CLACKAMAS COUNTY

MIKE MCCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

To: Clackamas County Planning Commission

From: Jennifer Hughes, Principal Planner

Date: October 6, 2015

RE: October 12th Study Session—File No. ZDO-254/Marijuana-Related Land Uses

The purpose of your October 12th study session is to provide background information and policy discussion in preparation for your October 26th public hearing on File ZDO-254, a package of proposed amendments to the Zoning and Development Ordinance (ZDO) to implement land use regulations for production (growing), processing, wholesaling and retailing of medical and recreational marijuana. As you will recall, the Commission held two earlier study sessions (July 27 and August 24, 2015) on marijuana-related land use issues.

Background

The growing and processing of medical marijuana has been permitted in Oregon since the passage of the Oregon Medical Marijuana Act by the voters in 1998, and retail dispensaries have been permitted since 2014. In November 2014, Oregon voters approved Measure 91, legalizing the use of marijuana for personal recreational use. In 2015, the State Legislature approved five bills that amend and provide regulations related to recreational and medical marijuana, the most significant of which from a land use perspective is House Bill 3400. In July, the Board of County Commissioners agreed to proceed with the process of considering new or amended land use regulations for recreational and medical marijuana facilities, to be effective by January 2016. The BCC also agreed to establish an advisory task force of people representing various stakeholder interests to review and discuss key land use issues related to marijuana. Attached are summaries of the four task force meetings that were held.

Recreational marijuana became legal for personal use in Oregon on July 1, 2015. The Oregon Liquor Control Commission (OLCC) is required to adopt administrative rules by January 1, 2016, to administer and implement the law to regulate recreational marijuana purchase, sale, production, processing, transportation and delivery. The OLCC will begin receiving license applications by January 4, 2016, to produce, process, wholesale and retail recreational marijuana. State law gives the

county the authority to adopt "reasonable regulations" regarding recreational marijuana production, processing, wholesaling and retailing and defines these four categories of marijuana-related uses as follows:

- ***Production*** -- manufacture, planting, cultivation, growing or harvesting of marijuana in Oregon
- ***Processing*** -- processing, compounding or conversion of marijuana into cannabinoid products, concentrates, or extracts; excluding packaging or labeling
- ***Wholesaling*** -- purchasing marijuana items in Oregon for resale to a person other than a consumer in Oregon
- ***Retail/dispensary*** -- selling marijuana items to a consumer in Oregon

State law also gives the county the authority to adopt "reasonable regulations" regarding medical marijuana production, processing, and retailing, though the scope of the allowed regulations is somewhat different than permitted for recreational marijuana. (Wholesaling of medical marijuana is not provided for by state law.)

See the attached document titled *Marijuana Land Use in Clackamas County: Overview of Regulation Status and Process, Updated September 22, 2015* for a timeline of county actions to date on marijuana land use regulations and a review of upcoming related meetings. Also attached are an educational PowerPoint presentation on the OLCC rulemaking process and two maps produced by the Association of Oregon Counties that provide a county-by-county comparison of the election results on Measure 91 and the way each county is proceeding with implementation (opt out, opt out referred to the voters, undecided, likely to adopt local regulations, likely to take no action/default to state law).

Current County Regulations and Draft Amendments

The county is responsible for regulating land uses, including those related to recreational and medical marijuana, pursuant to the Zoning and Development Ordinance (ZDO). Currently, marijuana production, processing and sale are no different than any other land use when it comes to administering the ZDO because no standards specific to marijuana-related uses have been adopted. As with other land uses, the zoning districts where marijuana-related uses may locate are identified based on characteristics of the use (growing, processing, wholesaling, retailing or a combination thereof). Medical marijuana-related uses have been regulated in the same manner as other similar uses under the ZDO since medical marijuana was legalized in the late 1990s. For recreational marijuana, the inherent conflict is that related uses may be legally permissible under the construct of the ZDO and yet cannot legally operate until such time as the OLCC issues a license for each facility.

Medical marijuana dispensaries were legalized in Oregon in 2014, and the county adopted a "time, place and manner (TPM)" ordinance for dispensaries in April 2015. This ordinance is part of the county code but is not part of the ZDO. Staff's proposal is to repeal the TPM ordinance to coincide as closely as possible with the adoption of new ZDO regulations. Many of the TPM standards are proposed to be moved to the ZDO, though editing of the text and some substantive changes are proposed. Attached is a copy of Chapter 8.09 of the County Code, which is the TPM ordinance.

The first draft of proposed amendments to the ZDO to implement marijuana-related land use regulations was finalized on September 21, 2015. The draft was provided to the Oregon Department of Land Conservation and Development as required by state law and was posted on the county website. Community planning organizations, hamlets, villages, cities in the county, and other interested parties have been notified of the upcoming public hearings and invited to review the draft amendments and submit testimony. In addition, individual notice was mailed to all landowners in unincorporated Clackamas County.

See the attached document titled *Overview of Proposed DRAFT Marijuana Land Use Regulations for Clackamas County, Updated: October 1, 2015* for a summary of the proposed regulations. Also attached is a complete copy of the draft amendments (19 sections of the ZDO, including one new section—Section 841). Staff would like to draw your attention, in particular, to Section 841, which would implement development standards specific to marijuana production, processing and retailing. Section 841 applies if the table of permitted uses for a particular zoning district says that it applies. The overview document identifies the applicability of Section 841 with asterisks in the summary table.

Staff anticipates finalizing a second draft approximately a week in advance of the Planning Commission's October 26th public hearing.

Policy Questions

Staff has identified three policy questions for discussion on October 12th; however, Commission members are encouraged to come with any other questions they would like to discuss.

1. *Should marijuana production (growing) be permitted in industrial zones?*

The draft ZDO amendments would prohibit marijuana production in all industrial districts.

Under the current ZDO, medical marijuana production has been approved as a primary use in industrial zoning districts. The description of manufacturing that applies in the Business Park, Light Industrial, General Industrial and Rural Industrial

Districts seems to encompass growing of plants and in staff's opinion permits marijuana production as well as other horticultural uses such as the growing of orchids or hydroponic tomatoes. In addition, the Rural Industrial District permits "ornamental and horticultural nurseries."

With legal recreational marijuana production about to come online, however, concerns have been raised about the industry's potential to deplete the county's already scarce industrial land. Also, it has been argued that the legalization of recreational marijuana in Colorado, and the resulting demand for industrial space, has driven land prices and building rents to levels too high for other small businesses to afford.

On the other hand, with concerns about marijuana production focused on security, intrusive grow lights, odor, noise and high water and energy usage, it may be appropriate to allow this use to locate in industrial areas where other uses with similar impacts are permitted and where public services are often available. In addition, this approach has the advantage of allowing growing to occur on the same industrial site as processing and wholesaling, both of which are proposed to be primary uses in the BP, LI, GI and RI Districts.

2. *Should marijuana production and processing be permitted in rural residential districts?*

The first draft of the proposed regulations includes two options for growing and processing in the Rural Residential Farm Forest 5-Acre and Farm Forest 10-Acre Districts: prohibit growing <u>or</u> permit as a primary use with clear and objective development standards to address impacts; prohibit processing <u>or</u> permit as a conditional use. The proposal is to prohibit these uses in the other rural residential districts, which are RA-1, RA-2 and RR.

Under the current ZDO, both "raising, harvesting, and selling crops" and "any other agricultural or horticultural use . . ." are primary uses in the RRFF-5 and FF-10 Districts, and no development standards specific to those uses exist in the ZDO. (Both of these categories of farm use are permitted in RA-2 also. Raising, harvesting, and selling crops is permitted in RR on lots larger than five acres and in RA-1.) Processing of crops is permitted as a conditional use in RRFF-5 and FF-10 under the category of "commercial or processing activities that are in conjunction with farm or forest uses." However, concerns have been raised that the impacts of marijuana growing and processing are unique and impose particular burdens on neighbors (e.g., security, outdoor grow lights, noise from ventilation systems, odor).

3. *Do the development standards proposed in ZDO Section 841 for marijuana-related uses adequately address the anticipated impacts of these uses?*

Refer to the attached draft of ZDO Section 841 for standards that could be applied to production, processing and retailing to mitigate the impacts of these uses. The

proposal is to apply several additional standards to production and processing in the RRFF-5 and FF-10 District as opposed to the Exclusive Farm Use, Ag/Forest and Timber Districts. (Processing is not permitted in TBR under state law.) Also, please note that staff is not proposing to apply the standards of Section 841 to processing in commercial and industrial districts. (Refer to the drafts of the tables of permitted uses in Sections 316, 401, 406, 407, 510, 512, 602 and 604 to see this distinction.)

In large part, the standards for retailing derive from the county's existing "time, place, and manner (TPM)" ordinance adopted as part of the County Code earlier this year. Staff is proposing to replace the existing discretionary odor standard with a more technical one, although it is likely that this standard will be revised somewhat in the second draft of the amendments as staff continues to research the issue. Also, House Bill 3400 prohibits the county from applying a separation distance of greater than 1,000 feet between recreational retailers. Staff's proposal is to replace the existing 2,500-foot buffer in the TPM ordinance with a 1,000-foot standard between recreational retailers and between medical dispensaries.

Other Issues

Building Codes: During prior discussions on marijuana-related land uses, questions have been raised regarding building code standards, particularly in regard to marijuana processing. Staff from the Building Codes Division will attend the study session to address this topic.

Government Agencies: At the Commission's last study session, a question was asked about which government agencies have a role (or potential role) in regulating marijuana-related land uses. Staff cannot say that this is an exhaustive list, but here are those agencies known by staff to have a regulatory role:

Oregon Liquor Control Commission	*Regulates and Licenses Recreational Marijuana Producers, Processors, Wholesalers and Retailers*
Oregon Health Authority	*Regulates and Registers Medical Marijuana Producers, Processors and Dispensaries*
Oregon Water Resources Department	*Issues water rights, which may be required for sites that do not have access to a public or community water system*
Oregon Department of Environmental Quality	*Regulatory authority for a wide range of pollution control programs (e.g., noise, air, water)*

Clackamas County Building Codes	*Administers structural, mechanical, plumbing, and electrical codes*
Service Districts for Water, Sewer and Fire Protection	*Depending on the location of the use, one or more service districts would have jurisdiction over the provision of the applicable service(s).*

Additional Information: If any member of the commission would like additional information in preparation for the October 26th public hearing, it would be helpful if you would request that during the October 12th study session so that staff has adequate time to respond.

<u>Attachments</u>

- ✓ Task Force Meeting Summaries (4 summaries)
- ✓ Marijuana Land Use in Clackamas County: Overview of Regulation Status and Process, Updated September 22, 2015
- ✓ Recreational Marijuana OLCC Commission Education
- ✓ Measure 91 Election Results and HB 3400 Opt Out Options/Local Control of Marijuana Businesses in Oregon Counties
- ✓ Overview of Proposed DRAFT Marijuana Land Use Regulations for Clackamas County, Updated: October 1, 2015
- ✓ File ZDO-254, Proposed ZDO Amendments, Draft Date 9/21/15 (19 ZDO sections)
- ✓ Chapter 8.09, *Medical Marijuana Facility*, of the Clackamas County Code

Marijuana Land Use Advisory Task Force

Summary of Meeting #1

August 12, 2015, 6:30-8:30 p.m.; Development Services Building Auditorium

Attendance

Task Force Members: Amy Margolis, Emerge Law Group; Matt Wallstater, retailer; Mario Mamone, Maritime Café; Gerrick Latta, producer; Dr. Sarah Present, county public health officer; Shirley Morgan, community activist; Gabi Carnivali, Estacada CPO; Joe Mazzara, Villages at Mt. Hood; Bob Reeves, Villages at Mt. Hood; Norm Andreen, Planning Commission; Brian Pasko, Planning Commission; Lt. Jeff Davis, Clackamas County Sheriff's Office

County Staff: Mike McCallister, Planning Director; Jennifer Hughes, Principal Planner; Nate Boderman, County Counsel; Dan Chandler, Administration; Ernest Hayes, Board of County Commissioners; Ellen Rogalin, Public & Government Affairs; Darcy Renhard, Planning & Zoning Division

WELCOME/INTRODUCTIONS

Mike McCallister welcomed everyone, asked task force members to introduce themselves and introduced county staff members. Audio recordings and notes of the meetings will be posted on the county website at www.clackamas.us/planning/marijuana.

The task force was authorized by the Board of County Commissioners to discuss issues related to reasonable, responsible land use regulations related to marijuana land use in Clackamas County. Task force members represent various components of the marijuana industry, the community, public health and the County Planning Commission.

PROCESS FOR ADOPTING NEW AND AMENDED REGULATIONS

Mike explained that there is a process required in order for the county to adopt any zoning amendments or regulations, based on state law and county code.

- Amendments can be initiated by the Planning Commission, the Board of County Commissioners (BCC) and the Planning Director. In this case the ordinance has been initiated by the Board of County Commissioners.
- New ordinances and amendments are drafted by staff and then sent to the Oregon Department of Land Conservation and Development (DLCD) for review at least 35 days before the first Planning Commission hearing on the ordinance.
- Draft ordinances are also sent to cities in the county, CPOs/Hamlets/Villages, and affected and adjacent land owners.
- The Planning Commission holds public hearings on new ordinances and amendments, and then develops recommendations for the BCC.
- The BCC receives the entire record from the Planning Commission hearings, as well as the recommendation, and then holds its own public hearing, before taking final action. In this case, the intent is for the BCC to take final action in December 2015 so any new regulations will be in place when the Oregon Liquor Control Commission begins issuing marijuana licenses in January 2016.

MARIJUANA FACILITIES AND LAND USE ZONING IN CLACKAMAS COUNTY

Jennifer Hughes reviewed the current and potential regulation of licensed marijuana facilities in different zoning districts, based on the handout Marijuana Facilities and Land Use Zoning in Clackamas County. Six types of licenses are listed – recreational grow/production, processing, wholesaling and retail/dispensary; and medical processing and retail/dispensary – with the current and potential legal status noted in each of nine zone categories –

1. EFU (natural resource);
2. TBR, AG/F (natural resource);
3. RR, RA-1, RA-2, RRFF-5, FF10, FU-10 (rural residential);
4. Rural Commercial/Rural Tourist Commercial;
5. Rural Industrial;
6. Urban and Mt. Hood Low-Density Residential;
7. Urban and Mt. Hood Multi-family Residential;
8. Urban Industrial, and
9. Urban Commercial.

Jennifer noted that there are differences in how medical and recreational marijuana can be regulated; for example, medical marijuana is not considered a farm use, while recreational marijuana is. Medical marijuana is regulated by the Oregon Health Authority (OHA); recreational marijuana is regulated by the Oregon Liquor Control Commission (OLCC).

Jennifer reviewed the land use-related provisions in Oregon House Bill 3400 (HB 3400), which was adopted this year to amend Ballot Measure 91 (the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act) and the Oregon Medical Marijuana Act (Oregon Revised Statutes [ORS] 475.300 – 475.346). The law allows the county to set reasonable regulations and limitations.

IMPACT OF MARIJUANA LAND USE

Mike asked task force members to brainstorm the impacts of marijuana land use. Comments included the following:

- Problems with children getting access to marijuana; preventing sales to underage children
- Safety – need information on location and content of marijuana operations, especially processing operations, for fire departments
- Zoning issue for Planning Commission
- Public safety/crime – burglaries and that sort of thing
- Need better understanding of relationship between medical marijuana and health
- Odors
- Property value
- Lighting/light pollution
- Security (for people in the industry, as well as others)
- Access to children and youth
- Normalization of marijuana use
- Social equity
- Environmental impacts – biomass production, energy, water use, etc.
- Quality of life
- Traffic
- Job creation
- Tax revenue
- Add businesses to currently vacant land

Other comments/questions included the following:

- I'd appreciate more information about what's involved with processing
- Growers and processors want support and good relationships with fire departments, public health, law enforcement and others, but are concerned about confidentiality for the sake of security and public safety.
- Land use should not be used in a punitive fashion; it should provide reasonable time/place/manner restrictions.
- Marijuana doesn't bring crime to a community; a retail facility actually results in less crime in a neighborhood.
- We already have time/place/manner guidelines in our land use regulations; why do we need more for marijuana?
- How will federal housing be affected?
- It would be helpful to know how about size of various marijuana facilities – what is needed at a minimum, what's the maximum, etc.
- There aren't enough law enforcement resources in eastern Clackamas County for marijuana growers to develop relationships with
- What mitigation measures are possible?
- This is a federal illegal drug and can be trafficked out of state.
- There are very few outdoor grows in Clackamas County (because of the climate, soil and mold problems), and there's a big different between indoor and outdoor grows.

MAJOR LAND USE POLICY ISSUES

Mike said staff has identified three initial policy issues:

- Permitted farm use (growing and processing) in rural areas? In rural residential zones?
- Permitted growing and processing in urban and rural industrial zones? Too much land use potentially taken up by marijuana?
- Revisit current county ordinance on time/place/manner – no retail outside the metro Urban Growth Boundary; standards on buffers, etc.)?

Other policy issues and comments raised by task force members include:

- Should Clackamas County treat marijuana differently than other agricultural products and, if so, what's the reasonable justification?
- How will recreational facilities be incorporated into the medical facilities time/place/manner ordinance? [Mike pointed out that the current ordinance already also applies to recreational facilities, though it might have to be amended because it's more restrictive than HB 3400 for recreational facilities.]
- We want to regulate intelligently so that people will be able to succeed, and be safe, secure and compliant, and be able to complete with the illegal market
- "Good neighbor" policies
- The biggest struggle is what to do in rural residential areas – there are already hundreds of people growing marijuana in those areas now.
- We've had a pattern where someone starts a land use, someone else complains and then the land owner applies for conditional use. Should there be a policy that there's no presumption of previous activity?
- Would like to reward legitimate, responsible players.
- Need to treat people fairly, including those who are already in the business.
- There are lots of fear-based concerns.

- Who will enforce marijuana regulations? [The Sheriff's Office will deal with criminal issues; civil issues will be dealt with by code enforcement.]
- Marijuana requires a lot of water, and the state water masters regulate that usage.
- How do we appropriately grandfather people in? How do we even know who they are?
- The groundwater ordinance could be relevant.
- Lots of growing takes place indoors – 10,000 feet of canopy requires a 40,000-square foot building. If it's not allowed in industrial areas, we'll have to build in rural areas.
- Public safety concerns can be handled more easily in industrial areas than in rural areas.
- Every product has a different impact. In rural residential areas, we're seeing complete clear-cutting of lots.

NEXT MEETING

The group agreed to receive information on and discuss the following topics at the April 19 meeting:

- Whether marijuana should be treated like any other land use
- Growing and processing in rural residential areas
- Information from task force members and the staff on: farm practices; growing, processing and retail marijuana operations, and public health

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Marijuana Land Use Advisory Task Force

Summary of Meeting #2

August 19, 2015, 6:30-8:30 p.m.; Development Services Building Auditorium

Attendance

Task Force Members: Amy Margolis, Emerge Law Group; Matt Wallstater, retailer; Mario Mamone, Maritime Café; Gerrick Latta, producer; Dr. Sarah Present, county public health officer; Shirley Morgan, community activist; Gabi Carnivali, Estacada CPO; Joe Mazzara, Villages at Mt. Hood; Bob Reeves, Villages at Mt. Hood; Norm Andreen, Planning Commission; Brian Pasko, Planning Commission

County Staff: Mike McCallister, Planning Director; Jennifer Hughes, Principal Planner; Nate Boderman, County Counsel; Dan Chandler, Administration; Ernest Hayes, Board of County Commissioners; Ellen Rogalin, Public & Government Affairs

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WELCOME/INTRODUCTIONS

Mike McCallister welcomed everyone, asked task force members to introduce themselves and introduced county staff members. Audio recordings and notes of the meetings will be posted on the county website at www.clackamas.us/planning/marijuana.

Mike noted that the Board of County Commissioners and some staff toured two indoor marijuana grow operations on August 17, one in Canby and one in West Linn.

REVIEW OF POTENTIAL IMPACTS OF MARIJUANA LAND USE

Mike reviewed the list that came from last week's meeting and asked people to let him know if they have any more impacts to add.

BACKGROUND INFORMATION PRESENTATIONS

- Matt Wallstater presented information about marijuana growing and production (attached – *Introduction to Cannabis Production and Processing*).
- Mario Mamone presented information about marijuana retailing and wholesaling (attached – *Medical Marijuana Dispensary Operations*).
- Amy Margolis reviewed the current status of state rules and regulations related to medical and recreational marijuana (attached -- *Joint Committee on Implementing Measure 91 Tentative Bill Package, June 26, 2015*). She noted that the Oregon Health Authority licenses and regulates medical marijuana, and the Oregon Liquor Control Commission (OLCC) licenses and regulates recreational marijuana. The OLCC is going through its own rule-making process. We're not sure when the draft rules will be available, but it may be in October.
- Sarah Present reviewed public health issues related to marijuana. She noted the following:
    - The quality of scientific research is mixed and leaning towards poor because of marijuana's federal status as a dangerous and illegal drug.
    - In Colorado and Washington State, since recreational marijuana was legalized there have been more emergency room visits and poison center calls, mainly for children.

- Our concern is at the public consumption level, and it's hard to know how land use affects public health.
- THC is the main psycho-active component – it increases heart rate and blood pressure, and impacts perception of time, driving, appetite, etc.
- The effects are thought to be more harmful in adolescents, whose brains are still developing. There's a higher chance of addiction for people under age 25.
- There are some links with mental illness, but not necessarily any causality.
- Up to 9% of adults who use marijuana consistently will become addicted to it; second only to alcohol nationally.
- There are health equity issues. While Caucasians and minorities use marijuana at about the same rate, more minorities are arrested for marijuana infractions.
- Marijuana smoke is similar to tobacco smoke, but with more and higher levels of chemicals. There's no clear causal relationship between marijuana and cancer.
- If a healthy adult is using marijuana in a responsible manner, adverse health effects are minimal. The bigger concern is for children and youth.
- Land use environmental concerns include water use, pesticides, biomass, light bulb disposal – similar to other agricultural uses.

- Jennifer Hughes reviewed the county's zoning review process and current farm use practices (attached - *Clackamas County Zoning Districts, Farm Uses and Land Use Review Procedures*).

Comments and questions included the following; responses are in brackets []:

- Why does marijuana grown indoors get a higher price? [It has a somewhat higher potency and tends to look and smell better. The advantage to outdoor grows is getting light for free.]
- Are indoor grows more common? [Yes.]
- In addition to a rigorous application process to get a marijuana business license, will there also be inspections later? [Yes, there will be scheduled and spot inspections, OLCC will be able to log into security systems, etc. – as they do with bars and taverns. Licenses will have to be renewed annually.]
- Will there be fire inspections for processors, especially related to the possibility of them using liquid oxygen? [Processors use liquid oxygen very rarely, and then only 1-2 tanks and in a closed extraction system. It could require additional fire marshal permits. There will be strict requirements related to safety rules, fire inspections, building permits, etc. Mike noted that such items are already regulated through the building code.]
- Will there be a quota on the number of licenses issued? [We don't know. A lot of the people will get knocked out of the process for not submitting complete applications, not passing background checks and other corporate review issues.]
- Would a grower want to grow both in a greenhouse and outdoors? [It's possible; it depends on the person's business model.]
- Will it be possible for people to get multiple licenses for the same location? [We don't know yet, but there probably will be some cross-over. The OLCC won't allow production and dispensing at the same location.]
- What's the OLCC licensing process? [There will be a deep background check process – not just the applicant, for example, but also family members, including the law enforcement perspective. The focus will be on rewarding people for participating in the system and punishing those who don't.]
- Who will be in charge of enforcement? [The OLCC inspectors will be first, and they'll have broad options to involve law enforcement. Local code enforcement will also be involved.]
- Are there any problems with the use of solvents for processing? [Problems arise when people are "open blasting" – it's not a risk for licensed facilities. The OLCC will regulate that processing.]

- What types of chemicals are used in growing marijuana? [Fertilizers and pesticides. It can be grown organically either inside or outside. Obviously there's more control in an indoor environment. There's no airborne problem with chemicals escaping with fertilizer, and water is cleaned and then either re-used or disposed of. Airborne could be a problem with pesticides, which have to be federally approved, and since marijuana isn't a federally approved crop, there are no federally approved pesticides for it.]
- How can we be sure the lighting doesn't affect neighbors? [Indoors it's not much of a problem. Outdoors and in some greenhouses settings, lighting is used to supplement for a portion of the night. The lights are focused on the plants, not beyond.]

POLICY ISSUES

Should marijuana be treated differently than any other land use?

Mike said that, in theory, the county could administer marijuana with current regulations, as we have in the past for medical marijuana.

