Hearing Review Procedures:

1. Planning Commission: An administrative action requiring review by the Planning Commission shall be conducted in accordance with the bylaws adopted by the Planning Commission and the provisions of Section 1300 and Subsection 1402.01(A) and (B).
2. Hearings Officer/Board of County Commissioners: An administrative action requiring review by the Hearings Officer or Board of County Commissioners shall be conducted in accordance with the rules of procedure adopted by the Hearings Officer or Board of County Commissioners and the provisions of Section 1300. This subsection authorizes the Hearings Officer and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.
3. At least seven days prior to the hearing, a copy of the staff report for the hearing shall be available for inspection at the County Planning and Zoning Division and copies shall be provided at reasonable cost.
4. Ex Parte Contact; Hearings Officer: The Hearings Officer shall not:
  - 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 case, unless the parties are afforded an opportunity to contest the material so noted; nor
  - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. The Hearings Officer may inspect the site alone but must put the circumstances of the inspection on record.
5. Ex Parte Contact; Planning Commission and Board of County Commissioners: While every effort must be made to avoid ex parte contact, no decision of the Planning Commission or Board of County

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Commissioners shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1301.01(C)(4), if the member of the Planning Commission or Board of County Commissioners 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.
6. A communication between County staff and the Hearings Officer, Planning Commission, or Board of County Commissioners shall not be considered an ex parte contact for purposes of Subsections 1301.01(C)(4) and (5).

1301.02 APPOINTMENT OF HEARINGS OFFICER

The Hearings Officer shall be appointed by the Board of County Commissioners to serve at the pleasure of and at a salary fixed by the Board of County Commissioners. When the Board of County Commissioners serves as the Hearings Officer, it may be referred to as the "Board of County Commissioners" rather than the "Hearings Officer".

1301.03 INITIATION OF ADMINISTRATIVE ACTION

- A. An administrative action, unless otherwise specifically provided for by this Ordinance, may only be initiated by order of the Board of County Commissioners, or a majority of the whole Planning Commission, or by the petition of the owner, contract purchaser, option holder, or agent of the owner, of the property in question.
- B. A property owner, contract purchaser, option holder, or agent of the owner shall initiate an administrative action by filing a complete application with the Planning Director on forms provided by the Planning Director Division, and accompanied by with the applicable ~~appropriate~~ application fee.

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1301.04 PREAPPLICATION CONFERENCE

- A. When an administrative action is to be initiated by a property owner, contract purchaser, option holder, or agent of an the owner, the applicant or his authorized representative may shall meet and confer with the Planning Director in a preapplication conference for those actions requiring a conference, as specified elsewhere in this Ordinance, at which time views may be exchanged as to the requisites for formal application and the feasibility of approval may be discussed.
- B. For an administrative action not requiring a preapplication conference, the applicant or authorized representative has the option to request a preapplication conference.
- C. A request for a preapplication conference shall be filed with the Planning Director on forms provided by the Planning Director, and accompanied by the applicable fee.
- D. The Planning Director will identify County and outside agency staff with a potential interest in the proposed development, based on the regulations administered by such staff. The Planning Director will notify the identified staff of the preapplication request and invite them to attend the conference or provide comments on the development proposal, as deemed necessary by the Planning Director.
- E. During a preapplication conference, views may be exchanged as to the requisites for formal application and the feasibility of approval may be discussed.

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**1305 ADMINISTRATIVE RESPONSIBILITY OF THE PLANNING DIRECTOR**

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1305.01 DUTIES

The Planning Director, subject to the direction of the Board of County Commissioners, shall perform the following duties:

- A. Schedule and assign cases for initial hearing and review;
- B. Conduct all correspondence of the Hearings Officer;
- C. Give notice as required by this Ordinance;
- D. Maintain dockets and minutes of all initial hearings;
- E. Compile and maintain all necessary records, files, and indexes;
- F. Maintain a filing system for docket control of all matters scheduled for hearing or review;
- G. Enter into the record all continuances, postponements, dates of giving notice, and a summary of all actions taken by the Hearings Officer or other persons pursuant to this Ordinance;
- H. Enter into the minutes the decision upon each matter initially heard and the reasons for the decision;
- I. Serve copies of orders reduced to writing by mail upon any party requesting the same at a fee established by the Board of County Commissioners. There will be no fee charged for such requests by recognized and active community planning organizations;
- J. Reduce orders of the Hearings Officer to writing and file same within a reasonable time; and
- K. Decide all questions of interpretation or applicability to specific properties of any provision of the Comprehensive Plan or this Ordinance. An application for an interpretation shall be processed pursuant to Subsection 1305.03;
- ~~L. Review minor modifications to applications, or conditions thereto, which have been approved under this Ordinance. A modification shall be considered minor if it:
  - ~~1. Is consistent with the prior approval;~~
  - ~~2. Is consistent with all ordinance provisions in effect at the time the modification request is submitted; and~~~~