Discussion

- The vote is done, marijuana is approved and we already have a lot of land use hoops to jump through.
- Voters didn't know what they were voting for. It has to be treated differently because it's illegal at the federal level.
- We shouldn't revisit the vote here. Marijuana should be treated the same way as any other agricultural product. There are lots of state and local zoning rules.
- Clackamas County already has a strong land use framework in place, with places already identified for growing, processing and selling agricultural products.
- There's a concern in the industry about all the notification required in the permitting process. Most people in the marijuana production and processing industry want their locations kept confidential, for the safety of their workers and the public.
- We generally don't need lights and security systems for hay fields, so that is different.
- Not all marijuana facilities have barbed wire, flood lights and pit bulls – many have security cameras and safe rooms, as required by the state. Marijuana production looks like any other farm use with additional security.
- Cannabis is a valuable crop, but we allow protection of other valuable crops and products.
- Marijuana should be regulated like any other farm use. It's not fair to zone people out of the industry they've been in for most of their lives. We want people to come out in the open and be regulated, licensed and taxed.
- Building permits are public record.
- The county has to regulate for bad operators, and figure out what works for the industry and the neighbors.
- What's different about marijuana land use other than security?
- There are other agricultural products – like lavender and peppermint farms for the extraction of essential oils – that use solvents.
- How different is the security for marijuana from the security for cows? We used $75,000 on dogs to guard our livestock.
- There are similar crops – wine grapes, hops, tobacco – that are substances with the potential for abuse and being unhealthy. It seems there's more of an argument for how marijuana is secured rather than where it is allowed.
- It's a misconception that cannabis can be easily grown and processed, but that's not true. Just cutting and taking a plant won't give you a psycho-active substance to smoke or eat.

- The fact that the OLCC is putting so much time and regulation around this crop is evidence that it's different. We need to understand what the OLCC will be doing and then see what else is needed.
- Unfortunately, we have to start taking action before we see what the OLCC does.
- The OLCC is hyper-regulating this industry because of federal issues, not because of land use issues. We should be looking at reasonable land use regulations.

Should growing marijuana be permitted as a farm use in rural areas of the county?

Jennifer said the county believes that growing marijuana is allowed in EFU zones, but the county has the discretion to apply reasonable regulations in other zones. Processing is a conditional use currently in rural residential zones and not allowed in timber zones, so we're mainly talking about production (growing).

Discussion

- I have concerns about safety in rural residential areas. It takes a long time to get a sheriff up on the mountain. The more rural you are, the tougher the fire-fighting is.
- I oppose any marijuana production in rural residential areas because of safety. Law enforcement is a huge issue, especially with a federally-illegal drug.
- If we add additional standards, they should be objective. We need to avoid taking action because some people are opposed to the word "marijuana."
- It doesn't make sense to allow grows indoors but not outdoors in rural areas.
- Safety is not such a big problem. Those businesses already exist and we're not having those issues today.
- We should consider home occupation permits for rural residential areas in terms of size.
- If we allow it in EFU zones, we can't keep it out of timber and ag/forest zones. It doesn't work to not allow farming in a farm zone, but we should use the conditional use process. We shouldn't go any further than RFF5.
- I'm ok with home occupation or conditional use permits. The county can limit the size of the grows.
- Is it important for the grow manager to live on the site in a rural area? [Someone should live on the site.]
- As a realtor, I know there are already lots of grow operations out there. As for fire danger, we have guns blasting all around and just had a fire on a tree farm on Highway 211.
- It's tough to grow marijuana on land in this area – mold is a big problem. If you do grow outdoors, the most productive land is at the lower elevations. By allowing indoor grows, the county would help make this a vibrant industry.
- There are also problems with hazardous materials, not just fires.
- There are concerns also about hemp production – it should be on 80+ acres on EFU land and need to watch for cross-pollination with cannabis. [Mike – Hemp is treated as a farm crop.]
- I agree with going no further than RFF5. It's a whole different dynamic when we talk about processing. [Mike – Processing requires condition use in rural residential districts.]
- Our duty is to limit the illegal market. We should reward people who are doing things correctly and safely. I'm concerned that limiting grows to indoors would not do that.

WRAP-UP AND ADJOURN

Mike said we're still interested in any and all ideas about growing and processing in the rural residential districts. Next week we will talk about code enforcement, processing in industrial districts and ways to mitigate impacts.

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Marijuana Land Use Advisory Task Force

Summary of Meeting #3

August 26, 2015, 6:30-8:30 p.m.; Development Services Building Auditorium

Attendance

Task Force Members: Amy Margolis, Emerge Law Group; Matt Wallstater, retailer; Mario Mamone, Maritime Café; Gerrick Latta, producer; Dr. Sarah Present, county public health officer; Shirley Morgan, community activist; Gabi Carnivali, Estacada CPO; Joe Mazzara, Villages at Mt. Hood; Bob Reeves, Villages at Mt. Hood; Norm Andreen, Planning Commission; Brian Pasko, Planning Commission; Lt. Jeff Davis, Clackamas County Sheriff's Office

County Staff: Mike McCallister, Planning Director; Nate Boderman, County Counsel; Ernest Hayes, Board of County Commissioners; Ellen Rogalin, Public & Government Affairs

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WELCOME/INTRODUCTIONS

Mike McCallister welcomed everyone, asked task force members to introduce themselves and introduced county staff members and reviewed the documents in the meeting packet.

POLICY ISSUES DISCUSSION

Should marijuana growing and processing facilities be treated like other growing and processing facilities (e.g., hydroponic tomatoes, orchids) that are allowed in industrial zoning districts?

Mike noted that there are four industrial districts in the county – one industrial zone and three business parks. The question is whether marijuana growing and processing facilities should be allowed in these zones and what, if any, impact it might have on the availability of industrial land.

Discussion

- Most growing in Clackamas County is indoors or in greenhouses. You probably need a 40,000-sq.-ft. building for a 10,000-sq.-ft. canopy, and 11-12 employees. If that's not allowed in industrial areas, it will go to EFU areas. Most grow sites are very inconspicuous.
- The Planning Commission in its discussion on August 24 had a consensus on letting the market take care of any possible problems with availability of industrial land.
- Yes, it's appropriate for industrial zones.
- In Colorado, grows are only supposed to be in industrial areas. In Clackamas County, grows should only be allowed in EFU zones, with appropriate notification, setbacks, etc.
- I support using industrial lands, as we already do for other kinds of agricultural processing such as sunflowers and lavender. Growing is also ok in industrial areas.
- Processing in the industrial zone seems a given. Allowing growing associated with processing makes sense. But perhaps it doesn't make sense to just allow growing in the industrial areas.
- A grower can't process marijuana without a processing license.
- If we don't allow growing in industrial zones but only processing, will there be problems with bringing the crop from the grow site to the processing site?
- Having to transport the crop to a processing area adds costs, so it's not a good business practice.

- Colorado does allow both growing and processing in industrial lands. Why not allow safe, legal businesses in industrial areas?
- Is there any concern with cross-pollination? [Only with hemp; slightly possible with hops – but most people don't grow male plants.]
- There's no problem in industrial areas; the problem is in rural residential areas. There are huge amounts of under-utilized industrial land along Highway 212.
- Let the market determine what kind of business is in the industrial areas – it's really not a land use issue. There's a lot of undeveloped industrial land.
- What's the county's top priority for industrial lands and how does marijuana fit with that? [Mike – Jobs, a variety of target sectors.]

Should the county consider revising the medical marijuana time, place and manner ordinance adopted in April 2015?

Mike said Chapter 8.09 of the County Code, while called *Medical Marijuana Facilities*, actually applies to both medical and recreational facilities. It was adopted by the Board in April 2015 and limits dispensaries to commercial zoning districts inside the Metro Urban Growth Boundary. The county generally does allow other commercial uses in industrial zones, with a size limit.

The regulation also sets buffer areas between dispensaries and other dispensaries, schools, day care centers, etc. Buffers for recreational dispensaries will have to be reduced to 1,000 feet to be in compliance with new state law. Four medical dispensaries were grandfathered in to the county when the regulation was approved and two more have been approved since then.

Discussion

- Is the county considering allowing dispensaries outside the Metro UGB? [Mike – I don't know.]
- We only have one law enforcement officer for a 35-mile stretch of US 26. We should not re-visit the ordinance, which was proposed by a committee in the first place. A lot of illegal activity goes undetected because of a lack of law enforcement.
- Why was the Metro UGB set as a limit? [Nate – Public safety was the primary concern.]
- Other than the need to comply with the law, is there any interest by the Board of County Commissioners to change this regulation?
- We have three police cars in the Mt. Hood area 24/7 and a neighborhood watch program.
- We can now see how dispensaries function and if they lead to more crime or other problems. For now, tax revenue will be distributed to jurisdictions based on the number of recreational dispensaries, so there is incentive to allow more dispensaries. The market will regulate location.
- Not allowing dispensaries will just reinforce the illegal market.
- I'm torn between a sense of fair play and real or perceived security issues. Does the Sheriff's Office have the resources it needs?
- The BCC was worried about security about the Metro UGB, but also didn't want to broaden the discussion to those areas because of the limited stakeholder representation on the committee.
- We worked through that regulation thoroughly; it seems unnecessary to to revisit it.
- Estacada got a contract with Sandy for police services, so security issues aren't a big problem.
- If a marijuana facility helps prevent crime rather than cause it, the county should consider expending options. The situation has changed since this regulation was adopted in April.
- The Sheriff's Office has district cars, one at a time, assigned to rural areas. There are also state policy on US 26. The SO also has a take-home car policy, which doesn't necessarily mean the officer is available to help. We can't respond as quickly in the winter beyond Sandy as in other seasons, so we do have some concerns about response times to some areas then.
- The question is whether there is a need for additional response related to these facilities.

- It's not proven that this will be a problem – we need to be careful not to over-react to people's fears. Crime (robbery, guns) should be dealt with like any other business.
- At the BCC meetings I attended when this ordinance was discussed, the BCC said it might be appropriate to revisit the regulation over time.
- The buffers and setbacks are too big. It doesn't make sense to have more restrictive, or even different, rules for a medical facility than for a recreational facility. It's unfair to rural people who need access to medical marijuana. Buffers should be the same 1,000 feet for all and we should make sure people have the access they need to medical marijuana.
- My retail dispensary has operated four years and have never had a need to call the police. There are occasional robberies at dispensaries, just like at 7-11 stores, but no different. Let market forces run their course and treat medical and recreational marijuana facilities the same.
- There are no statistics on whether crime has gone up or down related to marijuana dispensaries.
- We don't need medical marijuana dispensaries for people in the rural areas. There have been four medical marijuana-related shootings in Multnomah County and 15 violent deaths related to medical marijuana in Colorado. There are problems because of large sums of cash.

OTHER TOPICS

State Health Caucus for the Democratic Party – Joe Mazzara reported on a meeting he attended this past weekend on marijuana issues. He said about 50 people were there representing all Oregon counties. There were concerns about financing (because marijuana businesses aren't allowed to use federal banks), medical and psychological issues. Most of the research so far hasn't been any good. Personally I see it as a gateway drug, but it doesn't lead to psychological problems. There's support for medical marijuana, but not for recreational marijuana – we just don't know enough yet.

Mike noted that the state law does include references to additional research.

Mitigation

Mike asked the group to spend some time talking about mitigation measure for the impacts identified at the first task force meeting.

- *Traffic*
  - Production and processing, unlike retail, want a minimum amount of traffic to increase security, reduce contamination, etc.
  - We don't necessarily need people working around the clock.
  - There are pick-ups, cargo vans, box trucks – not semi-trucks
  - We already have traffic studies for industrial zones
  - Can we do home occupations in rural residential areas?
  - What about EFU/Ag/Forest/TBR?
  - I've seen 80-150 cars/day at facilities. [Mike – That's not allowed under current zoning.]
  - Semi-trailers are used as storage facilities and look bad.
- *Lighting*
  - Black-out curtains that go up the sides and top of the greenhouse can be used in greenhouses after dusk
  - Outdoor only use lights for a few hours in the evening and during short periods of the year
  - Lighting above the plants, focusing down with a reflector around the bulb
  - It's not an issue outdoors in Clackamas County
  - Limit hours unless curtains are up
  - Appropriate hours of operation – limited light hours will limit production
  - Outdoor lights are very rare for outdoor grows
  - No lights allowed for outdoor grows (except required security lighting)

- *Odor*
  - Recent Court of Appeals ruling is that marijuana smoke is not legally offensive – you need to consider intensity, duration and frequency
  - Carbon filtration indoors -- $750 each – there's an industry standard; change filters yearly
  - Use requirements already present in industrial areas, if any
  - Not much can be done with outdoor grows – odor would only be for 4-6 weeks; the important thing is to find the appropriate place for an outdoor grow
  - Can use mint and other fragrant plants outdoors
  - Ozone generators/UV light
  - Carbon/ozone also in greenhouses
  - Setbacks/buffers
  - Is odor really a problem?
  - It smells like "skunk dipped in turpentine and gym socks"
  - It's 100% controllable
  - 100-ft setback not enough for noise or odors
  - Have some setbacks now in rural residential areas

- *Public Access/Security*
  - Portland allows no public access for producers, processors and wholesalers
  - Marijuana business people have insurance; if there's a problem, employees are instructed to hand over the marijuana, not fight to keep it
  - Growers don't want public access
  - There are lots of security rules in place, including cameras and alarms
  - OLCC can also link in to the security systems
  - Who's responsible for enforcement?
  - Large operations with invasive cameras are a problem
  - Neighbors should have the right not to have surveillance on their property in residential areas

- *Other*
  - Are HIPA violations related to notifications on medical grows? [It's not covered under federal law.]
  - The business is trying to lead in energy efficiency; suggest providing incentives
  - Energy efficiency practices
  - Cutting down trees for grows [The county doesn't regulate that in rural areas.]

Code Enforcement

Mike said the county has a code enforcement division that uses a complaint-driven system. Because of limited resources, they also rely on a priority system, which means that complaints that are not related to life, health and safety may not be responded to. Staff does not drive around looking for violations. Violations related to electrical, plumbing, building safety, etc. will always rise to the top.

Jeff – The Sheriff's Office expects to have lots of people calling about public use and intoxicated drivers, etc. which they'll deal with as they do now. The SO has no authority to inspect grow operations; we're only concerned if there's a crime. We can call to get the number of medical cards associated with a specific address, but won't get names. The cap on the number of cards in the state law will help. We don't know what, if any, problems there will be, and good relations with people in the industry will certainly help. Illegal grows have caused a lot of damage, but hopefully that problem will go away now.

Discussion

- We're more likely to get complaints about indoor and greenhouse grows about growers who aren't good neighbors, than complaints about outdoor grows.
- Marijuana facilities will be required to be open to inspections. OLCC will have authority just like they do over bars and taverns. There will be announced and unannounced inspections. The OLCC will be able to cite us and invite law enforcement to be present.
- Code Enforcement does a great job, but there are only four of them. This will put more pressure on them.

WRAP-UP AND ADJOURN

Mike reviewed the schedule of upcoming meetings and asked the group if they would like to meet one more time to review the draft regulations once they are released on Sept. 21. The group said they would, and Mike will schedule a meeting with the task force and Planning Commission.

Mike thanked everyone for their helpful and respectful participation, let them know that they are on the mailing list for future notifications and encouraged them to remain involved in the process.

Marijuana Land Use Advisory Task Force Meeting

6 p.m., September 21, 2015

Development Services Building Auditorium, 150 Beavercreek Rd., Oregon City

Present:

Task Force Members: Norm Andreen, Gerrick Latta, Joe Mazzara, Gabi Carnivali, Bob Reeves, Matt Wallstater, Philip Mason (substitute for Sarah Present), Shirley Morgan

Staff: Mike McCallister, Jennifer Hughes, Nate Boderman, Ellen Rogalin

Introduction/Presentation

Mike welcomed everyone, reviewed the schedule of upcoming meetings, reminded everyone that the regulations they receive today will be changing in coming weeks. He said the regulations were sent to the state today and a notice about them is being sent to CPOs, Hamlets and Villages, with the overview document.

Jennifer review the draft regulations and overview document.

Questions/Comments *[responses from staff shown in brackets]*

Shirley Morgan

- Is a greenhouse considered an inside grow or an outside grow? [Inside}]
- Then will there be standards and regulations related to doors, windows, etc.? [That's a building code issue.]
- What are the set-back requirements? [100 feet]
- Are there any standards for visibility of outdoor grows? [No.]
- What is the enforcement plan? [That is not part of this process.]

Norm Andreen

- Why no production/grow in rural industrial? Do we allow flowers and other plants to be grown in these areas? [Yes, but the BCC expressed a desire for prohibiting marijuana grows in these areas.]
- Is it legal to prohibit marijuana grows in these areas if we allow other types of plant grows? [To be determined]
- In the 5-acre RRFF-5 and FF-10 zones, there are lots smaller than 5 acres. Would marijuana be allowed on those smaller lots? [No.]
- Are you getting a lot of response from the public? [Not yet.]

Matt Wallstater

- Now that the draft regulations have been submitted, who has the authority to change them going forward? [Staff, up until the Planning Commission meetings; the Planning Commission, up until the BCC meetings; then the BCC.]
- It's a big mistake not to allow production in urban industrial areas. The county might be legally vulnerable on that.

- If a medical card holder isn't engaged in commerce, can the county regulate the size of the grow?
- Quite a few people grow cannabis to give away for medical purposes – it would be a shame to shut down these people. It is a distinction worth exploring.
- The odor standard may be too much for retail; it's appropriate for production. I'll get back to you with more information about that.

Bob Reeves

- I'm concerned about the processing of oils – would that be permitted in a greenhouse? [Land use regulations don't affect building and fire codes – they would still apply as they do now.]
- What will happen with medical marijuana caregivers who are now growers but are in rural areas where that may be prohibited? [Not sure. Some processing is permitted for personal use.

Gerrick Latta

- How does someone show proof of water rights? [There's a certificate you can get from the Oregon Department of Water Resources.]
- Is there a minimum lot size for EFU, Ag/Forest? [No.]

MARIJUANA LAND USE IN CLACKAMAS COUNTY:
Overview of Regulation Status and Process

UPDATED September 22, 2015

In November 2014, Oregon voters approved Measure 91, legalizing the use of marijuana for personal recreational use. In 2015, the State Legislature approved five bills that amend and provide regulations related to recreational and medical marijuana. Following is information about the steps Clackamas County has taken and is planning to take to implement the law through its land use regulations, with additional background information on the state law and options available to the county.

THE COUNTY'S ACTIONS SO FAR (2015)

Audio recordings, agendas, handouts and summaries are at www.clackamas.us/planning/marijuana.html.

- April 16: Board of County Commissioners (BCC) adopts a time/place/manner ordinance for marijuana facilities: http://www.clackamas.us/bcc/documents/businesspackets/bcc20150416a.pdf
- July 21: At a study session, BCC agrees to
  - proceed with the process of considering new or amended land use regulations for recreational and medical marijuana facilities, to be effective by January 2016, and
  - establish an advisory task force of people representing various stakeholder interests to review and discuss key land use issues related to marijuana.
- July 27: BCC and Planning Commission meet to discuss marijuana land use policy issues
- Aug. 17: BCC members and staff tour marijuana grow facilities
- August 12, 19 and 26: Community/industry Marijuana Land Use Regulations Advisory Task Force meets to discuss policy issues.
- August 24: Planning Commission discusses possible marijuana land use regulations.
- Sept 9: BCC discusses marijuana land use issues at a policy session.
- Sept. 21: Planning staff sends draft marijuana land use regulations to the state (click on *DRAFT County Regulations* at www.clackamas.us/planning/marijuana.html). Marijuana Land Use Regulations Advisory Task Force meets to review and comment on draft regulations.

FOR MORE AND UPDATED INFORMATION:

Marijuana Land Use Laws and Regulations (www.clackamas.us/planning/marijuana.html), email sharig@clackamas.us or call 503-742-4523

To give input: Interested members of the public who would like to comment on marijuana land use regulations in Clackamas County are welcome and encouraged to do so in writing:

- By email to: sharig@clackamas.us
- By mail to: Shari Gilevich, Planning & Zoning Division, 150 Beavercreek, Oregon City, OR 97045

The public is also welcome to attend any of the upcoming public meetings and provide verbal testimony at public hearings. Meeting recordings, agendas and materials are available at www.clackamas.us/planning/marijuana.html.

UPCOMING COUNTY MEETINGS

- **Board of County Commissioners Business Meeting, discussion on marijuana land use issues (*public comment permitted*) –** 6 p.m., Thursday, Sept. 24; BCC Hearing Room, Public Services Building 4th floor
- **Planning Commission Study Session *(no public comment)*--** 6:30 p.m., Monday, Oct. 12; Development Services Bldg Auditorium, 150 Beavercreek, Oregon City
- **Planning Commission Public Hearing *(public testimony welcome)*** -- 6 p.m., Monday, Oct. 26; Abernethy Center, 606 15th St, Oregon City
- **Planning Commission Public Hearing, continued if necessary (*public testimony welcome*)** – 6 p.m., Monday, Nov. 2; Abernethy Center, 606 15th St, Oregon City
- **Board of County Commissioners Planning Session *(no public testimony)*--** 1:30-3:30 p.m., Tuesday, Nov. 10; BCC Hearing Room, Public Services Building 4th floor
- **Board of County Commissioners Public Hearing *(public testimony welcome)*--** 9:30 a.m., Monday, Nov. 23; BCC Hearing Room, Public Services Building 4th floor
- **Board of County Commissioners Public Hearing *(public testimony welcome)*--** 9:30 a.m., Wednesday, Dec. 2; BCC Hearing Room, Public Services Building 4th floor

STATE LAW

Recreational marijuana became legal for personal use in Oregon on ***July 1, 2015***.

The Oregon Liquor Control Commission (OLCC) is required to adopt administrative rules by ***Jan. 1, 2016***, to administer and implement the law to regulate recreational marijuana purchase, sale, production, processing, transportation and delivery. The OLCC will begin receiving license applications by ***Jan. 4, 2016***, to produce, process, wholesale and retail recreational marijuana.

State law gives the county the authority to adopt "reasonable regulations" regarding recreational marijuana use. The law defines four categories of recreational marijuana uses:

- ***Production*** -- manufacture, planting, cultivation, growing or harvesting of marijuana in Oregon
- ***Processing*** -- processing, compounding or conversion of marijuana into cannabinoid products, concentrates, or extracts; excluding packaging or labeling
- ***Wholesaling*** -- purchasing marijuana items in Oregon for resale to a person other than a consumer in Oregon
- ***Retail/dispensary*** -- selling marijuana items to a consumer in Oregon

COUNTY TIMELINE

The Board of County Commissioners plans to have new regulations in place by January 2016, which is when the Oregon Liquor Control Commission (OLCC) is required to begin accepting applications for licenses related to marijuana businesses.

Recreational Marijuana
OLCC Commission Education

Steve Marks, Executive Director

September 25, 2015

“The Oregon Liquor Control Commission will work with other state agencies to implement Measure 91 with a great amount of accountability through a transparent and public process.”

OLCC Press Release
November 5, 2014

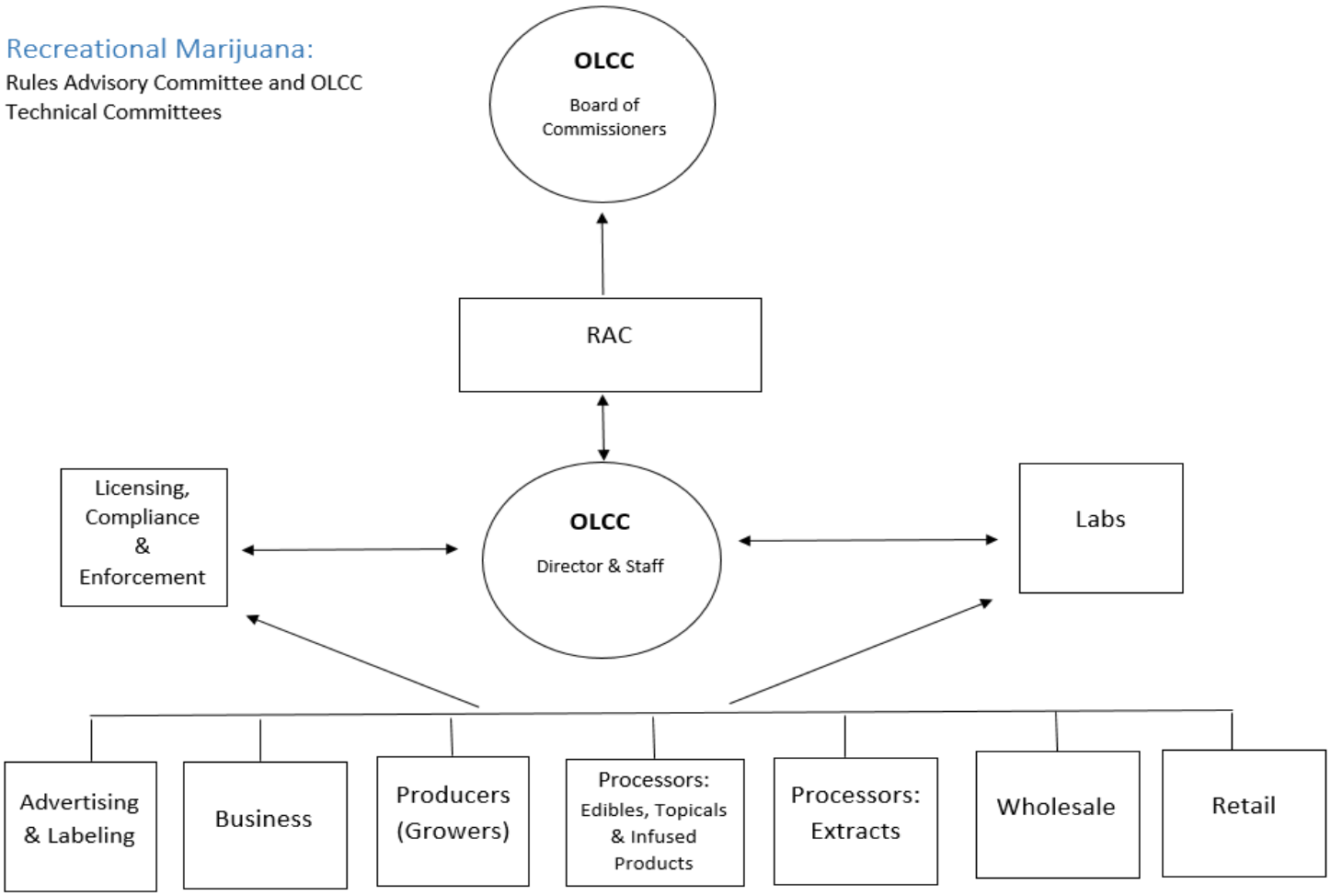
OLCC Commitment to Engagement

- Website: 800,000 hits, central clearing house for information www.marijuana.Oregon.gov
- Gov Delivery: list serv grew from 2,800 subscribers to over 16,000 – provides announcements and rule updates
- Online survey: 16,500 participated, identified priorities, informed community meeting process
- Listening meetings: 11 cities, 3,000 participants, many involved or planning to be involved in industry
  - Messages from public meetings: Protect children, protect small marijuana grower, don't over regulate, create economic opportunity, diminish the illegal market

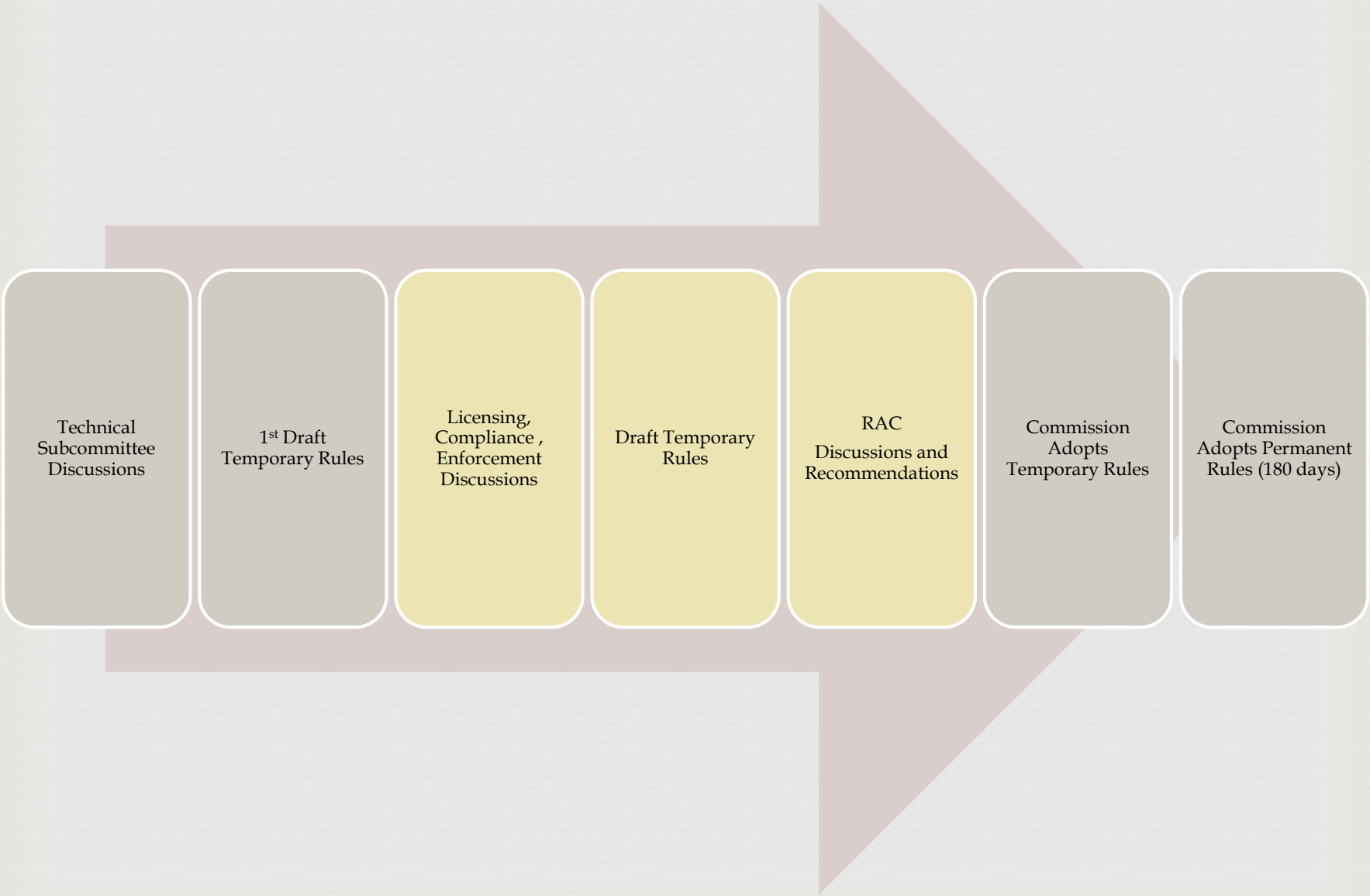
OLCC Commitment to Engagement

- Technical Subcommittees and Rules Advisory Committee
  - 100+ participants (industry leaders, law enforcement, local government)
  - 35 meetings to date, 3 more scheduled
  - Process: charter, scope of work, homework, discussions, recommendations
  - Vigorous debate
  - Progress: 80% rules under review, 20% more to come

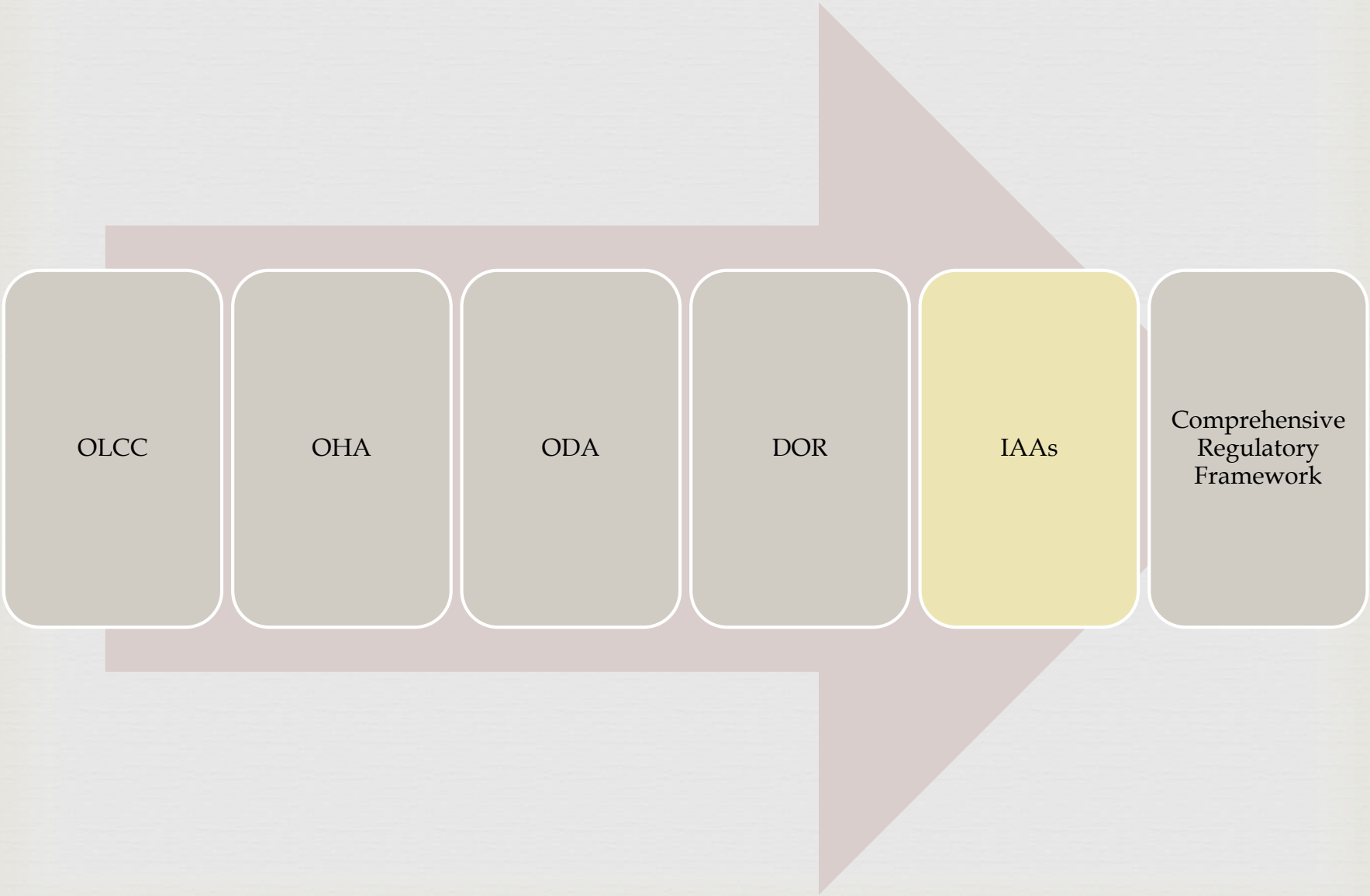
The Process for Building the Rules



Timeline


Technical Subcommittee Discussions
1st Draft Temporary Rules
Licensing, Compliance , Enforcement Discussions
Draft Temporary Rules
RAC Discussions and Recommendations
Commission Adopts Temporary Rules
Commission Adopts Permanent Rules (180 days)

Interagency Coordination



Rules Chapters

Application and License Requirements	Marijuana Handlers Permit
Producer License Requirements	Recordkeeping and Inventory Tracking
Processor License Requirements	*Security*
Wholesale License Requirements	*Transportation*
Retail License Requirements	Waste Disposal
Retail Delivery	Minor Control Plan
Laboratory License Requirements	*Packaging*
Research Certificate	*Advertising*
Producer Opt-in	**Compliance & Sanction Schedule**

Bold Italics = reviewed by RAC; *Italics* = reviewed by RAC subcommittee; Plain = To be Reviewed

Complex Issues

- Rulemaking
  - Residency
  - Canopy Limits
  - Fees
  - Advertising and Packaging
  - Pesticides
  - Edibles
- Other
  - Co-location with Medical Dispensaries
  - Intersection with Local Authority
  - Intersection with Liquor Licenses

Residency

- Goal:
  - Ensuring Oregon residency and ownership while providing for diverse business structures and capital investment
- Statute:
  - Requires applicant to be both an Oregon resident and the legitimate owner of the business
- Draft rule definitions:
  - Oregon residents (or group of Oregon residents) must own at least 51% of business
  - Non-resident owners must not be "directly involved" in the operation or management of the business
- Challenge:
  - Balancing the residency requirements with complex governance structures of organizations

Canopy Limits

- Goal:
  - Setting canopy limits that provides for broad market entry, efficient business operations, and meets market demands
- Statute:
  - Consider market demand when setting canopy limits
  - Set canopy limits to reflect equivalent yields for indoor and outdoor grows
- Challenges:
  - Estimating market demand with insufficient data
  - Setting canopy size limits when there are unlimited numbers of licensees
  - Matching canopy size to successful business operations

Canopy Recommendations

4:1 ratio		
Indoor	Outdoor (sq ft)	Outdoor (acres)
5,000 square feet	20,000 square feet	0.5
10,000 square feet	40,000 square feet	0.9
21,802.50 square feet	87,210 square feet	2.0
6:1 ratio		
Indoor	Outdoor (sq ft)	Outdoor (acres)
5,000 square feet	30,000 square feet	0.7
10,000 square feet	60,000 square feet	1.4
14,535 square feet	87,210 square feet	2.0

Fees

- Goal:
  - Set fees that are reasonably calculated to cover the cost of administering the recreational marijuana program
- Statute:
  - Set fees that recover, but not exceed, the cost of administration
  - Fees for each license type cannot exceed the cost to administer that license type
  - Budget Note: tier fees for all license types; fees must be less than those charged by OHA
- Challenges:
  - Creating a rationale for license fee and tiers
  - Detailed accounting for each license type (interdependent)
  - OLCC sets fees before OHA
  - Local fees

Advertising

- Goal:
  - Create understandable advertising rules that can be applied consistently across all license types
- Statute:
  - Adopt rules to prohibit advertising that is appealing to minors, promotes excessive use, promotes illegal activity, or otherwise presents a significant risk to health and public safety
- Draft rule:
  - No cartoon characters
  - No advertising in media that targets children
  - No consumption of products in advertising
- Challenges:
  - Creating effective tools to challenge prohibited advertising
  - Encouraging effective industry self regulation

Packaging and Labeling

- Goal:
  - Create understandable packaging and labeling rules that can be applied consistently across all license types
- Statute:
  - OLCC adopts standards for packaging, preapproval
  - OHA adopts standards for labeling, dosage, and testing
  - Requires child resistant packaging
- Challenges:
  - Requirements for products that are not consumed in one sitting
  - Requirements for preapproval of packaging
  - Packaging related to serving size

Pesticides

- Goal:
  - Prevent the sale of marijuana products that contain prohibited pesticides
- Statute:
  - OHA certifies labs, OLCC licenses labs
  - ODA guidance, compliance
- Challenges:
  - No federal approved pesticide labels for marijuana
  - High cost of testing
  - Number of certified labs
  - Pest loss in marijuana grows

Edibles

- Goal:
  - Assure product safety
- Statute:
  - OLCC responsible for packaging, licensing processors
  - ODA responsible for food establishments, ingredient list
  - OHA responsible for dosage, label requirements, testing
- Challenges:
  - Child proof packaging
  - Eco-friendly packaging
  - Preserving freshness
  - Understanding and communicating dosages
  - Product innovation

Other Issues

- Co-location with medical dispensaries
  - Expectations
  - If desired, statutory solutions would be required
- Intersection with local government
  - Opt out 7 counties, 21 cities (Dec. 27 deadline) – 9 referrals
  - Timing of Land Use Compatibility Statement
  - Alignment of complex rules
  - Enforcement of non-licensed activity
- Intersection with liquor licensees and temporary sales permits
  - Federal oversight of alcohol
  - Definition of public place
  - Marijuana infused alcohol

Next Steps

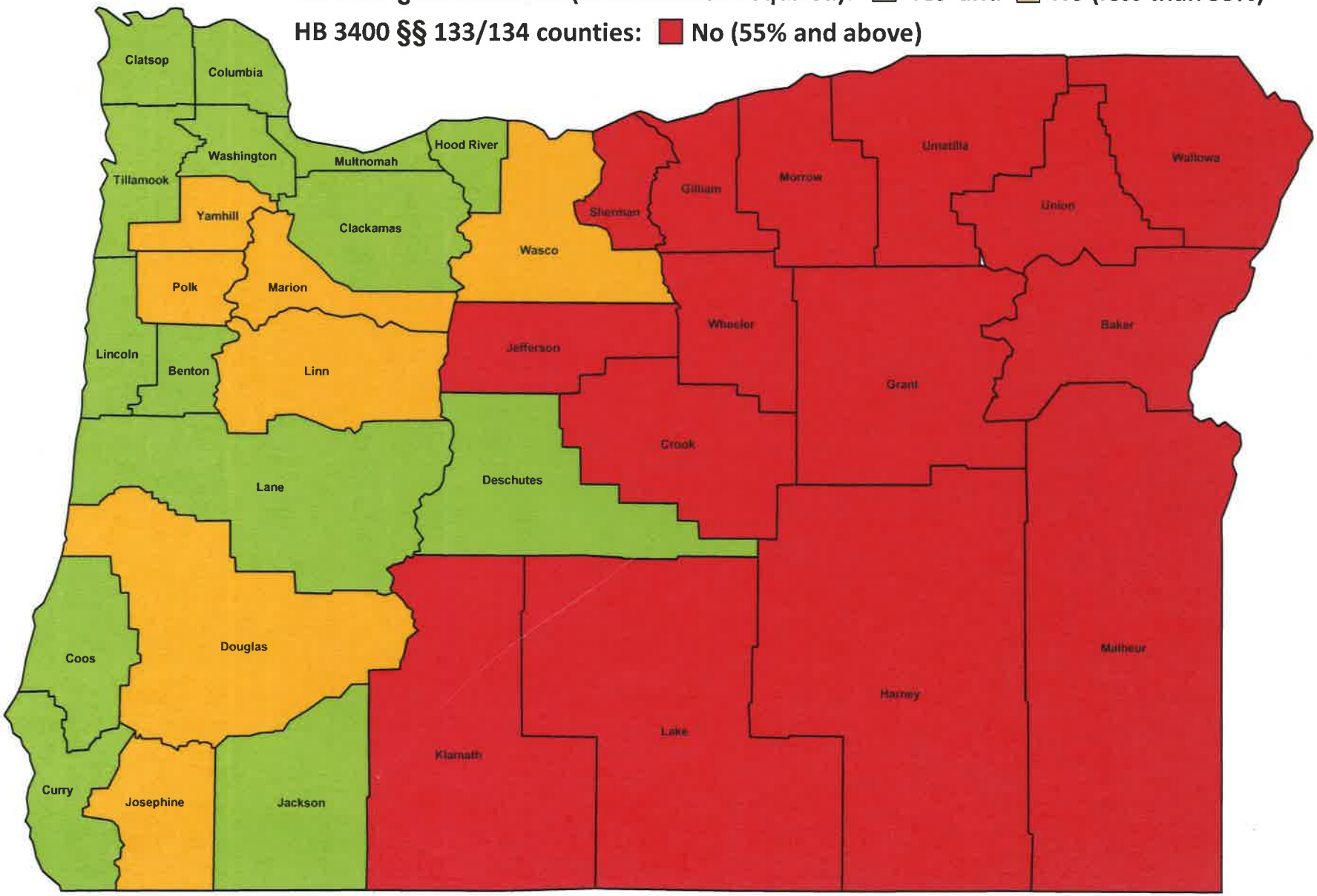
- Recommendations to RAC – Oct. 2015
- RAC recommendations to Commission – Oct. 2015
- Commission adopts temporary rules – Oct. – Nov. 2015
- Training: Online license application tool – Dec. 2015
- Accept applications - Jan. 2016
- Training: Seed-to-sale tracking – Jan. – Feb. 2016
- Oregon Legislative Session - Feb. 2016
- Grower, Processor Licenses issued - 1st Quarter 2016
- Public hearings on final rules – 2nd Quarter 2016
- Commission adopts final rules – 2nd or 3rd Quarter 2016
- Licensed retail stores begin operating – Fall 2016

OREGON LIQUOR
OLCC
CONTROL COMMISSION

Measure 91 Election Results and HB 3400 Opt Out Options

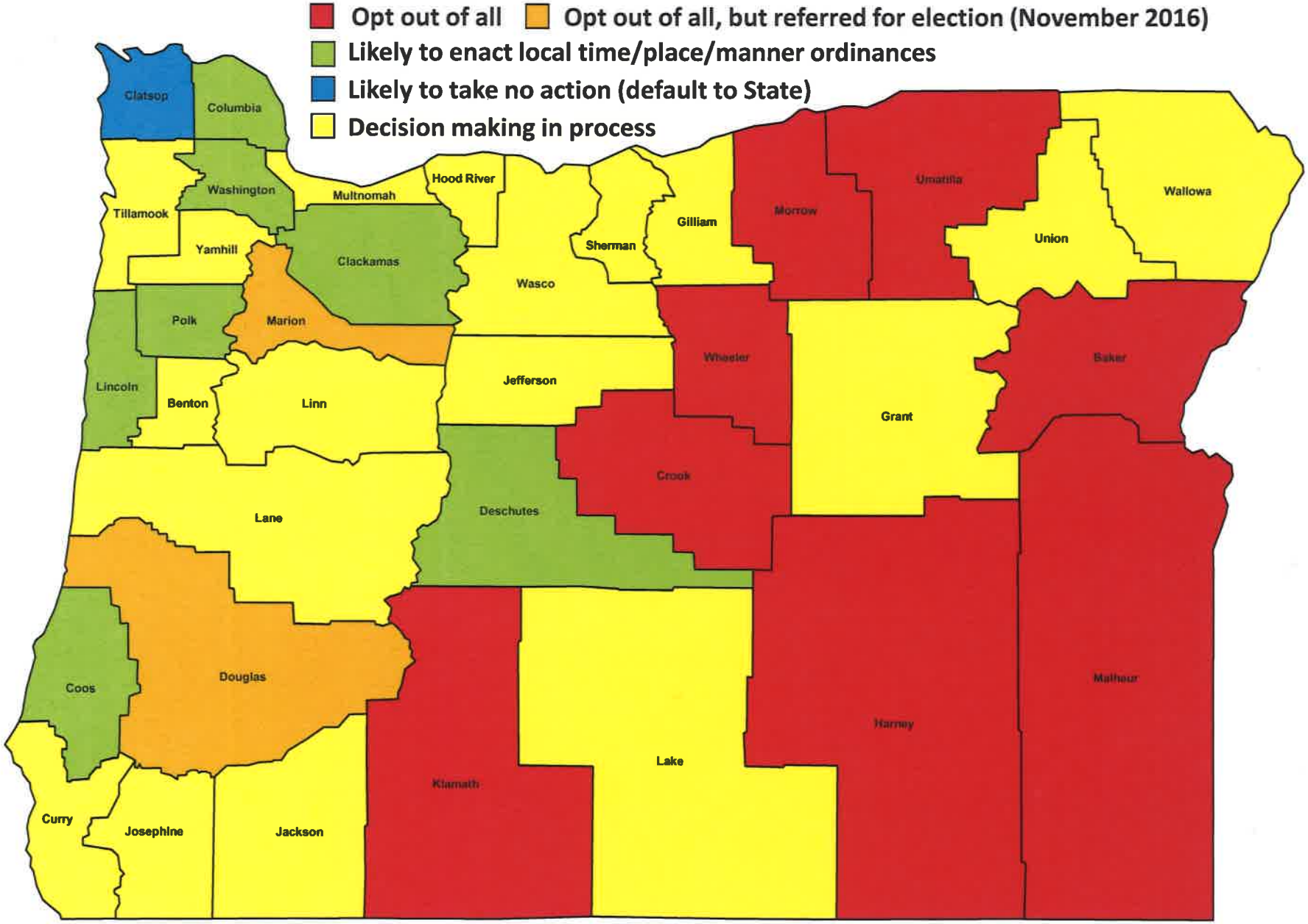
HB 3400 § 134 counties (local election required): Yes and No (less than 55%)

HB 3400 §§ 133/134 counties: No (55% and above)



Source: Assoc. of Oregon Counties
9/30/15

Local Control of Marijuana Businesses in Oregon Counties



Source: Assoc. of Oregon Counties
9/30/15

Overview of *Proposed* DRAFT Marijuana Land Use Regulations for Clackamas County

UPDATED: October 1, 2015

The Clackamas County Board of Commissioners is considering amending the county Zoning and Development Ordinance (ZDO) to add land use regulations for businesses that grow, process, wholesale or retail recreational or medical marijuana. Planning and Zoning Division staff drafted regulations and sent them to the Oregon Department of Land Conservation and Development on Sept. 21, 2015, as required. The draft amendments can be reviewed by clicking on *DRAFT County Regulations* at www.clackamas.us/planning/marijuana.html.

This document provides a brief overview of where marijuana businesses would be allowed in unincorporated Clackamas County based on the draft proposed regulations as of Sept. 21, 2015. This is for information purposes only, and is not intended as legal guidance. In addition to new marijuana land use regulations, marijuana businesses will also have to comply with the same building, fire and other codes that apply to businesses in Clackamas County, as well as to requirements from the Oregon Liquor Control Commission (OLCC) for recreational marijuana and the Oregon Health Authority (OHA) for medical marijuana. The draft county regulations are likely to change as the county goes through the Planning Commission and Board of County Commissioner public hearings process.

Please note that the draft marijuana land use regulations that were sent to the state on Sept. 21, 2015…

… **Apply only to unincorporated Clackamas County**, and set limits on where and how various marijuana businesses can operate;

… **Do *not* apply to:** Noncommercial growing or processing of recreational marijuana, as allowed by state law without a license from OLCC

- Growing medical marijuana by a medical marijuana cardholder at the cardholder's residence as long as no more than 12 mature plants are grown at that address (up to 6 mature plants/cardholder are permitted by state law)
- Processing of medical cannabinoid products or concentrates by a medical marijuana cardholder, or a designated primary caregiver for a cardholder

… ***Do* apply to:** Recreational marijuana businesses (growing, processing, wholesaling or retailing) licensed by the OLCC

- Growing medical marijuana for a medical marijuana cardholder at an address other than the address where the cardholder resides or at an address where more than 12 mature marijuana plants are produced
- Processing of medical marijuana *except* for processing of medical cannabinoid products or concentrates by a medical marijuana cardholder, or a designated primary caregiver for a cardholder
- Retailing medical marijuana

… **Apply the same standards** to both recreational marijuana businesses licensed by the OLCC and medical marijuana facilities authorized by the OHA.

The draft regulations allow marijuana facilities – production/grow, processing, wholesaling and retailing/dispensaries -- with conditions (see draft ZDO Section 841), in zones shown below.