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3. ~~Does not result in any of the following:~~
- ~~a. A change in the type of use (e.g. commercial, industrial, community service);~~
  - ~~b. An increase of greater than 25 percent of the original approved building floor area;~~
  - ~~c. An increase of greater than 25 percent of the original approved lot coverage;~~
  - ~~d. An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures;~~
  - ~~e. An increase in traffic congestion or use of public facilities;~~
  - ~~f. A reduction in approved open space;~~
  - ~~g. A reduction of off-street parking spaces or loading berths, except as provided under Section 1015; or~~
  - ~~h. A reduction in required pavement widths or a change in major access locations, except as required by the county.~~

~~L. M. Initiate a public hearing before the Hearings Officer for revocation of a prior approval of an administrative action when there is a violation of conditions attached to the previous approval sufficient to merit such revocation. Revocation requests shall be processed pursuant to Section 1300; and~~

~~M. Conduct preapplication conferences prior to filing of an administrative action for application types requiring a conference and, for other application types, when requested by the applicant.~~

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

1305.02 PLANNING DIRECTOR REVIEW

A. Administrative actions that require Planning Director review shall be subject to the following provisions of this subsection. However, an applicant for an administrative action that is subject to Planning Director review may request that such administrative action be heard directly by the Hearings Officer pursuant to Sections 1301 through 1304.

B.A. Notice of Application: Prior to the issuance of a decision by the Planning Director;

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1. A copy of the application shall be sent to the recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s).

2. Written notice of the application shall be provided to cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement.

3. A minimum of 20 days prior to the issuance of a decision, written notice of the application shall be provided to the airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07.

E.B. Decision: The Planning Director may approve the application as submitted, approve the application with conditions, or deny the application. The Planning Director shall prepare written findings justifying the decision.

F.C. Notice of Decision: The Planning Director shall provide notice of the written decision to:

1. The recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s);
2. The applicant;
3. Property owners of record pursuant to Subsections 1302.01(B)(2) and 1302.03;
4. The airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07; and
5. Cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement.

G.D. Appeals: The decision of the Planning Director shall become final unless appealed in writing.

1. ~~The decision of the Planning Director shall become final unless appealed in writing.~~ The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.
2. If appealed, the application shall be reviewed by the Hearings Officer pursuant to Section 1300.

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3. An appeal to the Hearings Officer stays proceedings in the matter appealed until the determination of the appeal.

H.E. Refiling: If an application for an administrative action is denied, or a land use permit is revoked pursuant to Subsection 1305.01(LM), an applicant may refile for consideration of the same or substantially similar application only if:

1. The Planning Director finds that one of the following circumstances renders inapplicable all of the specific reasons for denial:
  - a. A change has occurred in this ordinance, the Comprehensive Plan, or other applicable law which is material to the application; 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 Subsection 1305.01(K);
  - b. A mistake in facts was considered by the hearings authority which was material to the application;
  - 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 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.
2. Except as provided in Subsection 1305.02(EH)(1) a new application cannot be filed until two years after either final denial of an application by the County or revocation of a land use permit.

H.F. Postponements: The applicant may request a postponement pursuant to Subsection 1303.08.

H.G. Reissuing a Decision: The Planning Director may reissue a Planning Director 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. Notice of the reissued decision shall be given in the same manner as notice of the original decision.

1305.03 INTERPRETATIONS

An application for an Interpretation shall be subject to the following provisions:

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- A. The Planning Director has the authority to interpret the Comprehensive Plan and this Ordinance and their applicability to specific properties, except where such authority is specifically granted by this Ordinance to the Hearings Officer.
- ~~B.~~ ~~An application for an Interpretation shall be processed pursuant to this subsection.~~
- ~~C.~~B. Anyone may initiate an application for an Interpretation, except that an application for an Interpretation of the applicability of this Ordinance to a specific property may only be initiated by those parties identified in Subsection 1301.03(A).
- ~~D.~~C. A complete application shall include:
1. A completed land use application on a form provided by the Planning Director ~~Division~~;
  2. Identification of the provision(s) for which an Interpretation is requested;
  3. Identification by tax map designation of the County Assessor of the specific property, if any, to which an Interpretation relates; and
  4. A detailed description of any proposed use, specific circumstances, or other factors necessary to allow the Planning Director to make an Interpretation.
- ~~E.~~D. A minimum of 15 days prior to the issuance of the Planning Director's decision, a copy of the submitted application shall be sent to all recognized and active community planning organizations whose boundaries contain property to which an Interpretation could be applicable.
- ~~F.~~E. The Planning Director shall provide notice of the written decision to the applicant, all recognized and active community planning organizations whose boundaries contain property to which an Interpretation could be applicable, and cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement. In addition, if an Interpretation relates to the applicability of this Ordinance to a specific property, notice of the written decision shall be provided to property owners of record pursuant to Subsections 1302.01(B)(2) and 1302.03.
- ~~G.~~F. The decision of the Planning Director shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. Anyone may appeal the decision. If appealed, ~~an~~ the application for an interpretation of this Ordinance shall be reviewed by the Hearings Officer pursuant to Section 1300. If appealed, an application for an interpretation of the Comprehensive Plan shall be reviewed by the Planning

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Commission pursuant to Section 1300. An appeal stays the proceedings in the matter appealed until the determination of the appeal by the Hearings Officer or Planning Commission, as applicable.