ZONING DISTRICT	MARIJUANA BUSINESS			
	Production/Grow	**Processing**	**Wholesaling**	**Retailing/Dispensary**
URBAN ZONES				
Business Park (BP), Light Industrial (LI), General Industrial (GI)	*PROHIBITED*	Primary use	Primary use	*PROHIBITED*
Village Office (VO)	*PROHIBITED*	Primary use (not primary processing)	*PROHIBITED*	*PROHIBITED*
Corridor Commercial (CC), General Commercial (C-3), Station Community Mixed Use (SCMU), Office Commercial (OC)	*PROHIBITED*	Primary use *(not primary processing)*	*PROHIBITED*	Primary use***
Neighborhood Commercial (NC), Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Planned Mixed Use (PMU), Regional Center Office (RCO)	*PROHIBITED*	*PROHIBITED*	*PROHIBITED*	Primary use***
RURAL ZONES				
Exclusive Farm Use (EFU), Ag/Forest (AG/F)	Primary use*	Primary use*	*PROHIBITED*	*PROHIBITED*
Timber (TBR)	Primary use*	*PROHIBITED*	*PROHIBITED*	*PROHIBITED*
Rural Residential Farm Forest 5 Acre (RRFF5) and Farm Forest 10 acre (FF10)	Primary use** or prohibited+	Conditional use**# or prohibited+	Conditional use# or prohibited+	*PROHIBITED*
Rural Commercial (RC), Rural Tourist Commercial (RTC)	*PROHIBITED*	*PROHIBITED*	Primary use	*PROHIBITED*
Rural Industrial (RI)	*PROHIBITED*	Primary use	Primary use	*PROHIBITED*

**Conditions for production and processing are set for minimum yard depth (set-back from lot line), access, odor, lighting, security cameras, water and secure disposal.*

***Conditions for production and processing in rural residential zones include those mentioned above, as well as requirements that the owner lives on the property, that property be at least 5 acres in size, that the business be confined to completely enclosed buildings, specified building size limits and submission of a noise study.*

****Conditions for retailing include operating hours, odor, window service (not allowed), secure disposal, minors (not allowed on premises unless accompanied by a parent or guardian), no co-location of related activities and uses, and minimum separation distances between dispensaries and other dispensaries, schools, public parks, libraries, light-rail transit stations, public housing units, daycare facilities and, in certain circumstances, residentially-zoned property.*

+Staff proposed two options *#Conditional use requires a public hearing*

(over)

The draft regulations do *not* permit any recreational or medical marijuana businesses – production, processing, wholesaling or retailing – in any of the following zoning districts:

Urban Residential Districts

- Future Urban 10-Acre (FU-10)
- High Density Residential (HDR)
- Medium Density Residential (MR-1)
- Medium High Density Residential (MR-2)
- Planned Medium Density Residential (PMD)
- Regional Center High Density Residential (RCHDR)
- Special High Density Residential (SHD)
- Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, R-30)
- Village Standard Lot Residential (VR-5/7)
- Village Small Lot Residential (VR-4/5)
- Village Townhouse (VTH)
- Village Apartment (VA)

Rural Residential Districts

- Hoodland Residential (HR)
- Mountain Recreational Resort (MRR)
- Recreational Residential (RR)
- Rural Area Residential 1-Acre (RA-1)
- Rural Area Residential 2-Acre (RA-2)

Urban Commercial Districts

- Office Apartment (OA)
- Village Community Service (VCS)

Urban Industrial Districts

- Campus Industrial (CI)

FOR MORE AND UPDATED INFORMATION:

- Marijuana Land Use Laws and Regulations (www.clackamas.us/planning/marijuana.html)
- Contact Planning and Zoning Division staff at zoninginfo@clackamas.us or 503-742-4500

TO GIVE INPUT OR PROVIDE TESTIMONY ON THE PROPOSED DRAFT REGULATIONS:

Interested members of the public who would like to comment or submit testimony on proposed draft marijuana land use regulations in Clackamas County are welcome and encouraged to do so in writing:

- By email to: sharig@clackamas.us
- By mail to: Shari Gilevich, Planning & Zoning Division, 150 Beavercreek, Oregon City, OR 97045

The public is also welcome to provide verbal testimony at public hearings (listed below).

PUBLIC HEARINGS

- **Planning Commission Public Hearing** -- 6 p.m., Monday, Oct. 26; Abernethy Center, 606 15th St, Oregon City
- **Planning Commission Public Hearing** *(continued, if necessary)* – 6 p.m., Monday, Nov. 2; Abernethy Center, 606 15th St, Oregon City
- **Board of County Commissioners Public Hearing**-- 9:30 a.m., Monday, Nov. 23; BCC Hearing Room, Public Services Building 4th floor
- **Board of County Commissioners Public Hearing** *(continued, if necessary)*-- 9:30 a.m., Wednesday, Dec. 2; BCC Hearing Room, Public Services Building 4th floor

The County Commission plans to have new regulations in place by January 2016, which is when the Oregon Liquor Control Commission (OLCC) is required to begin accepting applications for licenses related to marijuana businesses.

STATE BACKGROUND: In November 2014, Oregon voters approved Measure 91, legalizing the use of marijuana for personal recreational use. In 2015, the State Legislature approved five bills that amend and provide regulations related to recreational and medical marijuana. **State law gives the county the authority to adopt "reasonable regulations" regarding recreational and medical marijuana. The law defines four types of marijuana business:**

- *Production*: manufacture, planting, cultivation, growing or harvesting of marijuana in Oregon
- *Processing*: processing, compounding or conversion of marijuana into cannabinoid products, concentrates, or extracts; excluding packaging or labeling
- *Wholesaling*: purchasing marijuana items in Oregon for resale to a person other than a consumer in Oregon
- *Retail/dispensary*: selling marijuana items to a consumer in Oregon

(over)

Chapter 8.09

8.09 MEDICAL MARIJUANA FACILITY

8.09.010 Purpose.

The purpose of this chapter is to minimize any adverse public safety and public health impacts that may result from allowing Medical Marijuana Facility in the County by adopting particular time, place and manner requirements.
[Adopted by Ord. 04-2015, 4/16/15]

8.09.020 Definitions.

A. "Facility" means a medical marijuana facility.
B. "Marijuana" means all parts of the plant of the Cannabis Moraceae, whether growing or not, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes or as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or predation of the mature stalks (except the resin extracted there from), fiber oil, or cake, or the sterilized seed of the plant which is incapable of germination.
C. "Medical Marijuana" refers to marijuana dried, produced, kept, stored, delivered, transferred, dispensed or otherwise provided for the exclusive benefit of and use by a person to mitigate the symptoms or effects of a person's debilitating medical condition as defined in ORS 475.302.
D. "Medical Marijuana Facility" means a facility that is registered by the Oregon Health Authority under ORS 475.300-475.346 and that sells, distributes, transmits, gives, dispenses or otherwise provides medical marijuana to medical marijuana qualifying patients.
E. "Minor" means any person under 21 years of age who is not a medical marijuana card holder.
F. "Marijuana Vending Facility" means a marijuana facility selling cannabis products and operating under the "Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act" or a Medical Marijuana Facility.
G. "Playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of minors, including, but not limited to, sliding boards, swing sets, and teeterboards.
H. "Premises" means a location registered by the State of Oregon as a Medical Marijuana Facility and includes all areas at the location that are used in the business operated at the location, including offices, kitchens, restrooms, storerooms, and including all public and private areas where individuals are permitted to be present. Premises does not include the parking areas or the

landscaped areas located outside of the building or buildings which accommodate the primary activities of the Medical Marijuana Facility.

I. "Sensitive Use - Class I" means a public or private elementary, secondary or career school attended primarily by minors, including any parking lot appurtenant thereto and any property used by the school.

J. "Sensitive Use - Class II" means a public park or public playground, a public library, recreational center, licenses treatment center, light rail transit station, adult foster care facility or a housing facility owned by a public housing authority.

K. "Sensitive Use - Class III" means a licensed day care facility or licensed preschool including any parking lot appurtenant thereto and any property used by the facility or preschool.

[Adopted by Ord. 04-2015, 4/16/15]

8.09.030 Rules and Regulations.

Any Medical Marijuana Facility must comply with the following requirements, in addition to any other state or local requirements:

A. The Medical Marijuana Facility may not operate in violation of applicable land-use, building and fire codes.

B. There shall be no manufacture or production of any extracts, oils, resins or similar derivatives of marijuana on the Premises of a Medical Marijuana Facility and no open flames shall be used in the preparation of any products.

C. Marijuana and tobacco products must not be smoked, ingested or otherwise consumed on the Premises of the Medical Marijuana Facility.

D. Operating hours for a Medical Marijuana Facility must be no earlier than 10:00 a.m. or later than 9:00 p.m. on the same day.

E. The Medical Marijuana Facility must not be co-located on the same property or within the same building with any marijuana social club or smoking club.

F. The Medical Marijuana Facility must utilize an air filtration and ventilation system that confines all objectionable odors associated with the Facility to the Facility Premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.

G. The Medical Marijuana Facility must not permit any minor to be present anywhere on the Premises, unless accompanying a parent or guardian who is a cardholder to the waiting area as allowed by state law.

H. Registration and Compliance with Oregon Health Authority Rules. The facility's registration as a medical marijuana facility under ORS 475.314 must be in good standing with the Oregon Health Authority, and the facility must comply with all applicable laws and regulations administered by the Oregon Health Authority for facilities.

I. Secure Disposal. The facility must provide for secure disposal of marijuana remnants or by-products; marijuana remnants or by-products shall not be placed within the facility's exterior refuse containers.

[Adopted by Ord. 04-2015, 4/16/15]

8.09.040 Standards.

A. A Marijuana Vending Facility may only operate where retail uses are permitted by the Clackamas County Zoning and Development Ordinance.

B. A Marijuana Vending Facility shall not be located:

1. In any industrial or residential zoning district or outside of the Metro Urban Growth Boundary.

2. Within a residence.

3. Within:

a. 2500 feet of another Marijuana Vending Facility.
b. 2000 feet from a Sensitive Use - Class I.
c. 1500 feet from a Sensitive Use - Class II.
d. 500 feet from a Sensitive Use - Class III.
e. 100 feet of a residentially zoned property, however, this provision shall not apply to any parcel which fronts on a state highway or major arterial.

C. For purposes of subsection B. all distances shall be measured from the property line of the affected property, (for example, a school) to the closest point of the space occupied by the facility.

D. A change in use (including a rezone) to a neighboring property to a use identified in this section after a license has been issued for a Marijuana Vending Facility shall not result in the facility being in violation of this section.

E. The provisions of Section 9.09.040(B) shall not apply to any Medical Marijuana Facility which applied for a registration with the Oregon Health Authority on or before March 3, 2014, and which subsequently obtained full, unconditional approval on or before May 31, 2014.

F. A Medical Marijuana Facility which falls under Section 8.09.040(B) may relocate to another location in the same building.

G. In case of a conflict under Section 9.09.040(B)(3)(a), any person who has submitted a complete building permit application after first obtaining final approval from the relevant state licensing agency, shall be deemed to have established a facility at the licenses location, so long as the facility begins operation within 180 days of submittal of the building permit application.

H. Home Occupation. A facility may not be operated as a home occupation, may not have a walk-up window or drive through, and may not operate from a non-fixed location.

[Adopted by Ord. 04-2015, 4/16/15]

8.09.050 Remedy for Noncompliance and Administrative Appeals.

A. A building or structure established, operated, or maintained contrary to this chapter is a public nuisance and may be abated as provided for in Chapter 6.08.

B. The remedy provided in this section is not exclusive and shall not prevent the County from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the County or other appropriate prosecutor from pursuing criminal charges under state law or County ordinance.

[Adopted by Ord. 04-2015, 4/16/15]

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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106 AUTHORIZATION OF SIMILAR USES

106.01 APPLICABILITY

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

A. In the following zoning districts, uses similar to one or more of the listed uses for that zoning district may be authorized: PMD, NC, C-2, RCC, RTL, CC, C-3, PMU, SCMU, OA, OC, RCO, VCS, VO, RTC, RC, CI, BP, LI, GI, and RI Districts;

B. In the following zoning districts, uses similar to one or more of the listed limited uses for that zoning district may be authorized as a limited use: HDR, SHD, RCHDR, and MRR Districts;

C. Tables 315-1, *Permitted Uses in the Urban Residential Zoning Districts*, 316-1, *Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts*, and 317-1, *Permitted Uses in the MRR and HR Districts*, identify instances where uses similar to a listed conditional use may be authorized as a conditional use; and

D. Conditional uses similar to one or more of the listed conditional uses for the Historic Landmark, Historic District, and Historic Corridor overlay zoning district may be authorized.

106.02 PROCESS AND STANDARDS

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

A. Authorization of a similar use is a type of interpretation application processed pursuant to Section 1308, *Interpretation*.

B. A use may not be authorized as a similar use if it is specifically listed as prohibited in the applicable zoning district. "Specifically listed" does not include general references to prohibited uses, such as "uses of structures and land not specifically allowed."

C. A use may not be authorized as a similar use if it is specifically listed as a special use in Section 800, *Special Use Requirements*.

D~~C~~. Similarity to a "preexisting" use may not serve as the basis for authorization of a similar use, even in zoning districts where "preexisting" uses are specifically listed as a primary, accessory, limited, or conditional use.

E~~D~~. If a use is found to be similar to a primary, accessory, limited, or conditional use, it shall be subject to the same approval criteria, review process, dimensional standards, and development standards as the use to which it is found to be most similar.

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

202 DEFINITIONS

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

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

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

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

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

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

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

"Adult theater" is an establishment used for more than 25 percent of showtime for presenting material (either live, closed circuit, or prerecorded) for observation by patrons therein which has as a dominant theme an emphasis on nudity and/or specified sexual activities, as defined in this ordinance.

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

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

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

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

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

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

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

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

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

ARCHITECTURAL FEATURES: Features include, but are not limited to cornices, canopies, sunshades, gutters, chimneys, fireplaces, flues and eaves. Architectural

features shall not include any portion of a structure built for the support, occupancy, shelter or enclosure of persons or property of any kind.

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

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

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

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

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

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

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

"Bed and Breakfast Residence" provides overnight accommodations plus breakfast and occasional family-style meals for guests, in an operator- or owner-occupied dwelling that provides up to five rooms on an occasional or regular basis. Income derived from the bed and breakfast activity may represent a

primary source of income. Bed and breakfast residences are subject to Section 832, and all requirements of the underlying district.

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

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

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

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

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

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

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

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

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

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

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

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

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

BUILDING OR STRUCTURE HEIGHT: The term "height of building" shall be

calculated by the methods identified in the State of Oregon Structural Specialty Code or the State of Oregon One and the Two Family Dwelling Specialty Code, as applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPOSTING FACILITY: A site or facility, excluding home composting areas as described in Section 202 and agricultural composting conducted as a farm use, which utilizes green feedstocks to produce a useful product through a managed process of controlled biological decomposition. Composting may include amendments beneficial to the composting process. Vermiculture and vermicomposting are considered composting facilities. Composting facilities or sites may include sales of the finished product, as well as accessory products limited to topsoil, barkdust and aggregate commonly used in landscaping to wholesale and retail customers. The area utilized for the sale of said accessory products shall not exceed 10% of the area used for composting, or two (2) acres, whichever is less subject to the provisions of Subsection 834.03 and 834.04.

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

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

CULTURAL RESOURCE INVENTORY: The official list of designated cultural

features, sites, districts subject to the provisions of Section 707, Cultural Resources.

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

DAYCARE FACILITY: A facility that provides regular daycare services to children under 13 years of age, including a day nursery, nursery school group, or similar unit operating under any name. A daycare facility shall not include services provided by a physician or nurse, or facilities operated primarily for education or supervised training or instruction, or daycare provided by a "babysitter" or "family daycare provider".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Superfund Amendments and Reauthorization Act (SARA) of 1986, Section 302 Extremely Hazardous Substances List (40 C.F.R 355, App. A and B);

B. Comprehensive Environmental Response Compensation & Liability Act Superfund (CERCLA) of 1980, Hazardous Substances List (40 C.F.R 302, Table 302.4);

C. SARA of 1986, Section 313, Toxic Chemicals List (40 C.F.R Section 372.65);

D. Resource Conservation and Recovery Act (RCRA) of 1976 and 1984 Amendments, Hazardous Wastes List (P & U Categories) (40 C.F.R Section 261.33(e) and (f)); and

E. DOT Hazardous Materials Table (49 C.F.R Part 172.101).

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

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

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

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

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

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

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

conditions or circumstances who are members of the resident family.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

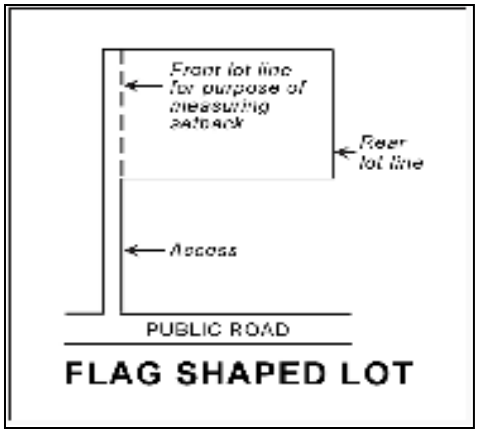
LOT, CORNER: A lot with street frontage on two streets intersecting at a corner of the lot. A lot within the radius curve of a single street is not a corner lot. A lot with access limited to, and frontage on, a state, County, public or private road and also with frontage on an intersecting private road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

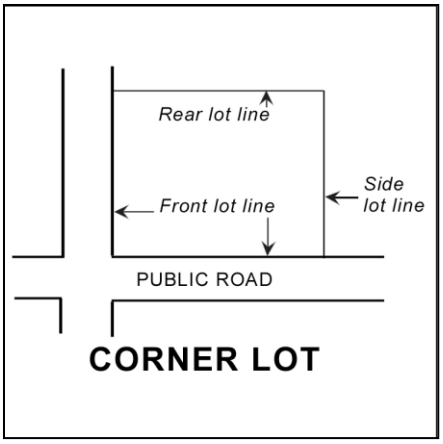
LOT COVERAGE: The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.

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

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

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





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

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

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

A. Contiguous lots under the same ownership when initially zoned shall be combined when any of these lots, parcels or units of land did not satisfy the lot size requirements of the initial zoning district, excluding lots in a recorded plat.

B. A unit of land created solely to establish a separate tax account, or for mortgage purposes, that does not conform to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed, tax account or contract creating it was signed by the parties to the deed or contract, unless it is sold under the foreclosure provisions of Chapter 88 of the Oregon Revised Statutes.

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

LOT, THROUGH: Lots, other than corner lots, that abut on two or more streets. See

also “LOT, DOUBLE FRONTAGE” AND “LOT, REVERSE FRONTAGE”.

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

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

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

MAJOR TRANSIT STOP: A transit center, major bus stop, or light rail stop, as identified on Comprehensive Plan Map 5-8a, *Transit, Urban*.

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

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

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

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

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

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

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

MARIJUANA PRODUCTION: The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a "person designated to produce marijuana by a registry identification cardholder."

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

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

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

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

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

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

MOBILE VENDING UNIT: A vehicle that is used in selling and dispensing goods or services to the customer. Notwithstanding this definition, a mobile vending unit shall not be used in selling and dispensing marijuana items. As used in this definition, a vehicle is motorized or non-motorized transportation equipment containing an axle and intended for use on public roads, including, but not limited to, a car, van, pickup, motorcycle, recreational vehicle, bus, truck, detached trailer, or a

truck tractor with no more than one trailer.

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

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

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

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

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

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

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

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

NURSING HOME: A nursing, convalescent, or rest home facility licensed by the

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

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

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

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

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

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

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

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

PEDESTRIAN AMENITIES: Outdoor improvements directly visible and accessible to pedestrians that promote and facilitate pedestrian use, including plazas, pocket parks, courtyards, awnings or other weather protection, kiosks or gazebos, water

features, drinking fountains, sculpture, outside seating areas, landscape planters, trellises, and street furniture.

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

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

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

PERSON DESIGNATED TO PRODUCE MARIJUANA BY A REGISTRY IDENTIFICATION CARDHOLDER: A person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

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

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

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

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

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

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

PRIMARY BUILDING WALL: Exterior building wall which contains a public

entrance to the occupant's premises and faces either a street or a parking area.

PRODUCE STAND: A table, bench (or similar), cart, or structure, any of which may be covered, that is located or erected for the purpose of direct sales by growers of agricultural goods, including vegetables, fruits, flowers, bulbs, herbs, plants, honey, and similar products as determined by the Planning Director, but not including marijuana or processed foods such as jams or jellies, that are produced on the same site at which the produce stand is located.

PROFESSIONAL SERVICES: Activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist, teacher, real estate agent, and insurance agent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

synonymous with the term "road".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SIGN, ELECTRONIC MESSAGE CENTER: A sign, display or device, or portion thereof, whose message may be changed by electronic process or remote control, and

includes electronic time and temperature displays and the device known in the advertising industry as a commercial electronic variable message sign.

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

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

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

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

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

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

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

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

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

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

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

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

SIGN, ROOF: Any sign erected and constructed wholly on and on top of the roof of

a building, supported by the roof structure.

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

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

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

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

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

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

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

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

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

SOLAR ENERGY SYSTEM: Any solar collector, or other solar energy device, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating, or electricity. The power generating capacity of a “solar energy system” is limited to power consumed by the development to which the system is accessory, or—if the system feeds power into the

grid of a public utility company—to an amount equivalent to no more than the annual usage of the development to which the system is accessory.

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

A. Environmentally hazardous wastes as defined in ORS 466.055;

B. Materials used for fertilizer or for other productive purposes on land in agricultural operations in the growing and harvesting of crops or the raising of fowl or animals. This exception does not apply to the keeping of animals on land which has been zoned for residential non-agricultural purposes;

C. Septic tank and cesspool pumping or chemical toilet waste;

D. For purposes of Article V of this Ordinance, reusable beverage containers as defined in ORS 459A;

E. Source separated, principal recyclable materials as defined in ORS 459A and the Rules promulgated thereunder and under this Ordinance, which have been purchased or exchanged for fair market value, unless said principal recyclable materials create a public nuisance pursuant to Article II of this Ordinance;

F. Applications of industrial sludges or industrial waste by-products authorized through a Land Use Compatibility Statement of Management Plan approval and that have been applied to agricultural lands according to accepted agronomic practices or accepted method approved by the Land Use Compatibility Statement or Management Plan, but not to exceed 100 dry tons per acre annually;

G. Stabilized municipal sewage sludge applied for accepted beneficial uses on land in agricultural, non-agricultural, or silvicultural operations;

H. Sludge derived products applied for beneficial uses on land in landscaping projects.

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

STORY: A portion of a building included between a floor and the ceiling next above it, exclusive of a basement.

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

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

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

STREET: See “ROAD”.

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

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

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

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

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

SUBDIVISION, MINOR: A division of property creating four to 10 lots in the same calendar year.

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

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

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

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

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

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

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

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

TRANSFER STATION: A fixed or mobile facility used as part of a solid waste collection and disposal system or resource recovery system, between a collection route and a processing facility or a disposal site, including but not limited to drop

boxes made available for general public use. This definition does not include solid waste collection vehicles.

TRANSIT STOP: Any posted bus or light rail stop.

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

UNDERGROUND STRUCTURE: A structure in which more than 50 percent of the cubic footage of the enclosed, covered space is (1) constructed below the highest elevation of the ground adjoining the structure site prior to excavation; and (2) covered over by ground materials, such as soil, sod, sand or exterior paving, which are continuous on at least one side of the structure with contiguous surface ground materials. Conventional roofing materials may be used to cover any portion of the structure which extends above ground elevation. For an underground structure to be a "dwelling unit" access must be provided to outdoor space at floor level (within two feet of elevation) equal to at least 20 percent of the square footage of the enclosed, covered area of the structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-232, 3/12/12; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15]

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

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

315.01 PURPOSE

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

315.02 APPLICABILITY

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

315.03 USES PERMITTED

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

   1. In the PMD District, uses similar to one or more of the listed uses for the PMD District may be authorized pursuant to Section 106, *Authorization of Similar Uses*; and

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

B. As used in Table 315-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "L" means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
4. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. "X" means the use is prohibited.
6. Numbers in superscript correspond to the notes that follow Table 315-1.

C. Permitted uses are subject to the applicable provisions of Subsection 315.04, *Dimensional Standards*; Subsection 315.05, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process.*

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

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

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

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

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

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

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

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

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

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

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

[2] The limited use is permitted subject to the following criteria:

a. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.

b. No outdoor storage of materials or display of merchandise associated with the use shall be allowed.

[3] The limited use is permitted subject to the following criteria:

a. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.

b. The total building floor area occupied by all limited uses shall not exceed 15 percent of the total building floor area occupied by primary uses.

c. No outdoor storage of materials associated with the use shall be allowed.

d. The use shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat, or vibration which are detectable outside of the premises and are incompatible with primary uses.

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

[5] The limited use is permitted subject to the following criteria:

a. The use shall be part of a development within a Design Plan area.

b. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.

c. The total building floor area occupied by all limited uses shall not exceed 10 percent of the total building floor area occupied by primary uses. No single limited commercial use shall occupy more than 1,500 square feet of building floor area.

d. Allowing the use will not adversely impact the livability, value, and appropriate development of the site and abutting properties considering the location, size, design, and operating characteristics of the use.

e. No outdoor storage of materials associated with the use shall be allowed.

f. The use shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat, or vibration which are detectable outside of the premises and are incompatible with primary uses.

[6] The use shall be developed in conjunction with a primary use on the same site, which is developed at the maximum allowed density for the site area. The total building floor area occupied by all limited uses, and by all conditional uses that are subject to Note 6 to Table 315-1, shall not exceed 10 percent of the total building floor area occupied by primary uses.

[7] This use is limited to alteration or expansion of a church lawfully established prior to July 14, 1980. The use shall not extend beyond the property that was under the ownership of, or occupied by, the preexisting church and associated facilities prior to July 14, 1980.

[8] Except as limited by Subsection 902.02, each lot of record may be developed with only one of the following: attached single-family dwelling—if permitted by Note 9 or 10 to Table 315-1—detached single-family dwelling, or manufactured home.

[9] Attached single-family dwellings are permitted on 100 percent of the lots in a planned unit development and 20 percent of the lots in a subdivision that is not a planned unit development.

[10] As a primary use, only two attached single-family dwellings may be attached in succession except in the VR-4/5 District when transferring density from a Resource Protection Area—as shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*—in which case this limit does not apply.

[11] Attached single-family dwellings that do not comply with Note 10 to Table 315-1 are a conditional use.

[12] Multifamily dwellings are limited to those containing four dwelling units.

[13] Two- and three-family dwellings are subject to Section 802, *Two- and Three-Family Dwellings*.

[14] Only indoor facilities are permitted.

[15] Uses similar to this use may be authorized pursuant to Section 106.

[16] A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 315-1.

[17] Hotels in the SHD District are limited to a maximum of 80 units per gross acre.

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

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

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

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

[22] Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.

[23] Only commercial schools are permitted.

[24] Schools are not subject to Section 805, *Schools*.

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

315.04 DIMENSIONAL STANDARDS

A. General: Dimensional standards applicable in the urban residential zoning districts are listed in Tables 315-2, *Dimensional Standards in the Urban Low Density Residential Zoning Districts*; 315-3, *Minimum Side and Rear Yard Depths for Certain Accessory Buildings in the Urban Low Density Residential Districts*; 315-4, *Dimensional Standards in the VR-4/5, VR-5/7, and VTH Districts*; and 315-5, *Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts*; and in Subsections 315.04(C) and (D). As used in Tables 315-2 through 315-5, numbers in superscript correspond to the notes that follow each table.

B. Modifications: The standards in Tables 315-2 through 315-5 may be modified pursuant to Sections 800, *Special Use Requirements*; 902, *Lot Size Exceptions*; 1013, *Planned Unit Developments*; 1014, *Design Standards for Land Divisions*; 1107, *Property Line Adjustments*; and 1205, *Variances*. Except in the HDR, SHD, and RCHDR Districts, the standards in these tables also may be modified pursuant to Sections 903, *Setback Exceptions*; and 904, *Other Exceptions*.

C. Exceptions in the Urban Low Density Residential Districts: In the Urban Low Density Residential Districts, exceptions apply to the dimensional standards of Table 315-2 as follows:

1. Maximum lot coverage does not apply to swimming pools.

2. Maximum lot coverage is 50 percent for a lot of record that is 6,000 square feet or less in area, was created prior to the application of an Urban Low Density Residential District to the subject lot of record, and is developed with a detached single-family dwelling.

3. For a detached single-family dwelling, minimum rear yard depth is 10 feet and there is no minimum side yard depth from one side lot line if:

   a. The dwelling is developed on a lot of record that is 6,000 square feet or less in area and was created prior to the application of an Urban Low Density Residential District to the subject lot of record; and

   b. The portion of the dwelling sited within the minimum yard depth area ordinarily required by Table 315-2 does not block solar access to an existing window or solar energy system located on the adjacent properties.

4. The minimum front yard depth for an accessory swimming pool shall be 10 feet. The minimum side and rear yard depths for an accessory swimming pool shall be three feet.

5. The minimum yard depths shown in Table 315-3 apply to accessory buildings that comply with the following criteria:

a. The accessory building shall be located behind the building line of the main building; and

b. The accessory building shall be detached from any other building.

6. An accessory building that is larger than 500 square feet in area—and does not share a common wall with the primary dwelling—shall be subject to the following standards:

a. The maximum building height shall be 20 feet or the height of the primary dwelling, whichever is greater.

b. The square footage shall not exceed that of the ground floor of the primary dwelling and any non-residential space that shares a common wall with the primary dwelling (e.g., an attached garage).

D. Exceptions in the MR-1 District: In the MR-1 District, the following exceptions apply to the dimensional standards of Table 315-5:

1. Maximum lot coverage does not apply to swimming pools.

2. The minimum front yard depth for an accessory swimming pool shall be 10 feet. The minimum side and rear yard depths for an accessory swimming pool shall be five feet, unless the side or rear lot line abuts a VR-4/5, VR-5/7, or Urban Low Density Residential District, in which case the minimum yard depth shall be 15 feet from the abutting lot line.

3. The minimum yard depths shown in Table 315-3 apply, where indicated by Note 1 to Table 315-3, to accessory buildings that comply with the following criteria:

a. The accessory building shall be located behind the building line of the main building, if the side or rear yard depth is less than three feet; and

b. The accessory building shall be detached from any other building.

Table 315-2: Dimensional Standards in the Urban Low Density Residential Zoning Districts[1]

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

[1] Refer to Subsections 315.04(B) and (C) and Table 315-3 for modifications and exceptions.

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

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

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

[1] This standard applies in the MR-1 District also.

[2] The accessory building shall be separated from other buildings by a minimum of three feet.

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

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

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

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

[2] The minimum and maximum lot size standards apply only to lots developed with attached single-family dwellings.

[3] The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use shall be 3,000 square feet.

[4] The maximum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use shall be 5,000 square feet.

[5] In the VR-4/5 and VR-5/7 Districts, the minimum yard depth standards do not apply in a Resource Protection Area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*.

[6] A porch may extend a maximum of four feet into the minimum front yard depth.

[7] The yard depth standards of the VR-4/5 District shall apply to detached single-family dwellings that are nonconforming uses, as well as to buildings that are accessory to such dwellings.

[8] For the purposes of the minimum and maximum front yard depth standards, frontage on a designated accessway shall be considered a front lot line.

[9] On a corner lot, the minimum depth of one front yard shall be eight feet, provided that the yard abuts a road with a functional classification of local or connector.

[10] Awnings, porches, bays, and overhangs may extend a maximum of four feet into the minimum front yard depth.

[11] If a public utility easement precludes compliance with the maximum front yard depth standard, the maximum shall be as close to the front lot line as possible.

[12] Dwellings located on lots with less than 35 feet of street frontage shall be exempt from the maximum front yard depth standard.

[13] If a lot has more than one front lot line, compliance with the maximum front yard depth standard is required from only two intersecting front lot lines.

[14] For the purposes of the minimum side yard depth standard, frontage on a pedestrian connection shall be considered a side lot line.

[15] The maximum building height standard applies only to accessory buildings larger than 100 square feet.

[16] Except as modified by Subsection 315.05(N), garages in the VR-4/5, VR-5-7, and VTH Districts shall comply with Subsection 315.05(K), 315.05(L), or 1005.12(B), respectively.

[17] If a rear or side lot line abuts a pedestrian pathway, sidewalk, or accessway, the minimum yard depth shall be five feet.

[18] If the rear lot line abuts an alley, a second-story accessory dwelling unit may cantilever a maximum of four feet into the rear yard.

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

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

[1] Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).

[2] Minimum site area means minimum gross site area, including land dedicated for roadway purposes. Site area means one of the following:

- A single tax lot, or two or more contiguous tax lots under the same ownership; or
- Two or more contiguous tax lots under separate ownership, provided that:
  - All individual property owners are members of a group formed for the purpose of developing the properties as a single planned development; and
  - All individual tax lot ownerships are converted into development shares prior to any building permit being issued for the project; or the group shall record, in the office of the County Clerk, a contract and associated deed restrictions, in which all members agree to subject the use and development of individual tax lots or ownerships to the development plan for the site area as approved by the County. No permit shall be issued on any separate tax lot or ownership for any structure or use not indicated on the County-approved development plan for the site area.

[3] Primary and accessory uses may be established on site areas smaller than the minimum site area standard, if the site area is physically separated from all other undeveloped or underdeveloped properties in the subject zoning district.

[4] The minimum site area standard applies to high density developments.

[5] The minimum site area standard applies to developments combining primary, accessory, and limited uses.

[6] The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use shall be 3,630 square feet.

[7] The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use shall be 3,000 square feet.

[8] If a lot is created for a detached single-family dwelling classified as a nonconforming use, the minimum lot size for the other lot(s) created by the land division shall be one acre.

[9] If a lot less than one acre in size results from a property line adjustment, it may not be developed unless combined with other property as provided under Note 2 to Table 315-5.

[10] If a lot is created for a detached single-family dwelling classified as a nonconforming use, the minimum lot size for the other lot(s) created by the land division shall be three acres.

[11] If a lot less than three acres in size results from a property line adjustment, it may not be developed unless combined with other property as provided under Note 2 to Table 315-5.

[12] The minimum yard depth standards of Table 315-2, *Dimensional Standards in the Urban Low Density Residential Districts*, as modified by Subsection 315.04(C), apply to detached single-family dwellings that are nonconforming uses, as well as to structures that are accessory to such dwellings.

[13] If the front or rear lot line abuts Sunnyside Road, the minimum yard depth shall be 65 feet from the centerline of Sunnyside Road, and the maximum yard depth shall be 75 feet from the centerline of Sunnyside Road.

[14] Awnings, porches, and bays may extend a maximum of six feet into the minimum yard depth.

[15] For buildings used exclusively for residential purposes, the minimum front yard depth shall be 15 feet, and there shall be no maximum yard depth.

[16] The maximum yard depth may be exceeded to accommodate plazas identified on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*.

[17] The minimum yard depth standard applies only from lot lines that are on the perimeter of the project.

[18] If the rear yard abuts an OSM District or a residential zoning district other than HDR, SHD, or RCHDR, the minimum rear yard depth shall be 20 feet.

[19] If the side yard abuts an Urban Low Density Residential, VR-5/7, or VR-4/5 District, the minimum side yard depth for a two-story building shall be 10 feet.

[20] If the side yard abuts an OSM District or a residential zoning district other than HDR, SHD, or RCHDR, the minimum side yard depth shall be 15 feet.

[21] Maximum lot coverage does not apply to swimming pools.

[22] The maximum height of tower elements shall be 60 feet, provided that such elements do not have a footprint exceeding 400 square feet.

315.05 DEVELOPMENT STANDARDS

The following development standards apply:

A. Condominiums: Except in the VR-5/7 and VR-4/5 Districts, any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record.

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

C. Structure and Façade Design in the Urban Low Density Residential Districts: In the Urban Low Density Residential Districts, single-family dwellings and manufactured homes, except temporary dwellings approved pursuant to Section 1204, shall include at least three of the following features visible to the road. If the single-family dwelling or manufactured home is located on a corner lot, the features shall be visible from the road from which the dwelling takes access.

1. A covered porch at least two feet deep;
2. An entry area recessed at least two feet from the exterior wall to the door;
3. A bay or bow window (not flush with the siding);
4. An offset on the building face of at least 16 inches from one exterior wall surface to the other;
5. A dormer;
6. A gable;
7. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls;
8. A roofline offset of at least 16 inches from the top surface of one roof to the top surface of the other;
9. An attached garage;
10. Orientation of the long axis and front door to the street;
11. A cupola;
12. A tile, shake, or composition roof; and
13. Horizontal lap siding.

D. Shipping Containers: Freight shipping containers used as accessory buildings shall be located behind the building line of the main building, and the exterior shall be painted similar in color to that of the main building.

E. Metal Accessory Buildings in the Urban Low Density Residential Districts: In the Urban Low Density Residential Districts, metal accessory buildings greater than 500 square feet in area shall include roof overhangs, gutters, and downspouts, and the exterior shall be painted similar in color to that of the dwelling.

F. Recreational Facilities in the SHD and RCHDR Districts: In the SHD and RCHDR Districts, a residential development shall provide a least one of the following recreational facilities for the first 60 dwelling units, or portion thereof, and at least one additional facility for every additional 120 dwelling units, or portion thereof.

1. An 800-square-foot or larger heated swimming pool;

2. A minimum 1,000-square-foot exercise room with exercise equipment and mats;

3. Two handball/racquetball courts;

4. Whirlpool and sauna or steam bath rooms;

5. Minimum 1,200-square-foot game room with pool and ping pong tables, folding tables and chairs, and kitchenette;

6. An 800-square-foot shop equipped with hand tools, work benches, storage shelves, lockers, and ventilation;

7. A 400-square-foot greenhouse with all-season solar exposure, equipped with benches, water, ventilation, summer shading materials, and storage areas for pots, tools, potting soil, fertilizers, etc;

8. 3,000 square feet of hard-surface play area, such as a tennis court, basketball court, or roller-skating area;

9. 4,200 square feet of soft surface play area with equipment provided for lawn games such as volleyball, badminton, croquet, and horseshoes; and

10. Any other similar facility, as determined by the Planning Director.

G. Parks in the VR-4/5 and VR-5/7 Districts: Streets, public paths, or open space shall abut the entire perimeter of all parks. In no case shall the rear of a building face a park. Street alignments and lot design shall ensure that building fronts or sides face parks, with building sides acceptable along not more than one-third of a park's perimeter.

H. Resource Protection Areas in the VR 4/5 and VR 5/7 Districts: On lots recorded after November 29, 1995, development of primary dwellings and accessory structures within a Resource Protection Area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan, Land Use Plan Map*, shall be subject to design review, pursuant to Section 1102, and the following criteria:

1. Disturbance of natural features, including slopes in excess of 20 percent, trees and treed areas, wetlands, and stream corridors, shall be minimized.

2. Compliance with Subsections 1002.02 and 1002.04 shall be demonstrated.

3. The maximum disturbed area shall be 5,000 square feet. All buildings and yard areas shall be contained within this area. Driveways and required trails and utility construction shall be excluded from calculation of the disturbed area.

4. Shared driveways are encouraged and shall be designed to be as narrow as possible, consistent with the requirements of the fire district.

I. Single-Family Dwellings in the VR-4/5 and VR-5/7 Districts: In the VR-4/5 and VR-5/7 Districts, the following standards apply to attached single-family dwellings and detached single-family dwellings:

1. Front facades shall be designed with balconies and/or bays. Facades facing a street right-of-way shall not consist of a blank wall.

2. Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill.

3. Hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited.

4. The following standards shall apply in all subdivisions that receive final plat approval after November 29, 1995.

   a. If a lot has frontage on a local or connector street or a private street which meets local or connector street design standards, then the primary entry shall be accessed directly from and visible from one of those streets.

   b. A minimum of 50 percent of the single-family dwellings shall have porches. A covered porch or patio shall be placed immediately adjacent to the primary entry. The porch shall have a minimum net depth of six feet and a minimum net width of 10 feet.

J. Driveways in the VR-4/5 and VR-5/7 Districts: The following standards apply in the VR-4/5 and VR-5/7 Districts:

1. Driveways shall not exceed a width of 16 feet at the front lot line, unless the subject property is developed with a garage that has at least three side-by-side (as opposed to tandem) garage bays, in which case the maximum driveway width shall be 24 feet at the front lot line.
2. For subdivisions that receive final plat approval after November 29, 1995, a minimum of 50 percent of lots developed on alleys shall have alley access only.

K. Garages in the VR-4/5 District: In the VR-4/5 District, all garages shall have a front yard depth to the garage door that is a minimum of five feet greater than the front yard depth to the front façade of the primary dwelling (not including porches, bays, and architectural features).

L. Garages in the VR 5/7 District: In the VR-5/7 District, a minimum of 50 percent of the primary dwellings in a development shall have a garage with a front yard depth to the garage door that is a minimum of five feet greater than the front yard depth to the front façade of the primary dwelling (not including porches, bays, and architectural features). The remaining 50 percent of the primary dwellings in a development may have a garage with a front yard depth to the garage door that is a maximum of five feet less than the front yard depth to the front facade of the primary dwelling (not including porches, bays, and architectural features).

M. Accessory Structures in the VR-4/5, VR-5/7, and VTH Districts: In the VR-4/5, VR-5/7, and VTH Districts, accessory buildings greater than 100 square feet in area shall be constructed with similar exterior building materials to those of the primary dwelling.

N. Exemptions in the VR-4/5 and VR-5/7 Districts:

1. Neither the dimensional standards for primary dwellings in the VR-4/5 and VR-5/7 Districts listed in Table 315-4, nor the requirements of Subsections 315.05(G) through (M), apply to new homes developed in subdivisions which have received final plat approval prior to August 26, 1993, if there are homes developed or under construction on existing lots within the subdivision.

2. In the VR-4/5 District, new homes developed within subdivisions which have received preliminary plat approval prior to August 26, 1993, may comply with Subsection 315.05(L) in lieu of Subsection 315.05(K).

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

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

316.01 PURPOSE

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

316.02 APPLICABILITY

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

316.03 USES PERMITTED

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

B. As used in Table 316-1:

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

C. Permitted uses are subject to the applicable provisions of Subsection 316.04, *Dimensional Standards*; Subsection 316.05, *Development Standard*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process.*

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

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

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Bus Shelters, subject to Section 823	P	P	P	P	P	P
Campgrounds	C	C	C	C	C	C
Cemeteries, subject to Section 808	C	C	X	C	C	C
Churches, subject to Section 804	C	C	C	C	C	C[3]
Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses[23]	X	X	X	C	C	X
Composting Facilities, subject to Section 834	X	X	X	C	C	X
Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources	P	P	P	P	P	P
Crematories, subject to Section 808	C	C	X	X	X	X
Daycare Facilities, subject to Section 807	C	C	C	C	C	C[4]
Daycare Services, Adult	C	C	C	C	C	C[5]
Dwellings, Detached Single-Family	P[6]	P[6]	P[6]	P[6]	P[6]	P[6]
Dwellings, Two-Family, subject to Section 802	C[6]	X	X	X	X	X
Energy Source Development	X	X	C	X	X	X
Farmers' Markets, subject to Section 840	A	A	A	A	A	A
Farm Uses, including[23]**:**						
Raising, harvesting, and selling crops	P	P	P[7]	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X[8]	P	X[8]	P	P	P
Dairying and the sale of dairy products	X[8]	P	X[8]	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X[8]	P	X[8]	P	P	P

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use	P	P	P[7]	P	P	P
Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species that are under the jurisdiction of the Oregon Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission	X[8]	P	X[8]	P	P	P
Growing cultured Christmas trees	P	P	P[7]	P	P	P
Fish or Wildlife Management Programs	X	X	X	P	P	P
Forest Practices, including the following operations conducted on or pertaining to forestland: reforestation of forestland, road construction and maintenance, harvesting of forest tree species, application of chemicals, disposal of slash, and removal of woody biomass	P[9]	P[9]	P	P[9]	P[9]	P[9]
Fraternal Organization Lodges	C[10]	C[10]	C[10]	C[10]	C[10]	C[10]
Government Uses, unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C[10]	C[10]	C[10]	C[10]	C[10]	C[10]
Guest Houses and Studios, subject to Section 833	A	A	A	A	A	A
Guest Ranches and Lodges	X	X	C	X	X	X
Home Occupations, including bed and breakfast homestays, subject to Section 822[11]	A	A	A	A	A	A
Home Occupations to Host Events, subject to Section 806	C	C	C	C	C	C
Hydroelectric Facilities, subject to Section 829	C	C	C	C	C	C
Kennels	C[12]	C[12]	X	C[12]	C[12]	X
Livestock, subject to Section 821	P	X[8]	A	X[8]	X[8]	X[8]

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Manufactured Dwellings, subject to Section 824	P[6]	P[6]	P[6]	P[6]	P[6]	P[6]
Marijuana Processing, subject to Section 841	X	X	X	*C or X*	*C or X*	X
Marijuana Production, subject to Section 841	X	X	X	*P or X*	*P or X*	X
Marijuana Retailing	X	X	X	X	X	X
Marijuana Wholesaling	X	X	X	*C or X*	*C or X*	X
Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources	X	X	X	C	C	X
Produce Stands	A[13]	A[13]	A[13]	A[13]	A[13]	A[13,14]
Public Utility Facilities	C[10,15]	C[10,15]	C[10,15]	C[10,15]	C[10,15]	C[10,15]
Radio and Television Transmission and Receiving Towers and Earth Stations	C[10,16]	C[10,16]	C[10,16]	C[10,16]	C[10,16]	C[10,16]
Recreational Uses, including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails[17]	C[10]	C[10,18]	C[10]	C[10,18]	C[10,18]	C[10,18]

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Recreational Uses, Government-Owned, including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses[17]	P[19]	P[19]	P[19]	P	P	P
Recreational Uses, Government-Owned Golf Courses[17]	P[19]	P[19]	P[19]	P	P	P
Recreational Vehicle Camping Facilities, subject to Section 813	C[10]	C[10]	C[10]	C[10]	C[10]	X
Sanitary Landfills and Debris Fills, subject to Section 819	X	X	X	C	C	X
Schools, subject to Section 805	C[20]	C[20]	C	C[20]	C[20]	C[21]
Signs, subject to Section 1010	A[22]	A[22]	A[22]	A[22]	A[22]	A[22]
Surface Mining, subject to Section 818	X	X	X	C	C	X
Telephone Exchanges	C[10]	C[10]	C[10]	C[10]	C[10]	C[10]
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A

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

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

[2] Aircraft landing areas are permitted for use by emergency aircraft (fire, rescue, etc.) only.

[3] This use is limited to alteration or expansion of a lawfully established church.

[4] This use is limited to alteration or expansion of a lawfully established daycare facility.

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

[6] Except as limited by Subsection 902.02, each lot of record may be developed with only one of the following: detached single-family dwelling, two-family dwelling (only if approved as a conditional use in the RA-1 District pursuant to Section 802), or manufactured dwelling.

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

[8] Depending on the specific zoning district, livestock is either permitted as described under the use category of “farm uses” or is permitted as described under the use category of “livestock.”

[9] For land inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs.

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

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

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

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

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

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

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

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

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

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

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

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

[20] Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.

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

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

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

316.04 DIMENSIONAL STANDARDS

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

B. Modifications: The standards in Table 316-2 may be modified pursuant to Sections 800, *Special Use Requirements*; 902, *Lot Size Exceptions*; 903, *Setback Exceptions*; 904, *Other Exceptions;* 1013, *Planned Unit Developments*; 1014, *Design Standards for Land Divisions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

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

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

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

[2] The minimum lot size inside the Portland Metropolitan Urban Growth Boundary shall be 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.

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

[4] For a corner lot located above 3,500 feet in elevation, the minimum depth of one of the front yards shall be 10 feet, except 20 feet to garage and carport motor vehicle entries.

[5] The minimum rear yard depth for an accessory building shall be five feet.

[6] The minimum rear yard depth for an accessory building shall be 10 feet.

[7] The minimum side yard depth for an accessory building shall be five feet.

316.05 DEVELOPMENT STANDARD

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

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

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

317.01 PURPOSE

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

317.02 APPLICABILITY

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

317.03 USES PERMITTED

A. Uses permitted in the MRR and HR Districts are listed in Table 317-1, *Permitted Uses in the MRR and HR Districts*. Uses not listed are prohibited, except that in the MRR District, uses similar to one or more of the listed limited uses may be authorized pursuant to Section 106, *Authorization of Similar Uses*.

B. As used in Table 317-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "L" means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
4. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. "X" means the use is prohibited.
6. Numbers in superscript correspond to the notes that follow Table 317-1.

C. Permitted uses are subject to the applicable provisions of Subsection 317.04, *Dimensional Standards*; Subsection 317.05, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process.*

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

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

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

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

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

[2] The limited use is permitted subject to the following criteria:

a. The use shall be incidental to a primary use.

b. The use shall be provided for as an integral part of the general plan of the development.

c. The use shall not, by reason of its location, construction, manner or timing of operations, signs, lighting, parking arrangements, or other characteristics, have adverse effects on

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

[3] Except as limited by Subsection 902.02, each lot of record may be developed with only one of the following: attached single-family dwelling, detached single-family dwelling, or manufactured home.

[4] Attached single-family dwellings are permitted on a maximum of 100 percent of the lots in a planned unit development and a maximum of 20 percent of the lots in a subdivision that is not a planned unit development.

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

[6] A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 317-1.

[7] Also permitted are associated convention facilities.

[8] A new hotel or motel in Rhododendron shall be limited to a maximum of 35 units. A new hotel or motel in Government Camp shall be limited to a maximum of 100 units.

[9] Only level three and four mobile vending units are permitted.

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

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

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

[13] Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.

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

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

317.04 DIMENSIONAL STANDARDS

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

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

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

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

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

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

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

[4] If the yard abuts a national forest, there shall be no minimum yard depth.

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

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

[6] The maximum building height may be increased to 50 feet to accommodate understructure parking.

[7] For a hotel in Government Camp, the maximum building height shall be 70 feet and may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.

[8] No maximum applies to hotels and motels.