H.G. Interpretations shall be subject to Subsections 1305.02(~~EH~~) through (~~GJ~~).

I.H. An application may not be filed for an Interpretation when the specific question raised in the application has already been decided through another administrative action. A question shall not be deemed to have been decided ~~if~~ the fact circumstances in the previous administrative action differ from those presented in an Interpretation application.

1305.04 MINOR MODIFICATIONS

The Planning Director shall review minor modifications to approved administrative actions, or conditions thereto, subject to the following provisions:

A. A minor modification shall be approved if it:

1. Is consistent with the prior approval;
2. Is consistent with all Ordinance provisions in effect on the date the modification request is submitted; and
3. Does not result in any of the following:
  - a. A change in the type of use (e.g. commercial, industrial, institutional);
  - b. An increase of greater than 25 percent of the original approved building floor area;
  - c. An increase of greater than 25 percent of the original approved lot coverage;
  - d. An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures;
  - e. An increase in traffic congestion or use of public facilities;
  - f. A reduction in approved open space;
  - g. A reduction of off-street parking spaces or loading berths, except as provided under Section 1015; or

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h. A reduction in required pavement widths or a change in major access locations, except as required by the County.

B. Approval Period and Time Extension: Approval of a minor modification is subject to the same approval period and time extension provisions as the application type modified by the approval.

1305.05 TIME EXTENSION

A. When permitted elsewhere in this Ordinance for specific administrative action types, a time extension is subject to the following criteria:

1. A time extension shall be requested in writing, on a form provided by the Planning Director.
2. A time extension shall be filed with the Planning Director prior to the expiration of the initial approval period for the administrative action.
3. The proposed development as originally approved shall be consistent with the relevant provisions of this Ordinance in effect on the date a complete application for a time extension is submitted; and
4. There shall have been no changes on the subject property or in the surrounding area that would be cause for reconsideration of the original decision.

B. If more than one administrative action (e.g. a partition and a variance) was approved for the same, or substantially similar, proposed development, time extension requests for these administrative actions may be consolidated as one application, at the applicant's discretion.

**1703 PLANNED MIXED USE DISTRICT (PMU)**

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[The title of Section 1703 changed by Ord. ZDO-224, 5/31/11]

1703.01 PURPOSE

~~A. This Section 1703 is adopted to implement the policies of the Comprehensive Plan for Planned Mixed Use areas. The purpose of these provisions is to create an area with a mix of land uses, both within the site itself (mix of uses) and within buildings (mixed uses).~~

~~B. Specific requirements are identified for each Planned Mixed Use site. The specific purposes to be achieved in the Master Plan for each site are listed in Table 1703-1.~~

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

1703.02 AREA OF APPLICATION

~~This district is to be applied to those areas which are particularly suited for intensive mixed use development because of proximity to existing or planned public transportation improvements, size and ownership of parcels, good regional access, and proximity to complimentary land uses. Property may be zoned designated Planned Mixed Use District when the site has a Comprehensive Plan designation of been designated Planned Mixed Use and the criteria in Section 1202 are satisfied on the Comprehensive Plan.~~

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

~~1703.03 SPECIFIC REQUIREMENTS FOR PMU SITES~~

~~Each Planned Mixed Use site has specific use and development standards, in addition to other requirements listed in Sections 1000 and 1700. Specific requirements for each are listed in Table 1703-1.~~

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

1703.04 PRIMARY USES

~~A. Allowed and rRequired pPrimary Land uUses for each Planned Mixed Use (PMU) sSite are listed in Table 1703-1. The following are primary uses in the PMU District:~~

~~B. Primary Uses:~~

~~1. A. Office uUses, including: In the PMU zone, "office" refers to structures, designed to accommodate the following uses. Such~~

structures may be either freestanding offices or mixed use buildings, but only space designed for the office uses will meet the requirements for office under the zone. Office uses include:

- a. 1. Business and professional offices, including legal, financial, architectural, engineering, governmental, manufacturing representatives, property management, and corporate and administrative offices;
- b. 2. Medical and dental services, clinics, counseling services, and associated pharmacies;
- c. 3. Graphic arts, printing, blueprinting, photo processing or reproduction labs, publishing and bookbinding services;
- d. 4. Research and development uses that have physical and operational requirements that are similar to other office uses allowed in the PMU this District;
- e. 5. Banks, credit unions, and savings and loan, brokerage, and other financial institutions when located in buildings of at least two stories. Drive-through window services are allowed subject to the provisions of Sections 827 and the Clackamas Regional Center Area Design standards in Section 1700;
- f. 6. Business services such as duplicating, photocopying, mailing and stenographic services, fax and computer facilities;
- g. 7. Employment agencies, business management services, notary public, office and communications equipment and service, and real estate offices;
- h. 8. Colleges, educational institutes, and trade schools; art, music, or dance studios; radio and television studios, excluding transmission towers;
- i. 9. Galleries and museums; small-scale (seating capacity up to 500) assembly or convention facilities, and theaters for performing arts; exhibition halls, libraries, senior centers, and fraternal organizations; and;
- j. 10. Any use that the Planning Director finds to be similar to one or more of those specified above and consistent with the Comprehensive Plan and the purposes of this Section 1703. A request for a determination under this Subsection 1703.04(A)(10) shall be processed as an Interpretation pursuant to Subsection 1305.03.

~~2. B. Retail uses: Retail uses may be located in either freestanding or mixed use buildings unless the specific PMU requirements indicate otherwise. Retail uses, including include the following:~~

~~a. 1. Any retail use listed in the Regional Center Commercial district (Section 1702), except those requiring outside storage or display.~~

~~b. 2. Any use that the Planning Director finds to be similar to one or more of those specified above and consistent with the Comprehensive Plan and the purposes of this Section 1703. A request for a determination under this Subsection 1703.04(B)(2) shall be processed as an Interpretation pursuant to Subsection 1305.03.~~

~~3. C. Multifamily Residential: Residential uses may be located in freestanding or mixed use buildings. Residential uses, including include:~~

~~a. 1. Multifamily dwellings;~~

~~b. 2. Condominiums, subject to Section 803; and~~

~~c. 3. Congregate housing facilities; and~~

~~d. 4. Nursing Homes, subject to Section 810;~~

~~4. D. Open Space: Open space uses, including include the following:~~

~~a. 1. Open space uses as defined in Subsection 702.03;~~

~~b. 2. Public and private plazas;~~

~~c. 3. Greenways as shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*; and~~

~~d. 4. Natural areas, including tree stands, wetlands, waterways, and riparian habitat;~~

~~5. E. Hospitality and Entertainment: Hospitality and entertainment uses, including include the following:~~

~~a. 1. Hotels, including associated convention facilities, gift shops, restaurants, and newsstands located within the same building as the hotel;~~



b. 2. Civic facilities, including: small to mid-size convention and exposition facilities, theaters, auditoriums, libraries, business and fraternal organization facilities, visitor centers;

e. 3. Health and exercise facilities and clubs;

d. 4. Ice rinks;

e. 5. Movie theaters; and

f.a. 6. Any use that the Planning Director finds to be similar to one or more of those specified in Subsections 1703.04(BE)(5)(a) through (e) and consistent with the Comprehensive Plan and the purposes of this Section 1703. A request for a determination under this Subsection 1703.04(E)(6) shall be processed as an Interpretation pursuant to Subsection 1305.03.

~~6. F. Transit Facilities: Freestanding transit facilities, including transit stations or stops, transfer areas, and park-and-ride facilities; and~~

~~7. G. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.~~

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

#### 1703. 05 ACCESSORY USES

The following are accessory uses in the Planned Mixed Use District; ~~may be provided in conjunction with any category of use, or uses, approved under 1703.04.~~

A. Bike racks, pedestrian amenities, and transit amenities;

B. Temporary signs identifying the developer, contractor, or real estate agency responsible for leasing or selling land or buildings within the site area, which signs shall be removed upon sale or lease of the premises advertised;

C. Parking structures;

D. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work;

E. Utility carrier cabinets, subject to the Section 830;

F. Signs, subject to Section 1010;

G. Solar energy systems;

H. Cogeneration ~~Co-generation~~ facilities;

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- I. Radio and television earth stations and dishes;:-
- J. Daycare facilities for employees or residents of a primary use;:-
- K. Cafeterias, delicatessens, and other such facilities provided for employees of a primary use;:-
- L. Recycling collection containers provided all materials are presorted, no processing occurs on-site, and all materials are stored within an enclosed structure or area between pickup days;:-
- M. Accessory uses listed in Subsection Section 1706.04, provided they are accessory to for a multifamily residential use listed in Subsection 1703.04(C) in this district;:-
- N. Helistops;:-
- O. Private recreational facilities for employees or residents of a primary use;:-
- P. Electric vehicle charging stations;-
- Q. Rainwater collection systems; and
- R. Any use or structure that the Planning Director finds to be customarily accessory and incidental to a primary use. A request for a determination under ~~this~~ Subsection 1703.05(R) shall be processed as an Interpretation pursuant to Subsection 1305.03.

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

1703.06 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR ~~(3/14/02)~~

The following use may be approved by the Planning Director pursuant to Subsection 1305.02:

- A. Wireless telecommunication facilities listed in Subsection 835.05, subject to Section 835.

1703.07 PROHIBITED USES

The following uses are ~~shall be~~ prohibited in the Planned Mix Use District ~~development~~:

- A. Uses of structures and land not specifically permitted; Any use not identified as a primary use in subsection 1703.04 or an accessory use in subsection 1703.05

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- B. Sales lots and repair services for automobiles, trucks, boats, motorcycles, recreational vehicles, residential trailers, manufactured dwellings, farm or construction equipment and other heavy machinery;
- ~~B.C.~~ Lumber yards, fuel yards, mini-storage, moving equipment rental, and gasoline service stations;
- ~~C.D.~~ Permanent outdoor storage of materials or products, outdoor sales except temporary sidewalk sales and sidewalk cafes and food vendors;
- ~~D.E.~~ Drive-through window service on a designated Main Streets identified on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*; and
- ~~E.F.~~ Industrial uses.