317.05 DEVELOPMENT STANDARDS

The following development standards apply:

A. Condominiums: Any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record.

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

C. Structure and Façade Design: Single-family dwellings and manufactured homes, except temporary dwellings approved pursuant to Section 1204, shall include at least three of the following features visible to the road. If the single-family dwelling or manufactured home is located on a corner lot, the features shall be visible from the road from which the single-family dwelling or manufactured home takes access.

1. A covered porch at least two feet deep;
2. An entry area recessed at least two feet from the exterior wall to the door;
3. A bay or bow window (not flush with the siding);
4. An offset on the building face of at least 16 inches from one exterior wall surface to the other;
5. A dormer;
6. A gable;
7. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls;
8. A roofline offset of at least 16 inches from the top surface of one roof to the top surface of the other;
9. An attached garage;
10. Orientation of the long axis and front door to the street;
11. A cupola;
12. A tile, shake, or composition roof; and
13. Horizontal lap siding.

D. Restricted Areas: Generally residential development is prohibited in the Floodplain Management District regulated by Section 703, river and stream corridors, wetlands, mass movement hazard areas regulated by Section 1003, and on slopes greater than 25 percent. However, a single-family dwelling or manufactured home may be developed in a restricted area on a lot of record created prior to the adoption of this standard, subject to compliance with the applicable criteria in this Ordinance for such development. In the case of a land division, density accruing to restricted areas may be eligible for transfer to unrestricted areas as provided in Section 1012, *Density*.

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

401 EXCLUSIVE FARM USE DISTRICT (EFU)

401.01 PURPOSE

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

401.02 AREA OF APPLICATION

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

401.03 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

G. Farm Stand: A structure located on a part of the farm operation owned by the farm operator that is designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of the incidental items and fees from promotional activity do not make up more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings, or public entertainment.

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

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

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

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

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

M. Immediate Family: A spouse, children, adopted children, stepchildren, to include the long term care of grandchildren and step-grandchildren, but not to include other extended family members.

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

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

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

Q. Owner: For purposes of a Lot of Record Dwelling, owner includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, niece, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.

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

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

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

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

401.04 USES PERMITTED

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

A. As used in Table 401-1:

1. "A" means the use is allowed.

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

3. "C" means the use is a c~~C~~onditional u~~U~~se, approval of which is subject to Section 1203, *Conditional Uses*.

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

5. "N" means not applicable.

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

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

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

9. "HV" means High Value Farmland.

10. "LV" means Low Value Farmland.

11. Numbers in superscript correspond to the notes that follow Table 401-1.

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

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

	HV	LV	Use	Subject To
FARM AND FOREST USES	A	A	Propagation or harvesting of a forest product.	
	A	A	Farm use as defined in ORS 215.203. Marijuana production is subject to Section 841.	
	A	A	Other buildings customarily provided in conjunction with farm use.	
	TYPE II	TYPE II	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141. Marijuana processing is subject to Section 841.	401.05(B)(1)
	C	C	A facility for the primary processing of forest products.	401.05(B)(2)
	HV	**LV**	**Use**	**Subject To**
NATURAL RESOURCE USES	A	A	Creation of, restoration of, or enhancement of wetlands.	
	TYPE II	TYPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1)
	HV	**LV**	**Use**	**Subject To**
RESIDENTIAL USES	A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	A	Alteration, restoration, or replacement of a lawfully established dwelling, subject to OAR 660-033-0130(8).	401.05(A)(3) & (C)(1)
	TYPE	TYPE	Replacement dwelling to be used in conjunction	401.05(A)(3)

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

	TYPE II	TYPE II	A winery bed and breakfast facility as a home occupation, subject to ORS 215.448, as provided in ORS 215.452 or 215.453, whichever is applicable.	401.05(A)(1) & (D)(6)
	HV	**LV**	**Use**	**Subject To**
COMMERCIAL USES (cont.)	C	C	A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.	401.05(A)(1), (D)(7) & (8)
	C	C	Home occupation to host events, subject to Section 806.	401.05(A)(1) & (D)(1)
	C	C	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1).[3]	401.05(A)(1) & (D)(8)
	C	C	Winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to ORS 215.237 and 215.452.	401.05(A)(1)
	C	C	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (D)(9)
	C	C	An aerial fireworks display business.	401.05(A)(1) & (D)(10)
	C	C	Commercial dog boarding kennels.	401.05(A)(1)
	C	C	Dog training classes or testing trials that cannot be established under Subsection 401.05(E)(11) or (12).	401.05(A)(1)
	HV	**LV**	**Use**	**Subject To**
MINERAL, AGGREGATE, OIL, AND GAS USES	A	A	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	A	A	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	C	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (E)(1) & (E)(1)(a)
	C	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (E)(1) & (E)(1)(b)
	C	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (E)(1) & (E)(1)(c)
	C	C	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by	401.05(A)(1), (E)(1) & (E)(1)(d)

			ORS 520.005 not otherwise permitted under Section 401.	

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

			with a district as defined in ORS 540.505.	
	A	A	Solar energy system as an accessory use.	
	A	A	Rainwater collection systems as an accessory use.	

	HV	LV	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	A	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	A	Meteorological towers.	
	A	A	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	
	A	A	Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and are located on one or more of the following: a public right-of-way; land immediately adjacent to a public right-of-way provided the written consent of all adjacent property owners has been obtained; and/or the property to be served by the utility.	
	TYPE II	TYPE II	Wind energy power production systems as an accessory use.	401.05(G)(1)
	TYPE II	TYPE II	Essential public communication services, as defined in Subsection 835.03(D). The use is subject to ORS 215.275, if it includes a transmission tower less than or equal to 200 feet in height.	
	TYPE II	TYPE II	Collocation of wireless telecommunication facilities as identified in Subsection 835.05(A)(2), subject to Subsection 835.05(A), provided such facilities include a transmission tower that is over 200 feet in height.	
	TYPE II	TYPE II	Utility facilities necessary for public service, including wireless telecommunication facilities not otherwise provided for in Section 401, associated transmission lines subject to ORS 215.283(1)(c)(A) or (B) and 215.276, and wetland waste water treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.	401.05(G)(2)
	TYPE II	N	Composting operations and facilities on high value farmland.	401.05(A)(1) & (G)(3)
	N	TYPE II	Composting operations and facilities on low value farmland.	401.05(A)(1) & (G)(4)
	*NA1	C	Composting operations and facilities, subject to Section 834.	401.05(A)(1) & (G)(5)
	C	C	Transmission towers over 200 feet in height,	401.05(A)(1)

			except as otherwise provided in Section 401 for essential public communication services. Towers supporting wireless telecommunication facilities are subject to Section 835.	
	HV	**LV**	**Use**	**Subject To**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	C	C	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind or photovoltaic solar power generation facilities.	401.05(A)(1) & (G)(6)
	C	C	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(37).	401.05(A)(1)
	C	C	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(38).	401.05(A)(1)
	*NA1	C	A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.	401.05(A)(1)
	HV	**LV**	**Use**	**Subject To**
PARKS, PUBLIC, AND QUASI-PUBLIC USES	A	A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468(B).095.	
	A	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	TYPE II	TYPE II	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)
	TYPE II	TYPE II	Public parks and playgrounds.	401.05(A)(1), (5) & (H)(2)
	TYPE II	TYPE II	Fire service facilities providing rural fire protection services.	
	TYPE II	TYPE II	Community centers.	401.05(A)(1), (5) & (H)(3)
	TYPE II	TYPE II	Living history museum.	401.05(A)(1), (5) & (H)(4)
	TYPE II	TYPE II	Firearms training facility as provided in ORS 197.770.	401.05(A)(5) & (H)(5)
	TYPE II	TYPE II	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	TYPE II	TYPE II	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to	401.05(A)(1)

			provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	
	HV	**LV**	**Use**	**Subject To**
PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)	*NA1	TYPE II	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)
	C	C	Operations for the extraction and bottling of water.	401.05(A)(1)
	C	C	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	*NA2	C	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
	*NA1	C	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	401.05(A)(1), (5) & (H)(6)
	*NA1	C	Golf courses.	401.05(A)(1), (5) & (H)(7)
	HV	**LV**	**Use**	**Subject To**
OUTDOOR GATHERINGS	A	A	An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).	401.05(I)(1)
	C	C	Any outdoor gathering subject to review of the Planning Commission under ORS 433.763.	401.05(I)(2)

[1] Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See Section 34, Chapter 614, Oregon Laws 2015.)

[2] A farm stand shall not be used for the sale, or to promote the sale, of marijuana items. (See Section 34, Chapter 614, Oregon Laws 2015.)

[3] A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See Section 34, Chapter 614, Oregon Laws 2015.)

401.05 APPROVAL CRITERIA FOR SPECIFIC USES

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

A. General Criteria

1. Uses may be approved only where such uses:

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

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

2. The Natural Resources Conservation Service (NRCS) Internet Soils Survey for Clackamas County shall be used to determine the soil classification and soil rating for a specific lot of record, except for purposes of approving a Lot of Record Dwelling application, the applicant may submit a report from a professional soils classifier whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.

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

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

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

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

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

B. Farm and Forest Uses

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

2. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in Subsection 401.05(B)(2), means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in Subsection 401.05(B)(2) means timber grown upon a tract where the primary processing facility is located.

C. Residential Uses

1. A lawfully established dwelling may be altered, restored, or replaced if, when an application for a permit is submitted, substantial evidence is provided that:

   a. The dwelling to be altered, restored, or replaced has, or formerly had:

      i. Intact exterior walls and roof structure;

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

      iii. Interior wiring for interior lights; and

      iv. A heating system; and

   b. The dwelling was assessed as a dwelling for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time; and

c. Notwithstanding Subsection 401.05(C)(1)(b), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

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

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

d. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

   i. Within one year from the certified occupancy; or

   ii. If the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, the dwelling to be replaced must be removed within 90 days from the date a replacement permit is issued; and

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

e. A dwelling to be replaced shall be recorded in the deed records of the County that it has been removed, demolished or converted.

f. If a dwelling to be replaced is located on a portion of the parcel that is not zoned EFU, the applicant shall record in the deed records of the County an irrevocable statement prohibiting the siting of another dwelling on that portion of the parcel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g. The tract is no more than 21 acres.

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

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

4. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils, subject to the following criteria:

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

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

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

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

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

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

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

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

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

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

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

5. Dwelling in conjunction with a farm use on High Value Farm Land: A primary farm dwelling for the farm operator may be allowed subject to the following criteria:

    a. The subject tract is currently employed in farm use on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;

    b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.

    c. The lot of record on which the dwelling will be sited was lawfully created;

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

    e. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;

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

    g. Only gross income from land owned, not leased or rented, shall be counted.

    h. An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used again to qualify any other parcel for a primary farm dwelling.

    i. Only a lot of record zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.

6. Dwelling in conjunction with a farm use on Low Value Farmland: A primary farm dwelling for the farm operator may be allowed on low value farmland subject to the following criteria:

a. The subject tract is currently employed in farm use on which the farm operator earned at least $32,500 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;

b. Lots of~~r~~ record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.

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

d. The lot of record on which the dwelling will be sited was lawfully created;

e. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;

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

g. Only gross income from land owned, not leased or rented, shall be counted.

h. Gross farm income earned from a lot of record which has been used previously to qualify another lot of record for the construction or siting of a primary farm dwelling may not be used.

i. Only lots of record zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.

j. An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used to qualify any other parcel for a primary farm dwelling.

7. A dwelling customarily provided in conjunction with a commercial dairy farm, which is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(3)(a) or (4)(a), whichever is applicable, from the sale of fluid milk, if;

a. The subject tract will be employed as a commercial dairy; and

b. The dwelling is sited on the same lot of record as the buildings required by the commercial dairy; and

c. Except for a replacement of a lawfully established dwelling, there is no other dwelling on the subject tract; and

d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

f. The Oregon Department of Agriculture has approved the following:

i. A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

ii. A Producer License for the sale of dairy products under ORS 621.072.

8. 160 Acre Test, subject to the following criteria:

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

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

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

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

9. Capability Test, subject to the following criteria:

a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least $10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract.

b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.

c. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Subsection 401.05(C)(9)(a).

d. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in Subsection 401.05(C)(9)(a).

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

f. Except as permitted in Subsection 401.05(C)(12), there is no other dwelling on the subject tract.

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

h. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection 401.05(C)(9)(d~~a~~).

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

a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

b. The dwelling will be sited on a lot of record that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils;

c. The dwelling will be sited on a lot of record lawfully created before January 1, 1993.

d. The dwelling shall not materially alter the stability of the overall land use pattern of the area. The County shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots of record in the area similarly situated, subject to:

i. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a "distinct agricultural area" based on topography, soils types, land use pattern, or the type of farm operations or practices that distinguish it from other adjacent agricultural areas. Findings shall describe the study area, its boundaries, and the location of the subject parcel with this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area; and to the extent OAR 660-033-0130(4)(a)(D)(ii) is applicable.

ii. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture, or grazing lands), the number, location, and type of existing dwellings (farms, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections 401.05(C)(2) through (4) and (10), including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area, including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings.

iii. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

e. The dwelling shall comply with such other conditions as the County considers necessary.

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

11. Accessory Farm Dwelling – Relative: An accessory farm dwelling for a relative, and their immediate family unless otherwise specified, of the farm operator may be allowed subject to the following criteria:

a. The accessory farm dwelling shall be located on the same lot of record as the primary farm dwelling of the farm operator;

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

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

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

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

f. The accessory farm dwelling shall be occupied by a person or persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management of the farm use of the farm unit. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing;

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

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

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

12. Accessory Farm Dwellings – Year-round and Seasonal Farm Workers: An accessory farm dwelling for a nonrelative, and their immediate family unless otherwise specified, of the farm operator may be allowed subject to the following criteria:

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

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

c. The accessory farm dwelling shall be located:

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

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

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

iv. On any lot of record, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under Subsection 401.05(C)(12)(c)(iv) shall be removed, demolished, or converted to a nonresidential use when farm worker housing is no longer required.

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

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

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

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

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

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

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

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

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

j. An accessory farm dwelling approved pursuant to Subsection 401.05(C)(12) shall not later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 401.05(C)(10).

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

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

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

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

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

13. One manufactured dwelling, residential trailer, or recreational vehicle, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. A temporary residence approved under Subsection 401.05(C)(13) is not eligible for replacement under Subsection 401.05(C)(1). County Department of Water Environment Services on-site sewage disposal system review and removal requirements also apply.

D. Commercial Uses

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

2. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

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

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

b. "Incidental and subordinate", as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and

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

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

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

    b. "Incidental and subordinate", as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and

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

5. A winery license, as provided under ORS 215.452 for the first six of an 18-day limit for agri-tourism or other commercial events, is not a land use decision or a permit but is subject to administrative review to determine the following conditions can be satisfied:

    a. The term of the approval shall not exceed five years; and

    b. Subsections 806.03(I), (L), (N), (O), and (P).

6. A winery bed and breakfast facility as provided for in ORS 215.452 and 215.453 as a home occupation subject to ORS 215.448, on the same tract as a winery and in association with the winery, and the following:

    a. The maximum number of guest rooms allowed for the bed and breakfast facility shall be seven.

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

    c. Meals may be served at the bed and breakfast facility or at the winery; and

    d. No guest shall stay more than 60 days in any one-year period. An accurate, up-to-date guest register shall be maintained and available for review by any authorized agent of the County or state.

    e. To exceed the maximum number of guest rooms allowed for the bed and breakfast facility will require review under Section 1203.

7. A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year, subject to the following:

    a. Other events and activities not included in a large winery by statute shall only include commercial activities that are in conjunction with farm use;

    b. The commercial activities shall be essential to the practice of agriculture;

    c. "Incidental", as related to a winery, means that all goods and services shall be included in the 25 percent incidental gross sales income limit, whether provided directly by the winery or indirectly by a third party, such as but not limited to a caterer; and

    d. Goods and services provided by a restaurant on a large winery open more than 25 days per calendar year are not included in the meaning of incidental.

8. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1). The commercial activity shall be essential to the practice of agriculture.

9. Agri-tourism for up to 18 additional events or other commercial events or activities in a calendar year that occurs more frequently or for a longer period of time, on a minimum 80 acre tract, subject to ORS 215.239, 215.283(4)(d), (5), and (6) and the following:

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

    b. "Incidental and subordinate", as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and

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

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

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

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

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

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

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

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

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

E. <u>Mineral, Aggregate, Oil, and Gas Uses</u>

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

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

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

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

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

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

F. Transportation Uses

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

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

G. Utility and Solid Waste Disposal Facility Uses

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

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

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

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

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

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

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

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

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

2. A utility facility necessary for public service may be established as provided in ORS 215.275 and 215.276. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided. An associated transmission line for a utility facility is subject to OAR 660-033-0130(16)(b).

3. Composting operations and facilities allowed on high-value farmland, subject to the following:

a. Composting operations and facilities on high value farmland must:

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

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

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

iv. Be an accepted farming practice in conjunction with and auxiliary to farm use on the subject tract; meaning that if off-site materials are added to on-farm produced compostables, the total amount of compost generated by the operation or facility does not exceed the amount of compost reasonably anticipated to be used on the subject tract; and

v. Limit buildings and facilities used in conjunction with the composting operation to those required for the operation of the subject facility; and

vi. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060.

b. Excess compost from operations and facilities on high value farmland may only be sold or transported if:

i. The operation or facility does not use off-site materials; and

ii. It is sold or transported to neighboring farm operations within two and one-half miles of the subject tract; and

iii. It is sold or transported in bulk loads of not less than one unit (7.5 cubic yards) in size that are transported in one vehicle.

4. Composting operations and facilities allowed on low-value farmland that constitute accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, subject to Subsection 401.05(G)(3).

5. Composting operations and facilities allowed on low value farmland that do not constitute accepted farming practices and are not in conjunction with and auxiliary to an on-site farm use on the subject tract shall be subject to Section 834.

6. Commercial utility facilities for the purpose of generating power for public use by sale, but not including wind power or photovoltaic solar power generation. A power generation facility shall not preclude more than 12 acres on High Value Farmland, or more than 20 acres on Low Value Farmland, from use as a commercial agricultural enterprise unless an exception is taken pursuant to Oregon Administrative Rule 660, Division 4; and

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

H. Parks, Public, and Quasi-public Uses

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

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

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

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

5. Firearms training facility that predated September 10, 1995 as provided in ORS 197.770. Firearms training facilities shall not be sited within three miles of an Urban Growth Boundary.

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

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

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

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

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

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

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

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

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

I. Outdoor Gatherings

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

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

J. Nonconforming Uses

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

2. In addition to and not in lieu of the authority in Section 1206 to continue, alter, restore, or replace a nonconforming use, a use formerly allowed pursuant to ORS 215.283(1)(a), as in effect before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be expanded subject to:

a. The requirements of Subsection 401.05(J)(3); and

b. Conditional approval as provided in Subsection 401.05(A)(1).

3. A nonconforming use described in Subsection 401.05(J)(2) may be expanded if:

a. The use was established on or before January 1, 2009; and

b. The expansion occurs on:

i. The lot of record on which the use was established on or before January 1, 2009; or

ii. A lot of record that is contiguous to the lot of record described in Subsection 401.05(J)(3)(b)(i) and that was owned by the applicant on January 1, 2009.

401.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

401.07 DIMENSIONAL STANDARDS

A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 401.09 or as modified by Section 902. For the purpose of complying with the minimum lot size standard, lots of record that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.

B. Minimum Front Yard Setback: 30 feet.

C. Minimum Side Yard Setback: 10 feet.

D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.

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

F. Variances: The requirements of Subsections 401.07(B) through (D) may be modified pursuant to Section 1205.

401.08 DEVELOPMENT STANDARDS

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

401.09 LAND DIVISIONS

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

A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved, if each new lot of record is a minimum of 80 acres in size, as established by Subsection 401.07(A).

B. Nonfarm Use Land Divisions: A land division creating parcels less than 80 acres in size may be approved for a fire service facility and for nonfarm uses, except dwellings, set out in ORS 215.283(2), if the parcel for the fire service facility or nonfarm use is not larger than the minimum size necessary for the use.

C. Nonfarm Dwelling Land Divisions: Lots of record less than 80 acres in size may be approved, subject to the following criteria:

1. The originating lot of record is at least 80 acres, and is not stocked to the requirements under ORS 527.610 to 527.770;

2. The lot of record is composed of at least 95% Class VI through Class VIII agricultural soils, and composed of at least 95% soils not capable of producing 50 cubic feet per acre per year of wood fiber;

3. The new lot of record for a dwelling will not be smaller than 20 acres; and

4. No new lot of record may be created until the criteria in Subsections 401.05(C)(10)(a), (b), (d), (e), and (f) for a dwelling are satisfied.

D. Parks/Open Space/Land Conservation Land Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.263(10) and Subsection 401.05(A)(1).

E. Historic Property Land Divisions: A land division may be approved to create a parcel with an existing dwelling to be used for historic property that meets the requirements of ORS 215.283(1)(L).

401.10 SUBMITTAL REQUIREMENTS

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

401.11 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of a Type I, II, or III application is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:

1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or

2. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

B. Time Extension: If the approval of a Type I, II, or III application is not implemented within the initial approval period established by Subsection 401.11(A), a two-year time extension may be approved pursuant to Section 1310.

C. Subsections 401.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203, respectively.

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

406 TIMBER DISTRICT (TBR)

406.01 PURPOSE

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

406.02 AREA OF APPLICATION

Section 406 applies to land in the~~Property may be zoned~~ Timber (TBR) District~~ when the site has a Comprehensive Plan designation of Forest, consistency with Policy 11.0 of the Forest section of Chapter 4 of the Comprehensive Plan is demonstrated, and the criteria in Section 1202 are satisfied~~.

406.03 DEFINITIONS

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

A. Auxiliary: A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

B. Cubic Foot Per Acre: As defined in Oregon Administrative Rules (OAR) 660-006-0005(3).

C. Cubic Foot Per Tract Per Year: As defined in OAR 660-006-0005(4).

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

E. Dwelling: Unless otherwise provided in Section 406, a dwelling is a detached single-family dwelling or a manufactured dwelling.

F. Firearms Training Facility: An indoor facility only, that provides training courses and issues certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting, and safety.

G. Forest Operation: Any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes (ORS) 527.620(6).

H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.

I. Owner: For purposes of a Lot of Record Dwelling, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, niece, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.

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

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

L. Relative: For purposes of a Temporary Dwelling for Care, "relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of the owner.

M. Temporary Structures: Onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.

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

406.04 USES PERMITTED

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

A. As used in Table 406-1:

1. "A" means the use is allowed.

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

3. "C" means the use is a c~~C~~onditional u~~U~~se, approval of which is subject to Section 1203, *Conditional Uses*.

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

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

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

	Type	Use	Subject To
FARM AND FOREST USES	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in ORS 215.203. Marijuana production is subject to Section 841.	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if a primary farm or forest use exists.	
	TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1) & (6)

	Type	Use	Subject To
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)
	Type	**Use**	**Subject To**
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)

	Type	Use	Subject To
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)
	TYPE II	Forest Lot of Record Dwelling.	406.05(A)(3), (4), (5) & (D)(2)
	TYPE II	Forest Template Test Dwelling.	406.05(A)(3), (4), (5) & (D)(3)
	TYPE II	160 Acre Forest Dwelling.	406.05(A)(3), (4), (5) & (D)(4)
	TYPE II	200 Acre Noncontiguous Tract Forest Dwelling	406.05(A)(3), (4), (5) & (D)(5)
	TYPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	TYPE II	Temporary forest labor camp, subject to Subsection 1204.01, for a period not to exceed one year.	
	TYPE II	Temporary dwelling for care, subject to Subsection 1204.03.	406.05(A)(1), (2) & (D)(6)
	Type	**Use**	**Subject To**
COMMERCIAL USES	A	Family daycare provider.	
	TYPE II	Home occupation, subject to Section 822.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836.	406.05(A)(1), (2) (5) & (E)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	Type	**Use**	**Subject To**
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)

	Type	Use	Subject To
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5 of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	Type	**Use**	**Subject To**
TRANSPORTATION USES (cont.)	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & (G)(1)
	Type	**Use**	**Subject To**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	A	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	

	A	Essential public communication services, subject to Subsection 835.04(C).	
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their nonpaying guests.	
	Type	**Use**	**Subject to**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	A	Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	TYPE II	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility that exceed Subsection 835.04(A), subject to Subsection 835.05(A).	
	TYPE II	Placement of telecommunication antennas with associated equipment on replacement utility pole that exceeds the replaced pole by no more than 20 feet, subject to Subsection 835.05(A).	
	C	Wireless telecommunication facilities listed in Subsection 835.06, subject to Section 835.	
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1), (2) & (5)
	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. A composting facility is subject to Section 834.	406.05(A)(1) & (6)
	C	A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)
	Type	**Use**	**Subject To**
AND PUBLIC/QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	C	Fire stations for rural fire protection.	406.05(A)(1) & (6)
	C	Youth camps on 40 acres or more, subject to OAR	406.05(A)(1) & (2)

		660-006-0031.	
	C	Cemeteries.	406.05(A)(1) & (6)
	C	Firearms training facility.	406.05(A)(1) & (6)
	C	Private parks and campgrounds.	406.05(A)(1), (2), (6) & (I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)

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

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

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

A. General Criteria

1. The use may be allowed provided that:

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

   b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

2. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.