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

1703.08 DIMENSIONAL STANDARDS

The following dimensional standards shall apply to development in the Planned Mixed Use (PMU) District:

- A. Purpose: The dimensional standards are intended to:
  - 1. ~~Ensure~~Assure coordinated master planning and development, and the most efficient use of ~~PMU~~Planned Mixed Use sites;
  - 2. Encourage the consolidation of larger sites and greater compatibility between new developments and existing uses in an area;
  - 3. Ensure that the minimum operational requirements of the development are provided onsite; and
  - 4. Provide for adequate structure separation to ensure adequate light and air access, fire safety, and protection for all developments and structures within the PMU District and adjoining districts.
- B. Minimum Site Size: Site size requirements for each PMU site are listed in Table 1703-1.
- ~~C.~~ Dimensional requirements which apply to all PMU sites are:
  - ~~1.~~ C. Maximum Front Yard Setback:
    - a. 1. 20 feet from all streets, including private streets as defined in Subsection 1700.03(I)(1), except from Main Streets identified on Comprehensive Plan Map X-

CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*. However, the 20-foot maximum setback may be exceeded to accommodate plazas identified on Comprehensive Plan Map X-CRC-3, and freestanding parking structures are exempt.

b. 2. 10 feet from Main Streets identified on Comprehensive Plan Map X-CRC-3, except the 10-foot maximum setback may be exceeded to accommodate plazas identified on Comprehensive Plan Map X-CRC-3.

e. 3. There shall be no on-site vehicular parking or circulation within the front yard setback

~~2.~~ D. Minimum Rear Yard Setback: None, except when the rear lot line abuts a residential or Open Space Management (OSM) District, in which case the minimum shall be 15 feet.

~~3.~~ E. Minimum Side Yard Setback: None, except when the side lot line abuts a residential or OSM zoning district, in which case the minimum shall be 15 feet.

~~4.~~ F. In lieu of ~~complying with~~ addressing Subsections 1703.08(C)(1) through ~~(E)(3)~~, an applicant for approval on a site of 25 acres or larger may submit for approval alternate setback requirements 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 Subsections 1703.08(C)(1) through ~~(E)(3)~~ in establishing a visual image, sense of place, and quality pedestrian environment for the area, and if they comply with the specific purpose statements for the applicable site listed in Table 1703-1. ~~If approved, the alternative setbacks will be used to evaluate the application.~~

~~D.~~ G. Minimum Landscaping Area: 10 percent of the lot.

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

#### 1703.09 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000, 1100, and 1700.
- B. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan

~~C. Each Planned Mixed Use site shall comply with the specific requirements for that site identified in Table 1703-1.~~

~~C. Density Requirements: Density requirements which apply to Planned Mixed Use (PMU) sites are listed in Table 1703-1.~~

D. Access and Circulation: ~~Onsite cCirculation on-site shall~~ must meet the minimum requirements shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*, and in addition:

- ~~1. Internal Circulation:~~ An internal circulation system shall include a network of public, private, and internal streets subject to Subsection 1700.03(D). Private streets shall function like local streets, with curbs, sidewalks, or raised walking surfaces on both sides, street trees, pedestrian scale lighting, and connections to state, county, or public streets. This internal street network shall create developable sites defined by streets.

In addition, the internal circulation system may include a range of secondary facilities, including service roads, driveways, drive aisles, and other similar facilities. The overall intent is to provide a pattern of access and circulation that provides a clear and logical network of primary streets that have pedestrian orientation and amenities. A secondary network of pedestrian ways and vehicular circulation will supplement this system.

- ~~2. Driveways:~~ Internal driveways shall not be located between buildings and the streets to which building entrances are oriented.

E. Building Siting and Design:

- ~~1. Building Orientation:~~ New buildings shall have at least one public entrance oriented to a state, county, public, or private street.

Buildings shall have first floor windows with views of internal activity or display cases, and the major entrance on the building façade facing the street the building is oriented to. Entrances and windows on the street-side facade shall not be blocked, or entrances locked during operation hours. Additional major entrances may also be allowed facing minor streets and parking areas.

- ~~2. Corner Lot Buildings:~~ Buildings on street corners shall have corner entrances or other architectural features to enhance the pedestrian environment at the intersection.

- ~~3. First floor window requirements:~~ First floor windows or display cases are required on building facades facing and adjacent to public and private

streets, plazas, walkways, and pedestrian areas. Windows and doorways shall not be blocked or entrances locked during operation hours.

4. ~~Structured Parking adjacent to pedestrian facilities:~~ Parking structures located within 20 feet of pedestrian facilities including public or private streets, pedestrian ways, greenways, a transit station or shelter, or plaza, shall provide a quality pedestrian environment on the façade facing the pedestrian facility. Techniques to use include, but are not limited to:
  - a. Provide retail, office or similar uses on the ground floor of the parking structure with windows and activity facing the pedestrian facility; or,
  - b. Provide architectural features that enhance the first floor of the parking structure adjacent to the pedestrian facility, such as building articulation, awnings, canopies, building ornamentation, and art; or,
  - c. Provide pedestrian amenities in the transition area between the parking structure and the pedestrian facility, including landscaping, trellises, trees, seating areas, kiosks, water features with a sitting area, plazas, outdoor eating areas, and drinking fountains.
  - d. The above listed techniques and features, and others of similar nature, must be used so that blank walls are not created.

F. Buffering: When existing residential uses are located adjacent to a PMU site, such uses shall be buffered from the PMU site with landscaped buffers or by the location of streets, parks, plazas, greenways, or low density residential uses in the PMU District.

G. Public Facilities: The County may require the provision of, or participation in, the development of public facility improvements to implement the Clackamas Regional Center Area Plan. Such improvements include, but are not limited to, the following:

1. Road dedications and improvements;
2. Traffic Signals;
3. Transit facilities;
4. Sidewalks, crosswalks, bump-outs and other pedestrian improvements;
5. Storm drainage facilities;
6. Sewer and water service lines and improvements;
7. Underground utilities;

8. Street lights;
  9. Street trees, landscaping; and
  10. Open space, greenways, plazas, and parks.
- H. Maintenance Mechanisms: The County may require the formation of a maintenance agreement or other suitable mechanism to assure that the following maintenance responsibilities are adequately addressed:
1. To improve, operate, and maintain common facilities, including open space, landscaping, parking and service areas, streets, recreation areas, signing, and lighting; and
  2. To maintain landscaping, street furniture, storm drainage, and similar streetscape improvements developed in the public right-of-way.
- I. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

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

#### 1703.10 PROCEDURE FOR REVIEW

All developments in the Planned Mixed Use (PMU) District zones are subject to the procedures listed below:

- A. PMU Permit: Development in this district requires approval of a PMU Planned Mixed Use permit, which consists of two distinct elements—a master plan and design review.
1. Master Plan: ~~Review of a PMU-A mMaster pPlan is subject to Hearings Officer review pursuant to Section 1300.~~
  2. Detailed Site Plan: ~~Review of a detailed site plan is subject to Planning Director review pursuant to Section 1305.02. Design review is subject to Section 1102; however, at the applicant's discretion, the design review application~~ However, a detailed site plan may be reviewed by the Hearings Officer along with thea mMaster pPlan subject to Subsection 1703.10(A)(1).
- B. Preapplication Conference: ~~Prior to submittal of a master plan or site development application, a A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of a master plan or design review application.~~

- C. Submittal Requirements: ~~An~~The application for a PMU permit shall include:
1. ~~Land Use and Transportation~~ Master Plan: A master plan is required for the entire property for which the PMU permit is requested and shall address the standards and requirements of Sections 1000, 1700, and 1703. The master plan shall include:
    - a. General location of all proposed uses and improvements;
    - b. Estimated square feet or number of units of required uses, and density (floor area ratio or units per acre);
    - c. General location of buildings, density (floor area ratio or units per acre), number of stories;
    - d. Proposed area phasing of the development. Each phase must demonstrate compliance with the requirements of this zoning district;
    - e. A traffic impact study;
    - f. Proposed transportation improvements consistent with the Clackamas Regional Center Area Design Plan, including:
      - i. Internal circulation, including auto, transit, pedestrian, and freight service;
      - ii. Transportation connections to the external street system, including off-site circulation, site access, and traffic impacts of development on the overall street system based on the traffic impact study;
      - iii. Private streets, as defined in ~~Subsection~~Section 1700.03(I)(1), to be used to meet building orientation requirements; and
      - iv. Phasing of streets in coordination with phased development;
    - g. Parking ratios for surface parking, total number of parking spaces, type; if structured, location and feasibility (dimensions);
    - h. Open space and significant natural features to be protected, including designated greenways, wetlands, creeks and streams, riparian habitat, and wooded areas;
    - i. Existing or proposed parks;
    - j. Urban Design Elements shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*;



- k. Public facilities and private utilities, including storm detention facilities and water treatment facilities, and general locations; and
  - l. A development narrative that demonstrates compliance with the requirements of ~~the PMU District~~~~this zoning district~~ and with the traffic impact study.
2. ~~Design Review~~~~Detailed Site Plan~~: A detailed site plan is required for each phase of development. The detailed site plan shall meet the requirements under Subsections 1102.05(A)(7) through (12). In addition to the requirements in these subsections, the site plan shall include:
- a. The specific location (footprints) of buildings, orientation, setbacks; and pedestrian amenities provided with buildings;
  - b. Specific square feet or number of units for each use, floor area ratios or site coverage, as required in Table 1703-1;
  - c. Transportation improvements necessary to meet the conditions of the approved master plan;
  - d. Parking areas, parking ratios, number of spaces, dimensions, and circulation for structure parking;
  - e. Location of public amenities, including the urban design elements required on Comprehensive Plan Map X-CRC-3;
  - f. Specific internal traffic circulation improvements for all modes of transportation to accommodate projected traffic needs based on the traffic impact study;
  - g. Public facilities and private utilities needs and location; and
  - h. A development narrative that demonstrates compliance with the requirements of ~~the PMU District~~~~this zoning district~~ and with the traffic impact study.
- D. Master Plan Approval Period: Approval of a master plan is valid for 10 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 ten-year period, the approval shall be implemented, or the approval will become void. "Implemented" means all necessary County development permits shall be obtained and maintained for the development contemplated by the approved master plan.
- E. Master Plan Approval Period Time Extension: If the approval of a master plan is not implemented within the initial approval period established by