3. The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or

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

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

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

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

B. Farm and Forest Uses

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

C. Natural Resource Uses

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

D. Residential Uses

1. Alteration, restoration, or replacement of a lawfully established dwelling that:

   a. Has intact exterior walls and roof structure;

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

   c. Has interior wiring for interior lights;

   d. Has a heating system; and

   e. In the case of replacement, is removed, demolished, or—if not a manufactured dwelling or residential trailer—converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.

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

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

    b. The lot of record on which the dwelling will be sited was acquired by the present owner:

        i. Prior to January 1, 1985; or

        ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

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

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

    e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.

    f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the USFS and the landowners adjacent to the road, a local government, or a state agency.

    g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.

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

    i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(2).

3. <u>Forest Template Dwelling</u>, subject to the following criteria:

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

b. No dwellings are allowed on other lots of record that make up the tract.

c. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling.

d. The lot of record upon which the dwelling is to be located was lawfully created.

e. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).

f. The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:

i. A 160 acre square template shall be centered upon the subject tract. The template may be rotated around the center point to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.

ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:

A) Less than 50 cubic feet per acre per year of wood fiber production, at least part of a minimum of three lots of record shall fall within the template, and a minimum of three lawfully established dwellings shall exist on the lots within the template area; or

B) 50 – 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of seven lots of record shall fall within the template, and a minimum of four lawfully established dwellings shall exist on the lots within the template area; or

C) Greater than 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of 11 lots of record shall fall within the template, and a minimum of five lawfully established dwellings shall exist on the lots within the template area.

iii. The following types of lots of record and dwellings shall not be counted toward satisfying the minimum number of lots of record or dwellings required pursuant to Subsection 406.05(D)(3)(d)(ii) to pass a template test:

A) Lots of record larger than 80 acres;

B) Lots of record created on or after January 1, 1993;

C) Dwellings on lots of record larger than 80 acres;

D) Dwellings constructed on or after January 1, 1993;

E) Lots of record or dwellings located within an urban growth boundary;

F) Temporary dwellings; and

G) The subject property.

iv. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(d)(ii) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(d)(ii) shall be located on the same side of the road as the proposed dwelling.

4. <u>160 Acre Minimum Forest Dwelling</u>, subject to the following criteria:

a. The tract on which the dwelling is to be sited is at least 160 acres.

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

c. The lot of record upon which the dwelling is to be located was lawfully created.

d. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(4).

5. <u>200 Acre Noncontiguous Dwelling</u>, subject to the following criteria:

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

b. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;

c. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;

d. None of the lots of record or tracts used to total 200 acres may already contain a dwelling.

e. All lots of record or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;

f. The lot of record upon which the dwelling is to be located was lawfully created;

g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(5).

6. A manufactured dwelling, residential trailer, or recreational vehicle may be used for care in conjunction with an existing dwelling for the term of a health hardship suffered by the existing resident or a relative.

E. <u>Commercial Uses</u>

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

2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to the following:

a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and

b. Only minor incidental and accessory retail sales are permitted; and

c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

d. Accommodations must be located within one-quarter mile of fish bearing Class I waters.

3. Private seasonal accommodations for fee hunting operations may be allowed subject to the following:

    a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and

    b. Only minor incidental and accessory retail sales are permitted; and

    c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

F. Mineral, Aggregate, Oil, and Gas Uses

1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;

2. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a well head;

G. Transportation Uses

1. Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance, with:

   a. The adoption of an exception to the goal related to forest lands and to any other applicable goal with which the facility or improvement does not comply; or

   b. Compliance with ORS 215.296 for those uses identified by rule of the Oregon Land Conservation and Development Commission as provided in Section 3, Chapter 529, Oregon Laws 1993.

H. Utility and Solid Waste Disposal Facility Uses

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

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

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

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

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

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

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

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

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

2. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4. Hydroelectric facilities shall also be subject to Section 829.

3. New electric transmission lines with right-of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (i.e., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.

4. Television, microwave, and radio communication facilities and transmission towers, provided the base of such structure shall not be closer to the property line than a distance equal to the height of the tower.

I. Parks, Public, and Quasi-Public Uses

1. Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by Subsection 406.05(I)(1). A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:

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

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

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

d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(I)(1)(g).

e. Campgrounds authorized by Subsection 406.05(I)(1) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.

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

g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 406.05(I)(1), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.

J. Outdoor Gatherings

1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period, subject to ORS 433.735 through 433.760.

2. An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces, shall be subject to review by the Planning Commission under the provisions of ORS 433.763.

406.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

406.07 DIMENSIONAL STANDARDS

A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 406.09 or as modified by Section 902. For the purpose of complying with the minimum lot size standard, lots of record that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.

B. Minimum Front Yard Setback: 30 feet.

C. Minimum Side Yard Setback: 10 feet.

D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.

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

F. Variances: The requirements of Subsections 406.07(B) through (D) may be modified pursuant to Section 1205.

406.08 DEVELOPMENT STANDARDS

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

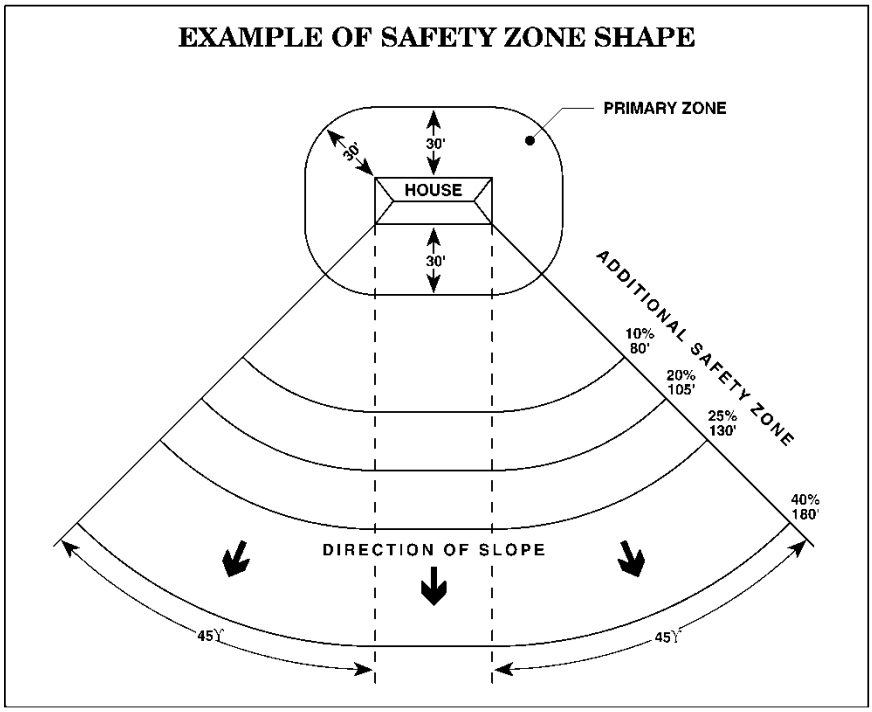
1. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.

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

Table 406-2: Minimum Primary Safety Zone

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

Figure 406-1: Example of Primary Safety Zone



2. For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.

   a. The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be100 feet.

3. Where the fuel-free breaks can reasonably be satisfied, they must be.

4. Section 1205 shall not be used to modify fuel-free breaks.

5. If a structure cannot reasonably satisfy fuel-free breaks on the subject property due to the size, shape, topography, or other physical characteristics of the property, the standards may be modified by one or more of the following alternatives:

a. Irrevocable easements for fuel-free break safety zones may be obtained from adjacent property owners so that the fuel-free break safety zone can be maintained. The easement(s) shall be recorded with the County Clerk.

b. The area of an existing road right-of-way or access easement in use and adjacent to the subject property may be utilized to satisfy the fuel-free break safety zone requirement.

c. Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705, respectively. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.

6. The fuel-free break standards shall be completed and approved by the Planning Director prior to issuance of any septic, building, or manufactured dwelling permits. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner.

B. Additional Fire-Siting Standards for New Dwellings: The following fire-siting standards shall apply to any new dwelling approved pursuant to a land use application based on standards in effect on or after February 5, 1990.

1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards shall be provided. The means selected may include a fire sprinkling system, onsite equipment and water storage, or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Oregon Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

2. The dwelling shall have a fire retardant roof.

3. The dwelling shall not be sited on a slope of greater than 40 percent.

4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

C. Compatibility Siting Standards: The following compatibility siting standards shall apply to any new structure, including any new dwelling, approved pursuant to a land use application based on standards in effect on or after February 5, 1990.

1. Structures shall be sited on the subject property so that:

   a. They have the least impact on nearby or adjoining forest or agricultural lands;

   b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

   c. The amount of forest lands used to site access roads, service corridors, and structures is minimized; and

   d. The risks associated with wildfire are minimized.

2. Siting criteria satisfying Subsection 406.08(C)(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the subject property least suited for growing trees.

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

   a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor’s rights to appropriate water;

   b. A water use permit issued by the OWRD for the use described in the application; or

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

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

406.09 LAND DIVISIONS

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

A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved if each new lot of record is a minimum of 80 acres in size, as established by Subsection 406.07(A).

B. Multiple Dwelling Land Divisions: A lot of record may be divided subject to Subsection 406.05(A)(2) and the following provisions:

1. At least two lawfully established dwellings existed on the lot of record prior to November 4, 1993;

2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.05(D)(1);

3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;

4. At least one of the existing dwellings is located on each lot or parcel created under this provision;

5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to the statewide planning goals for lands zoned for Forest use;

6. A lot of record may not be divided under this provision if an existing dwelling on the lot of record was approved through:

a. A statute, an administrative rule, or a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot of record; or

b. A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (*Forest Lands*);

7. Existing structures shall comply with the minimum setback standards of Subsections 406.07(B) through (D) from new property lines; and

8. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

C. Homestead Dwelling Land Division: A land division may be approved for the establishment of a parcel for an existing dwelling, subject to the following criteria:

1. The parcel established for the existing dwelling shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

2. The dwelling existed prior to June 1, 1995;

3. The remaining parcel, not containing the existing dwelling, is:

a. At least 80 acres; or

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

4. The remaining parcel, not containing the existing dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal;

5. The landowner shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the existing dwelling, has been recorded with the County Clerk. The restriction shall state that the parcel is not entitled to a dwelling unless subsequently authorized by law or goal and shall be irrevocable unless a statement of release is signed by the Planning Director that the law or goal has changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural or forest land; and

6. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

D. Conditional Use Divisions: A land division creating parcels less than 80 acres in size may be approved for a conditional use to which Subsection 406.05(A)(6) is applicable, subject to the following criteria:

1. The parcel created for the conditional use shall be the minimum size necessary for the use;

2. Either the conditional use was approved pursuant to Subsections 406.05(A)(1) and (2), or—for those uses not subject to Subsections 406.05(A)(1) and (2)—compliance with Subsections 406.05(A)(1) and (2) shall be demonstrated; and

3. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

E. Parks/Open Space/Land Conservation Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.783. In addition, the landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

F. Forest Practice Divisions: A land division creating parcels less than 80 acres in size may be approved, subject to the following criteria:

1. The division will facilitate a forest practice as defined in ORS 527.620;

2. There are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than 80 acres in order to conduct the forest practice;

3. Parcels created pursuant to Subsection 406.09(F):

   a. Are not eligible for siting of a new dwelling;

   b. May not serve as the justification for the siting of a future dwelling on other lots of record;

   c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

   d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

      i. Facilitate an exchange of lands involving a governmental agency; or

ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and

e. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

406.10 SUBMITTAL REQUIREMENTS

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

406.11 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of a Type I or II application is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:

1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or

2. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

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

C. Subsections 406.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203, respectively.

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

407 AG/FOREST DISTRICT (AG/F)

407.01 PURPOSE

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

407.02 AREA OF APPLICATION

Section 407 applies to land in the~~Property may be zoned~~ Ag/Forest (AG/F) District ~~when the site has a Comprehensive Plan designation of Forest, consistency with Policy 11.0 of the Forest section of Chapter 4 of the Comprehensive Plan is demonstrated, and the criteria in Section 1202 are satisfied~~.

407.03 DEFINITIONS

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

407.04 USES PERMITTED

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

A. As used in Table 407-1:

1. "A" means the use is allowed.

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

3. "C" means the use is a c~~C~~onditional u~~U~~se, approval of which is subject to Section 1203, *Conditional Uses*.

4. The "Subject To" column identifies any specific provisions of Subsection 401.05 or 406.05 to which the use is subject.

5. Numbers in superscript correspond to the notes that follow Table 407-1.

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

Table 407-1: Permitted Uses in the AG/F~~Ag/Forest~~ District

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

	Type	Use	Subject To
		0130(8).	

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

		197.660, in existing dwellings.	

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

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

	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)

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

	A	Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	Type	**Use**	**Subject to**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	TYPE II	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility that exceed Subsection 835.04(A), subject to Subsection 835.05(A).	
	TYPE II	Placement of telecommunication antennas with associated equipment on replacement utility pole that exceeds the replaced pole by no more than 20 feet, subject to Subsection 835.05(A).	
	TYPE II	Composting operations and facilities on high value farmland.	401.05(A)(1) & (G)(3)
	C	Wireless telecommunication facilities listed in Subsection 835.06, subject to Section 835.	406.05(A)(1)
	C	Composting facilities on low value farmland.	401.05(A)(1) & (G)(4)
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1),(2) & (6)
	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation.	406.05(A)(1) & (6)
	C	A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)
	Type	**Use**	**Subject To**
PARKS, PUBLIC, AND QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468(B).095.	
	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	TYPE II	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)

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

[1] Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling.

[2] A farm stand shall not be used for the sale, or to promote the sale, of marijuana items.

[3] A commercial activity carried on in conjunction with a marijuana crop is prohibited.

407.05 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

407.06 DIMENSIONAL STANDARDS

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

407.07 DEVELOPMENT STANDARDS

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

407.08 LAND DIVISIONS

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

407.09 SUBMITTAL REQUIREMENTS

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

407.10 APPROVAL PERIOD AND TIME EXTENSION

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

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

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

510.01 PURPOSE

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

510.02 APPLICABILITY

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

510.03 USES PERMITTED

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

A. As used in Table 510-1:

1. "P" means the use is a primary use.

2. "A" means the use is an accessory use.

3. "L" means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.

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

5. "S" means the use may be authorized only pursuant to Section 106; however, identifying a use as "S" does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.

6. "X" means the use is prohibited.

7. Numbers in superscript correspond to the notes that follow Table 510-1.

B. If a use is identified in Table 510-1 as prohibited, it is prohibited even if it also falls within a broader use description that is permitted in the applicable zoning district. For example, a car wash may be prohibited even if commercial services in general are permitted.

C. If a use is included in more than one use description in Table 510-1, the more specific listing applies. For example, if a car wash is a conditional use, but commercial services in general are a primary use, the car wash shall be reviewed as a conditional use. Notwithstanding this provision, a use may be included in two of the following categories because it is allowed with fewer restrictions in one category than another: primary, accessory, limited, and conditional. In that case, the use may be approved in either category, to the extent that it complies with the respective approval criteria. For example, daycare facilities may be permitted as a limited use with a maximum building floor area and as a conditional use without a maximum building floor area.

D. Permitted uses are subject to the applicable provisions of Subsection 510.04, *Dimensional Standards*, Subsection 510.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

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

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

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Civic and Cultural Facilities, including art galleries, libraries, museums, and visitor centers	P	P	P	P	P	P	P	P	P	P	P
Congregate Housing Facilities	X	X	P[6,7]	P[8]	P[8]	P[8]	P	P	L	P[8]	P[6,7]
Daycare Facilities, subject to Section 807	P	P	P	P	P	P	P	P	P	L[10],C	L[11],C
Daycare Services, Adult	P	P	P	P	P	P	P	P	P	L[10],C	L[11],C
Drive-Thru Window Services, subject to Section 827	C	A	A[12]	A	A	A	A[13]	X	X	A[13]	A[13]
Dwellings, Attached Single-Family	X	A	X	A	X	A	P	P	L[14]	X	X
Dwellings, Detached Single-Family	A	A	X	A	X	A	X	X	X	X	X
Dwellings, Multifamily	X	X	P[6]	P[8]	P[8]	P[8]	P	P	L[9]	P[8]	P[6]
Dwellings, Three-Family	X	X	X	P	P	P	P	P	L[9]	P[8]	X
Dwellings, Two-Family	X	A	X	P	P	P	P	P	L[9]	P[8]	X
Electric Vehicle Charging Stations	A,C	P	A	A,C	P	P	A	A	A	A	A
Employee Amenities, including cafeterias, clinics, daycare facilities[15], fitness facilities, lounges, and recreational facilities	A	A	A	A	A	A	A	A	A[16]	A[16]	A[16]
Entertainment Facilities, including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	C[17]	P[17]	P[17]	P	P	P	P[17]	P[17,18]	S	C[17,32]	L[11,17]
Farmers' Markets, subject to Section 840	P	P	P	P	P	P	P	P	P	P	P
Financial Institutions, including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P	P	P	P	P	P	P	P	P	P
Fitness Facilities, including athletic clubs, exercise studios, gymnasiums, and health clubs	P[17]	P[17]	P[17]	P	P	P	P[17]	P[17,18]	L[17,38]	C[17]	L[17,19]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Government Uses, including fire stations, police stations, and post offices	C	P	P	P	P	P	P	P	P	P	P
Heliports	X	X	C[20]	C	C	C	X	X	X	C[20]	C[20]
Helistops	X	X	C[20]	C	C	C	C	C	X	C[20]	C[20]
Home Occupations, subject to Section 822	A	A	A	A	A	A	A	A	A	A	A
Hospitals, subject to Section 809	X	X	X	X	X	X	X	X	X	C	C
Hotels	P	P	P	P	P	P	P	P[18]	S	L[10,21],C[21]	P[21]
Hydroelectric Facilities, subject to Section 829	X	C	X	C	X	C	X	X	X	X	X
Manufacturing, including the mechanical, physical, or chemical transformation of materials, substances, or components into new products; and the assembly of component parts. Primary processing of raw materials is prohibited.	S[39]	S[40]	S	S	P	P	S	P[22,23]	S	P[24]	S
Marijuana Processing, except that primary processing of marijuana is prohibited	X	X	X	X	P	P	X	P[22]	X	P[24]	X
Marijuana Production	X	X	X	X	X	X	X	X	X	X	X
Marijuana Retailing, subject to Section 841	P	P	P	P	P	P	P	P[18]	X	P[32]	L[11]
Marijuana Wholesaling	X	X	X	X	X	X	X	X	X	X	X
Mobile Vending Units, subject to Section 837	P	P	P	P	P	P	P	P	A[25]	A[25]	A[25]
Motels	P	P	P	P	P	P	P	P[18]	S	L[10,26],C[26]	L[11]
Multi-Use Developments, subject to Section 1016	X	X	X	X	X	C	X	X	X	C	X
Nursing Homes, subject to Section 810	X	X	X	X	X	X	P	P	L	X	X

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Offices, including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P	P	P	P	P	P	P	P	P	P
Offices and Outpatient Clinics—both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P	P	P	P	P	P	P	P	P	P	P
Parking Lots	A	A	A	A	P	P	A	A	A	P[27]	A
Parking Structures	X	A[28]	P[27]	P[27]	P	P	A	A	A[28]	P[27]	P[27]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Parks, Government-Owned, including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; nature preserves and wildlife sanctuaries; picnic areas and structures; play equipment and playgrounds; tables and seating; and similar recreational uses. Accessory uses to a park may include concessions, maintenance facilities, restrooms, and similar support uses.	P	P	P	P	P	P	P	P	P	P	P
Pedestrian Amenities	P	P	P	P	P	P	P	P	P	P	P
Public Utility Facilities	S	C	C[29]	C[29]	C	C	S	S	S	S	S
Race Tracks, Outdoor	X	X	X	X	X	C	X	X	X	X	X
Radio and Television Studios, excluding transmission towers	C	P	P	P	P	P	P	P	S	P	P
Radio and Television Transmission and Receiving Towers and Earth Stations[30]	S	C	S	S	C	C	S	S	S	S	S
Radio and Television Transmission and Receiving Earth Stations	S	C	C	C	C	C	A	S	S	S	S

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Recreational Sports Facilities for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: general recreation, instruction, practice, and competitions.	P[17]	P[17]	P[17]	P	P	P	P[17]	P[17,18]	S	C[17]	L[17,19]
Recyclable Drop-Off Sites, subject to Section 819	A	A	X	X	A	A	X	X	X	X	X
Research Facilities and Laboratories, including medical laboratories, medical research, product design and testing, and product research and development	S	S	S	S	P	P	P[24]	P	P[31]	P[31]	P[24]
Retailing—whether by sale, lease, or rent—of new or used products	S	S	P	P	P	P	P	P[18]	S	C[32]	L[11]
Retailing—whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P	P	P	P	P	P	P[18]	S	C[32]	L[11]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Retailing—whether by sale, lease, or rent—of any of the following new or used products: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	P	P	P	P	X	X	X	C[32]	L[11]
Retailing—whether by sale, lease, or rent—of any of the following new or used products: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X
Schools[33]	P[34]	P[34]	P	P	P	P	P	P	L[35]	P	P
Service Stations, subject to Section 820	C	P	X	C	P	P	X	X	X	X	X
Services, Business, including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	P	P	P	P	P	P	P	P	P	P	P
Services, Commercial	S	S	P	P	P	P	P	P[18]	S	C[32]	L[11]
Services, Commercial—Car Washes	S	S	X	C	P	P	P	X	X	X	X
Services, Commercial—Construction and Maintenance, including contractors engaged in construction and maintenance of electrical and plumbing systems	C	P	P	P	P	P	P	S	S	C[32]	L[11]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	P	P	P	P	P	P	P	P[18]	L[38]	L[10],C[36]	L[11]
Services, Commercial—Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P	P	P	P	P	P	P[18]	S	C[32]	L[11]
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	C	P	P	P	P	P	X	X	X	C[32]	L[11]
Services, Commercial—Maintenance and Repair of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X
Services, Commercial—Miscellaneous, including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P	P	P	P	P	P	P[18]	S	C[32]	L[11]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Services, Commercial—Personal and Convenience, including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, tanning salons, and video rental. Also permitted are incidental retail sales of products related to the service provided.	P	P	P	P	P	P	P	P[18]	L[38]	L[10]	L[11]
Services, Commercial—Mini-Storage/Self-Storage Facilities	S	S	X	C	P	P	X	X	S	X	X
Services, Commercial—Storage of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	X	C	P	P	X	X	X	X	X
Services, Commercial—Storage of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	C	P	P	X	X	X	X	X
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	P	P	P	P	P	P	P	P[18]	S	P	P
Services, Commercial—Truck Stops	X	X	X	X	P	P	X	X	X	X	X
Services, Information, including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	S	S	S	S	P	P	P	P[22]	P	P	P
Signs, subject to Section 1010	A[37]	A[37]	A[37]	A[37]	A[37]	A[37]	A[37]	A[37]	A[37]	A[37]	A[37]

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

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

[2] A minimum of 60 percent of the total building floor area on a site shall be primary use(s).

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

[4] Churches are not subject to Section 804, *Churches*.

[5] An assembly facility with a maximum capacity of more than 500 people is a conditional use.

[6] Freestanding congregate housing facilities and freestanding multifamily dwellings are subject to the development and dimensional standards applicable to congregate housing facilities and multifamily dwellings in the RCHDR District. This requirement does not apply to congregate housing facilities or multifamily dwellings in a mixed-use building.

[7] A congregate housing facility shall have a minimum of four dwelling units.

[8] Freestanding congregate housing facilities and freestanding multifamily dwellings are subject to the development and dimensional standards applicable to congregate housing facilities and multifamily dwellings in the HDR District. With the exception of compliance with the maximum density standard, this requirement does not apply to congregate housing facilities or multifamily dwellings in a mixed-use building.

[9] Two-family, three-family and multifamily dwellings, subject to the density standards of the MR-2 District, may be developed in the same building as a primary use.

[10] The maximum combined building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.

[11] The use is permitted only in a multistory building with a primary use—up to a maximum building floor area equal to the building floor area of the first floor—or on the ground-level floor of a freestanding parking structure. However, a freestanding eating and drinking establishment shall be allowed in conjunction with a primary use in the same development, subject to the following criteria:

a. The building floor area of the freestanding eating and drinking establishment shall not exceed 5,000 square feet.

b. If the primary use in the same development is an office use, as defined in Note 27 to Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*, the floor area ratio of the development, including the eating and drinking establishment, shall comply with the minimum floor area ratio standard for primary office uses in Table 510-2.

c. If the primary use in the same development is a multifamily dwelling or a congregate housing facility, the acreage developed with the eating and drinking establishment, and any parking or accessory structures that are used exclusively for the eating and drinking establishment, may be subtracted from the total acreage when calculating minimum density pursuant to Table 510-2.

d. The eating and drinking establishment shall be developed concurrently with or after a primary use is developed on the site.

[12] Drive-thru window service is prohibited on streets designated as Main Streets on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*.

[13] Drive-thru window service is permitted only if it is accessory to a financial institution and only if the financial institution is not on a street designated as a Main Street on Comprehensive Plan Map X-CRC-3.

[14] Attached single-family dwellings, subject to the density standards of the VTH District, may be developed in the same building as a primary use.

[15] Daycare facilities as an employee amenity are not subject to Section 807.