Subsection 1703.10(D), a five-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

~~D. Modification of Approved Plans:~~

- ~~1. Minor Modification. The Planning Director shall determine the status of a proposed modification, pursuant to Subsection 1305.01(L). A modification shall be considered minor and thus may be approved by the Planning Director only if the proposed modification:~~
  - ~~a. Is consistent with the conditions of the prior approval;~~
  - ~~a. Complies with all ordinance provisions in effect at the time of the modification, and;~~
  - ~~b. Does not involve a change in use which results in:~~
    - ~~i. The deletion of a category of a required use approved in the original application.~~
    - ~~i. A decrease in the square footage of land area, residential units or floor area exceeding 10 percent of the "Required" uses approved in the Master Plan.~~
    - ~~ii. An increase in the amount of residential units, square footage or floor area exceeding 10 percent of the land uses approved in the master plan, provided the applicant demonstrates compliance with this subsection.~~
    - ~~iii. The addition of a major use, such as a large commercial amusement, public use, entertainment, or educational facility, which will generate more traffic or use more public facility capacity than anticipated in the findings or record supporting the original application approval.~~
    - ~~iv. Eliminating a design element identified on Comprehensive Plan Map X-CRC-3.~~
    - ~~v. Disturbing an open space feature identified for protection in the Master Plan approval.~~
    - ~~vi. A reduction in Level of Service, required pavement widths or a change in major access locations or major circulation patterns which force more traffic maneuvers onto public, County, or State roads, unless required by the County.~~

- ~~2. Review of a Minor Modification: A modification which satisfies the criteria listed above shall be reviewed by the Planning Director pursuant to Section 1305. The Planning Director may approve, deny, or approve with conditions the proposed modification in consideration of the following:
  - ~~a. The consistency with the prior approval.~~
  - ~~a. The consistency of the proposed modification with the design approved in the Master Plan, including site layout, architectural design, vehicle and pedestrian circulation, transit amenities, parking areas, scale of structures and treatment of open spaces, plazas and landscaping.~~~~
- ~~3. Major Modification: A proposed modification not meeting the criteria in subsection 1703.10(D)(1) for a minor modification shall be reviewed as a major modification and is subject to Hearings Officer review pursuant to Section 1300.~~

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

TABLE 1703-1

SPECIFIC REQUIREMENTS FOR PLANNED MIXED USE (PMU) SITES/AREA

PMU Site/Area	Section 1.01 Purpose	Section 1.02 Master Plan Requirements	Uses Allowed but Not Required	Other Requirements
Clackamas Town Center (PMU site 1)	<ul style="list-style-type: none"> <li>• Achieve the highest employment densities in the Clackamas Regional Center area</li> <li>• Provide for development of structured parking</li> <li>• Create a mix of uses, while expanding the site's role as a major retail center</li> <li>• Complement the planned LRT facilities</li> <li>• Create a district accessible by all modes of transportation</li> <li>• Assure that the district is pedestrian accessible and a quality pedestrian environment is created</li> <li>• Protect key natural features</li> <li>• Provide necessary infrastructure for development</li> <li>• Provide for housing opportunities</li> </ul>	<ul style="list-style-type: none"> <li>• Conceptual master plan for the entire site, detailed site plan for any area to be developed</li> <li>• Master plan for a minimum of 525,000 sf of office</li> <li>• Master plan for at least 200 housing units, demonstrate the ability to build a minimum of 600 units</li> <li>• Master plan for a minimum of 500,000 sf of retail, theater, entertainment, hotel or the equivalent</li> <li>• Public plaza of 0.5 to 1.0 acrea—may be adjacent to transit facilities</li> <li>• Transit facilities</li> <li>• Entertainment/recreational facility</li> <li>• Preserve Phillips Creek and enhance Phillips Creek Greenway</li> <li>• Accommodate and provide proportionate share of streetscape improvements on Monterey, 82<sup>nd</sup>, Sunnyside and the internal circulation network</li> <li>• Coordinate internal circulation network with the street and transit system</li> </ul>	<ul style="list-style-type: none"> <li>• Expand the mall with retail or other uses</li> <li>• Office: freestanding or mixed use</li> <li>• Housing: freestanding or mixed use</li> <li>• Retail in built in a mixed use facility, or accessory to structure parking</li> <li>• Hotels</li> <li>• Parking structures and surface parking lots</li> <li>• Freestanding retail if integrated either structurally or through the use of a quality pedestrian environment with the mall</li> </ul>	

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

<p>Clackamas Corner (PMU site 2)</p>	<ul style="list-style-type: none"> <li>• Create a mixed use area with high employment and housing densities, structured parking, and high amenities in urban design</li> <li>• Complement the light rail transit facilities planned adjacent to the site</li> <li>• Create a district accessible by all modes of transportation</li> <li>• Create a walkable district</li> <li>• Provide for essential public facilities and services</li> </ul>	<ul style="list-style-type: none"> <li>• Conceptual master plan for the entire site, detailed site plan for entire site. Minimum site size: two acres</li> <li>• 50% of the site area must be developed in housing or office</li> <li>• Comply with Urban Design Elements map</li> </ul>	<ul style="list-style-type: none"> <li>• 50% of the site area may be developed in freestanding or mixed use retail (RCC retail uses)</li> </ul>	<ul style="list-style-type: none"> <li>• Retail FAR same as RCC</li> <li>• Office FAR same as <u>RCOROC</u></li> <li>• Residential densities same as RCHD</li> </ul>
<p>Toys R Us ODOT (PMU site 3)</p>	<ul style="list-style-type: none"> <li>• Create a mixed use area with high employment and housing densities, structured parking and high amenities in urban design</li> <li>• Complement the light rail transit facilities planned adjacent to the site</li> <li>• Create a district accessible by all modes of transportation</li> <li>• Create a walkable district</li> <li>• Provide for essential public facilities and services</li> </ul>	<ul style="list-style-type: none"> <li>• Conceptual master plan for the entire site, detailed site plan for any area to be developed. Minimum site size: three acres</li> <li>• 50% of the site area must be developed in housing or office</li> <li>• Comply with Urban Design Elements map</li> </ul>	<ul style="list-style-type: none"> <li>• 50% of the site area may be developed in freestanding or mixed use retail</li> </ul>	<ul style="list-style-type: none"> <li>• Retail FAR same as RCC</li> <li>• Office FAR same as <u>RCOROC</u></li> <li>• Residential densities same as RCHD</li> </ul>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

<p>Southwest side of 82<sup>nd</sup> Avenue (PMU site 4)</p>	<ul style="list-style-type: none"> <li>• Create a mixed use area with high employment and housing densities, structured parking, and high amenities in urban design</li> <li>• Complement the Light Rail Transit facilities planned adjacent to the site</li> <li>• Create a district accessible by all modes of transportation</li> <li>• Assure that the district is pedestrian accessible and a quality pedestrian environment is created</li> <li>• Provide for essential public facilities and services</li> </ul>	<ul style="list-style-type: none"> <li>• Conceptual master plan for the entire site, detailed site plan for any area to be developed. Minimum site size: one-half acre</li> <li>• 50% of the site area must be developed in housing or office</li> <li>• Comply with Urban Design Elements map</li> </ul>	<ul style="list-style-type: none"> <li>• 50% of the site area may be developed in freestanding <u>or</u> mixed use retail (RCC retail uses).</li> </ul>	<ul style="list-style-type: none"> <li>• Retail FAR same as RCC</li> <li>• Office FAR same as <u>RCOROC</u></li> <li>• Residential densities same as RCHD</li> </ul>
<p>Southgate (PMU site 5)</p>	<ul style="list-style-type: none"> <li>• Create a mixed use area with high employment and housing densities, structured parking and high amenities in urban design</li> <li>• Complement the LRT facilities planned adjacent to the site</li> <li>• Create a district accessible by all modes of transportation</li> <li>• Create a walkable district</li> <li>• Provide for essential public facilities and services</li> </ul>	<ul style="list-style-type: none"> <li>• Conceptual master plan for entire site</li> <li>• Detailed site plan for any area to be developed. Minimum site size: 10 acres</li> <li>• 50% of the site area must be developed in housing or office. If a mixed use building, must be the equivalent of 50% of the site</li> <li>• Develop local streets, parks and plaza as per Urban Design Elements map of the site</li> </ul>	<ul style="list-style-type: none"> <li>• 50% of the site area may be developed in freestanding or mixed use retail (RCC retail uses)</li> </ul>	<ul style="list-style-type: none"> <li>• Retail FAR same as RCC</li> <li>• Office FAR same as ROC</li> <li>• Residential densities same as RCHD</li> </ul>

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



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

DEPT OF

AUG 31 2011

LAND CONSERVATION  
AND DEVELOPMENT

**Stephen L. Madkour**  
County Counsel

**David W. Anderson**  
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**Kathleen Rastetter**  
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**Chris Storey**  
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Assistants

## CERTIFICATE OF MAILING

I hereby certify that the enclosed Ordinance No. ZDO-230 was deposited in the mail on August 25, 2011

Signed: \_\_\_\_\_

Cheryl J. Cornelison, Administrative Assistant  
Clackamas County Counsel's Office  
(503) 655-8619



**FIRST CLASS MAIL**



**CLACKAMAS**  
COUNTY  
PUBLIC SERVICES BUILDING  
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2051 KAEN ROAD | OREGON CITY, OR 97045

Attn: Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