[16] Employee amenities shall be located in the same structure as the use to which they are accessory.

[17] Only indoor facilities are permitted.

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

[19] The use may be allowed in conjunction with a primary use on the site, subject to the following criteria:

a. If the primary use on the site is an office use, the minimum floor area ratio (FAR) standard of Table 510-2 may be modified as follows for a lot of greater than two and one-half acres in size:

   i. The minimum FAR for the office use shall be 0.75; and

   ii. The minimum FAR for the fitness facility or recreational sports facility and the office use combined shall be 1.0.

b. If the primary use on the site is a multifamily dwelling, the site area developed with the fitness facility or recreational sports facility and any parking or accessory structures used exclusively for the fitness facility or recreational sports facility shall be included in the net acreage when calculating minimum density pursuant to Table 510-2.

c. The fitness facility or recreational sports facility shall be developed concurrently with or after a primary use is developed on the site.

[20] This use is permitted only in conjunction with a primary or another conditional use.

[21] Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the hotel.

[22] These uses are permitted with a maximum of 10,000 square feet of building floor area per building, if part of a mixed-use development and if the combined building floor area of the use, and any other uses subject to Note 22 of Table 510-1, does not exceed 25 percent of the building floor area of the mixed-use development.

[23] Manufacturing of the following is prohibited: explosive devices; incendiary devices; and renewable fuel resources, such as alcohol, biomass, and methanol.

[24] This use is permitted only if it has physical and operational requirements that are similar to those of other primary uses allowed in the same zoning district.

[25] Only level one mobile vending units are permitted.

[26] Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the motel.

[27] The parking structure is permitted to serve only developments located in the same zoning district as the subject property.

[28] This use is limited to understructure parking.

[29] Only substations are permitted.

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

[31] No operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions.

[32] The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note 32 to Table 510-1, shall be 20 percent of the building floor area of primary uses in the same development.

[33] Schools are not subject to Section 805, *Schools*.

[34] Only commercial schools are permitted.

[35] Schools shall be limited to no more than 30 percent of the total building floor area on a site.

[36] An eating and drinking establishment may be permitted as a conditional use, provided that it complies with a minimum of five of the following criteria:

a. Has a minimum seating capacity of 75;

b. Specializes in gourmet, ethnic, or specialty cuisine;

c. Includes banquet facilities and services;

d. Provides live entertainment at least two nights a week;

e. Utilizes custom architectural design and/or collections of artistic, cultural, or historic items to produce a distinctive thematic decor or atmosphere;

f. Has an Oregon Liquor Control Commission license to serve beer and wine; or

g. Employs only chefs who have graduated from a recognized culinary institute, or who have outstanding qualifications or reputations for their culinary skills.

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

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

[39] In the NC District, sign production is a conditional use.

[40] In the C-2 District, sign production is a permitted use.

510.04 DIMENSIONAL STANDARDS

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

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

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

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

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

Notes to Table 510-2:

[1] The minimum lot size for land with a Comprehensive Plan land use plan designation of Low Density Residential shall be the same as that allowed by the zoning district that applied to the subject property immediately prior to the application of the NC zoning district.

[2] The minimum lot size standard applies only to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, an undersized lot of record may be developed, subject to other applicable standards of this Ordinance.

[3] No minimum lot size standard applies to a lot created by partition or subdivision or adjusted through a property line adjustment, provided that the newly created or adjusted lot is developed only with a dwelling classified as a nonconforming use and uses accessory to that dwelling.

[4] The minimum lot size standard applies to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, an undersized lot of record may be developed with primary, accessory, and limited uses, provided that the lot of record is physically separated from all other undeveloped or underdeveloped properties in the same zoning district as the subject property. In addition, contiguous undersized lots of record may be aggregated for development purposes, if such aggregation results in land area equal to or greater than the minimum lot size. Alternatively, contiguous undersized lots of record may be aggregated for development purposes, if such aggregation satisfies the requirement to demonstrate that the undersized site is physically separated from all other undeveloped or underdeveloped properties in the same zoning district as the subject property.

[5] The minimum is 2,000 square feet for a lot developed only with an attached single-family dwelling and uses accessory to that dwelling.

[6] The minimum street frontage standard applies only to subdivisions, partitions, and property line adjustments. The minimum for a lot of record developed only with an attached single-family dwelling, and uses accessory to that dwelling, shall be 20 feet. A lot of record with frontage on more than one street shall meet the minimum on each street.

[7] The maximum front yard depth standard applies only if required by Subsection 1005.03(L).

[8] The maximum front yard depth standard shall be met for all buildings, except as set forth in Note 8 to Table 510-2. However, if a lot has more than one front yard, the standard must be met for only one. A private road used to satisfy the maximum front yard depth standard must comply with the standards in Subsection 1005.08(G). The maximum front yard depth from Main Streets identified on Comprehensive Plan Map X-CRC-3 is 10 feet.

[9] The maximum front yard depth may be exceeded to the minimum extent necessary to accommodate pedestrian amenities. Freestanding parking structures are exempt from the maximum front yard depth, except from Main Streets identified on Comprehensive Plan Map X-CRC-3.

[10] In lieu of complying with the standard, an applicant for design review on a site of 25 acres or larger may submit for approval alternate yard depth standards, which will be reviewed as part of the application. The alternative standards, or any part thereof, shall be approved if they are found to be equally effective as the regular standards in establishing a visual image, sense of place, and quality pedestrian environment for the area.

[11] There is no minimum yard depth from a front lot line that abuts a Main Street identified on Comprehensive Plan Map X-CRC-3.

[12] If the rear yard abuts a residential or OSM zoning district, the minimum shall be 15 feet.

[13] If the rear yard abuts a residential or OSM zoning district, the minimum shall be 35 feet.

[14] If the rear yard abuts a residential or OSM zoning district, the minimum shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.

[15] If the rear yard abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: 10 feet for the portion of a building that is 25 feet or less in height; 20 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.

[16] If the rear yard abuts a residential zoning district, the minimum shall be 35 feet.

[17] If the rear yard abuts a residential or OSM zoning district, the minimum shall be 35 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 39 feet.

[18] If the side yard abuts a residential or OSM zoning district, the minimum shall be 15 feet.

[19] If the side yard abuts a residential or OSM zoning district, the minimum side yard setback shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.

[20] If the side yard abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: six feet for the portion of a building that is 25 feet or less in height; 16 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.

[21] If the side yard abuts a residential zoning district, the minimum shall be 35 feet.

[22] If the subject property abuts a residential or OSM zoning district, the maximum building height shall be 35 feet.

[23] If the building is located less than 100 feet from an Urban Low Density Residential, VR-4/5, or VR-5/7 District, the maximum building height shall be equal to the building's distance from the Urban Low Density Residential, VR-4/5, or VR-5/7 District.

[24] Floor area ratio shall be calculated pursuant to Subsection 1005.03(R).

[25] With an approved master plan, a lot greater than two and one-half acres may be developed in phases provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.

[26] For the purposes of this provision, "office uses" include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Offices and Outpatient Clinics, and Research Facilities and Laboratories.

[27] Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).

510.05 DEVELOPMENT STANDARDS

The following development standards apply:

A. Outdoor Operations in the NC District: In the NC District, primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.

B. Operational Impacts in the C-2 and C-3 Districts: In the C-2 and C-3 Districts, processes and equipment employed and goods processed or sold shall be limited to those that are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried wastes.

C. Storage in the C-2 District: In the C-2 District, storage of materials and merchandise shall be confined and contained within completely enclosed buildings.

D. Outdoor Operations in the RCC District: In the RCC District:

1. Primary commercial uses are permitted provided that outdoor display and storage shall be limited to no more than five percent of the building coverage.

2. Outdoor sales and services are prohibited.

E. Outdoor Operations in the RTL District: In the RTL District, primary commercial uses and conditional uses are permitted provided that:

1. Outdoor display and storage shall be limited to no more than five percent of the building coverage.

2. Notwithstanding Subsection 510.05(E)(1), auto body, recreational vehicle, and boat repair businesses shall store within a completely enclosed structure those vehicles and equipment that are damaged or being repaired.

3. Primary commercial uses shall conduct most activities within a completely enclosed structure.

F. Outdoor Sales and Storage in the PMU District: In the PMU District, outdoor sales, except temporary sidewalk sales and sidewalk cafes and food vendors, are prohibited. Also prohibited is permanent outdoor storage of materials or products.

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

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

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

Notes to Table 510-3:

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

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

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

1. May expand the existing mall with retail or other uses;

2. Preserve Phillips Creek and enhance Phillips Creek Greenway;

3. Accommodate and provide proportionate share of streetscape improvements on Monterey Avenue, 82nd Avenue, Sunnyside Road, and the internal circulation network; and

4. Coordinate internal circulation network with the street and transit system.

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

1. Exclusively retail uses larger than 40,000 square feet of gross leasable ground floor area per building or business shall be prohibited, unless it can be otherwise demonstrated through the master planning process that desired levels of transportation connectivity will be provided.

2. The master plan shall contain a minimum of 10 percent useable open space. Open space shall be integral to the master plan. Plans shall emphasize public gathering places such as plazas, neighborhood parks, trails, and other publicly accessible spaces that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the following standards apply:

a. The open space area shall be shown on the master plan and recorded by final plat or separate instrument; and

b. If approved by the County, the open space shall be conveyed in accordance with one of the following methods:

i. By dedication to the County as publicly owned and maintained open

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

ii. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners association, or other legal entity, with the County retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the County.

3. As part of the master plan review required pursuant to Subsection 1102.03(B)(1), a construction phasing plan shall demonstrate that the order in which buildings identified in the master plan will be constructed complies with the following:

   a. Nonresidential buildings may be constructed prior to construction of dwelling units provided that the total floor area of nonresidential buildings constructed (excluding parking structures) does not exceed 50 percent of the total nonresidential floor area approved in the master plan (excluding parking structures).

   b. The remaining nonresidential buildings may only be constructed after construction of dwelling units is underway. The ratio of constructed dwelling units to the minimum number of dwelling units required shall equal or exceed the ratio of constructed nonresidential floor area (excluding parking structures) to the total nonresidential floor area approved in the master plan (excluding parking structures). For the purposes of Subsection 510.05(I)(3)(b), "constructed dwelling units" shall mean that, at a minimum, building permits have been issued and the framing inspection by the County Building Codes Division has been approved.

   c. The County may approve a construction phasing plan that does not meet the standards in Subsections 510.05(I)(3)(a) and (b) where the applicant demonstrates that the orderly development of the property would be furthered by allowing construction of a greater percentage of nonresidential floor area.

4. Monterey Avenue shall be constructed between SE Stevens Road and SE Bob Schumacher Road at the functional road classification of Collector, with a median planted with street trees and ground cover.

J. <u>Outdoor Operations in the SCMU District</u>: In the SCMU District, outdoor displays, processes, or storage, except for the storage of solid waste and recyclables either as required by Section 1021 or as an accessory use to an attached single-family dwelling, are prohibited.

K. Outdoor Operations in the OA District: In the OA District, all primary and accessory uses associated with office uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure. For the purposes of this provision, "office uses" include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Office and Outpatient Clinics, and Research Facilities and Laboratories.

L. Outdoor Storage and Display in the OC District: In the OC District, outdoor storage or display of materials or products is prohibited.

M. Outdoor Sales, Storage, and Display in the RCO District: In the RCO District, outdoor sales, storage, or display of materials or products is prohibited.

N. Condominiums: Any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of attached single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record.

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

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

511 VILLAGE COMMUNITY SERVICE DISTRICT (VCS)

511.01 PURPOSE

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

511.02 APPLICABILITY

Section 511 applies to land in the VCS District.

511.03 USES PERMITTED

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

A. As used in Table 511-1:

1. "P" means the use is a primary use.

2. "A" means the use is an accessory use.

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

4. "X" means the use is prohibited.

~~4.~~5. Numbers in superscript correspond to the notes that follow Table 511-1.

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

Table 511-1: Permitted Uses in the VCS District

Use	VCS
Accessory Uses, Customarily Permitted, including bicycle racks, cogeneration facilities, meeting facilities, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, storage of building maintenance and landscape maintenance equipment, and transit	A

Use	VCS
amenities	
Assembly Facilities, including auditoriums, community centers, and senior centers	P
Athletic Clubs	C
Bus Shelters, subject to Section 823	A
Civic and Cultural Facilities, including art galleries, libraries, and museums	P[1],C[2]
Community Gardens	P
Daycare Facilities, subject to Section 807	P
Daycare Services, Adult	P
Electric Vehicle Charging Stations	A
Employee Amenities, including cafeterias, clinics, daycare facilities[3], fitness facilities, lounges, and recreational facilities	A[4]
Farmers' Markets, subject to Section 840	P
Government Uses, including fire stations, police stations, and post offices	P
Marijuana Processing	X
Marijuana Production	X
Marijuana Retailing	X
Marijuana Wholesaling	X
Offices, including developer sales offices and professional offices	C
Offices, including government offices and utility offices	P
Pedestrian Amenities	P
Public Recreation Facilities	P
Recyclable Drop-off Sites, subject to Section 819	A
Schools	P
Signs, subject to Section 1010	A[5]
Telecommuting Support Services, including photocopying centers with fax and computer facilities	P
Temporary Buildings for Uses Incidental to Construction Work, provided that such buildings shall be removed upon completion or abandonment of the construction work	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-Site Prior to On-Site Reuse or Removal by the Generator or Licensed or Franchised Collector	A

Use	VCS
to a User or Broker	
Utility Carrier Cabinets, subject to Section 830	P
Wireless Telecommunication Facilities Listed in Subsections 835.04 and 835.05, subject to Section 835	P
Wireless Telecommunication Facilities Listed in Subsection 835.06(A), subject to Section 835	C

Notes to Table 511-1:

[1] Libraries and museums are a primary use.

[2] Art galleries are a conditional use.

[3] Daycare facilities as an employee amenity are not subject to Section 807.

[4] Employee amenities shall be located in the same structure as the use to which they are accessory.

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

511.04 DIMENSIONAL STANDARDS

The following dimensional standards apply in the VCS District.

A. Yard Depth: The yard depth from the east-west collector road and the diagonal connector roads shall be zero. Minimum yard depth from lot lines abutting residential areas shall be five feet.

B. Maximum Building Height: Maximum building height shall be 35 feet, except that the maximum height of tower elements shall be 60 feet, provided that such elements do not have a footprint exceeding 400 square feet.

511.05 DEVELOPMENT STANDARD

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

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

512 VILLAGE OFFICE DISTRICT (VO)

512.01 PURPOSE

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

512.02 APPLICABILITY

Section 512 applies to land in the VO District.

512.03 USES PERMITTED

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

A. As used in Table 512-1:

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

~~5.~~6.Numbers in superscript correspond to the notes that follow Table 512-1.

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

Table 512-1: Permitted Uses in the VO District

Use	VO
Accessory Uses, Customarily Permitted, including bicycle racks, cogeneration facilities, meeting facilities, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, storage of building maintenance and landscape maintenance equipment, and transit amenities	A
Assembly Facilities, including auditoriums, churches, community centers, convention facilities, exhibition halls, fraternal organization lodges, senior centers, and theaters for the performing arts	C[2, 3]
Bus Shelters, subject to Section 823	A
Civic and Cultural Facilities, including art galleries, libraries, and museums	C[2]
Daycare Facilities, subject to Section 807	L[4, 5],C[6]
Daycare Services, Adult	L[4, 7],C[6]
Educational Institutes	C[1]
Electric Vehicle Charging Stations	A
Employee Amenities, including cafeterias, clinics, daycare facilities8, fitness facilities, lounges, and recreational facilities	A[9]
Farmers' Markets, subject to Section 840	P
Financial Institutions, including banks, brokerages, credit unions, loan companies, and savings and loan associations	P
Fitness Facilities, including athletic clubs, exercise studios, gymnasiums, and health clubs	C
Manufacturing, including the mechanical, physical, or chemical transformation of materials, substances, or components into new products; and the assembly of component parts. Primary processing of raw materials is prohibited.	P[10]
Marijuana Processing, except that primary processing of marijuana is prohibited	P[10]
Marijuana Production	X
Marijuana Retailing	X
Marijuana Wholesaling	X
Mobile Vending Units, Level One, subject to Section 837	A

Offices, including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: architectural services, business management services, call centers, employment agencies, engineering services, governmental services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P
Offices and Outpatient Clinics—both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P
Pedestrian Amenities	P
Radio and Television Studios, excluding transmission towers	C[1]
Recreational Sports Facilities for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: general recreation, instruction, practice, and competitions.	C
Recyclable Drop-off Sites, subject to Section 819	A
Research Facilities and Laboratories, including medical laboratories, medical research, product design and testing, and product research and development	P[11]
Services, Business, including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	P
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	L[4]
Services, Information, including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	P
Signs, subject to Section 1010	A[12]
Studios of the following types: art, dance, and music	C[1]
Temporary Buildings for Uses Incidental to Construction Work, provided that such buildings shall be removed upon completion or abandonment of the construction work	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-Site Prior to On-Site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A
Trade Schools. Trade schools provide training in occupational skills. These facilities also may be referred to as technical schools, vocational schools, and career schools.	C[1]

Utility Carrier Cabinets, subject to Section 830	P
Wireless Telecommunication Facilities Listed in Subsections 835.04 and 835.05, subject to Section 835	P

Notes to Table 512-1:

[1] This use is permitted only if there is no opportunity to locate it on land zoned Village Commercial District prior to annexation to the City of Happy Valley.

[2] This use is permitted only if there is no opportunity to locate it either in the VCS District or on land zoned VCS prior to annexation to the City of Happy Valley.

[3] An assembly facility shall have a maximum capacity of 500 people.

[4] The maximum building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.

[5] The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 children.

[6] The use shall be located in the southern half of the VO District and shall be oriented toward the adjacent residential neighborhood.

[7] The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 adults.

[8] Daycare facilities as an employee amenity are not subject to Section 807.

[9] Employee amenities shall be located in the same structure as the use to which they are accessory.

[10] This use is allowed only if it has physical and operational requirements that are similar to those of other primary uses allowed in the VO District.

[11] No operation shall be conducted, or equipment used, that would create any of the following: hazards, noxious conditions, or offensive conditions.

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

512.04 DIMENSIONAL STANDARDS

A. Maximum Front Yard Depth: The maximum front yard depth shall be 50 feet from the centerline of 142nd Avenue, 75 feet from the centerline of Sunnyside Road, and 10 feet from lot lines abutting any other road. The maximum front yard depth may be exceeded to the minimum extent necessary to accommodate proposed pedestrian amenities.

B. Minimum Front Yard Depth: The minimum front yard depth shall be 40 feet from the centerline of 142nd Avenue, 65 feet from the centerline of Sunnyside Road, and five feet from lot lines abutting any other road. Awnings or other overhangs may extend a maximum of four feet into the minimum front yard depth.

C. Rear Yard Depth: The maximum and minimum front yard depth standards for yards abutting 142nd Avenue and Sunnyside Road shall apply even if a lot line abutting 142nd Avenue or Sunnyside Road is designated as a rear lot line pursuant to Subsection 903.01(A).

D. Maximum Building Height: Maximum building height shall be 45 feet, except that the maximum height of tower elements shall be 60 feet, provided that such elements do not have a footprint exceeding 400 square feet.

511.05 DEVELOPMENT STANDARD

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

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

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

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

513.01 PURPOSE

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

513.02 APPLICABILITY

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

513.03 USES PERMITTED

A. Uses permitted in the RTC and RC Districts are listed in Table 513-1, *Permitted Uses in the RTC and RC Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorization of Similar Uses*.

B. As used in Table 513-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. "S" means the use may be authorized only pursuant to Section 106; however, identifying a use as "S" does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.
5. "X" means the use is prohibited.
6. Numbers in superscript correspond to the notes that follow Table 513-1.

C. Permitted uses are subject to the applicable provisions of Subsection 513.04, *Dimensional Standards*; Subsection 513.05, *Development Standard*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process.*

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

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

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

Use	RTC	RC
Recyclable Drop-Off Sites, subject to Section 819	A	A
Resort Accommodations	P[5]	S[6]
Retailing—whether by sale, lease, or rent—of any of the following new or used products: Class I, III, and IV all-terrain vehicles, as defined by Oregon Revised Statutes Chapter 801; motorcycles; and snowmobiles	S	P
Retailing—whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P
Retailing—whether by sale, lease, or rent—of any of the following new or used products: animal feed, building materials, farm equipment, forestry equipment, and livestock supplies	P	P
Schools[10]	P	P,C[2,11]
Service Stations, subject to Section 820	P	P
Services, Commercial—Construction and Maintenance, including contractors engaged in construction and maintenance of buildings, electrical systems, and plumbing systems	P	P
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	P[12]	P[12]
Services, Commercial—Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	P	P
Services, Commercial— Maintenance and Repair of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles	S	P
Services, Commercial—Miscellaneous, including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P
Services, Commercial—Mini-Storage/Self-Storage Facilities	C[13]	C

Use	RTC	RC
Services, Commercial—Personal and Convenience, including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	P	P
Services, Commercial—Storage of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	C
Services, Commercial—Storage of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles	S	C
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	P	P
Signs, subject to Section 1010	A[14]	A[14]
Telephone Exchanges	S	C
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
Theme Parks and Amusement Parks	C	S
Transfer Stations, subject to Section 819	C	C
Transit Park-and-Rides	P	P
Utility Carrier Cabinets, subject to Section 830	P	P
Wholesaling—whether by sale, lease, or rent—of any of the following new or used products: animal feed, farm equipment, farm materials, farm products, fertilizer, forestry equipment, forestry materials, forestry products, mulch, nursery stock, seeds, and seedlings	P	P
Wireless Telecommunication Facilities listed in Subsections 835.04 and 835.05, subject to Section 835	P	P

[1] Churches are not subject to Section 804, *Churches*.

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

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

[4] Daycare facilities as an employee amenity are not subject to Section 807, *Daycare Facilities*.

[5] A hotel, motel, or resort accommodations development in Government Camp shall be limited to a maximum of 50 units per acre or 100 units in total, whichever is less. A hotel, motel, or resort accommodations development in Rhododendron shall be limited to a maximum number of units per acre calculated pursuant to Table 1012-2, or 35 units in total, whichever is less. A hotel, motel, or resort accommodations development in Wemme/Welches shall be limited to a maximum number of units per acre calculated pursuant to Table 1012-2.

[6] If a hotel, motel, or resort accommodations development is authorized as a similar use inside an unincorporated community, it shall be subject to Oregon Administrative Rules 660-022-0030(5).

[7] Parking structures are permitted only in Government Camp and only if they are consistent with an adopted community parking plan.

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

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

[10] Schools are not subject to Section 805, *Schools*.

[11] Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.

[12] Drive-in restaurants are prohibited.

[13] No outside storage shall be permitted.

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

513.04 DIMENSIONAL STANDARDS

A. General: Dimensional standards applicable in the RTC and RC Districts are listed in Tables 513-2, *Dimensional Standards in the RTC and RC Districts, Except in Government Camp*, and 513-3, *Dimensional Standards in Government Camp*. As used in Tables 513-2 and 513-3, numbers in superscript correspond to the notes that follow the tables.

B. Modifications: The standards in Tables 513-2 and 513-3 may be modified pursuant to Section 800, *Special Use Requirements*; Section 903, *Setback Exceptions*; Section 904, *Other Exceptions;* Section 1013, *Planned Unit Developments*; Section 1107, *Property Line Adjustments*; and Section 1205, *Variances*.

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

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

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

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

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

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

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

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

7 No maximum applies to hotels, motels, and resort accommodations.

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

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

Table 513-3: Dimensional Standards in Government Camp

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

[1] There shall be no minimum setback for building cantilevers with a minimum vertical clearance of eight feet above any pedestrian pathway, sidewalk, or walkway. Structures less than 10 feet from the front lot line shall be designed to include measures to protect the public and vehicles from snow slide incidents.

[2] The maximum front yard depth standard may be exceeded to the minimum extent necessary to accommodate public plaza space. Detached single-family dwellings are exempt from complying with the maximum front yard depth standard.

[3] If the rear yard abuts a national forest, there shall be no minimum yard depth.

[4] If the rear yard abuts an HR District, the minimum shall be 20 feet.

[5] The maximum building height may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.

[6] No maximum applies to hotels, motels, and resort accommodations.

513.05 DEVELOPMENT STANDARD

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

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

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

601 CAMPUS INDUSTRIAL DISTRICT (CI)

601.01 PURPOSE

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

601.02 APPLICABILITY

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

601.03 PRIMARY USES

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

1. Experimental, film or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards, and/or noxious or offensive conditions.

2. Industries which manufacture products from, or otherwise process, previously prepared materials which satisfy the following conditions:

   a. The use is employee-intensive, providing approximately 15 or more jobs for every developed acre of land.

   b. The use is not of a type or intensity which produces odor, smoke, fumes, noise, glare, heat or vibrations which are incompatible with other primary uses allowed in this district.

   c. The physical and operational requirements of the use, including type of structure used and volume of heavy truck traffic generated, are similar to other industrial and office uses allowed in this district.

3. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing.

4. Trade or community schools primarily serving the business community within the area.

5. Corporate headquarters or regional offices with 50 or more employees.

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

C. High Density Residential uses, subject to Section 315, may occupy up to 75 percent of the total floor area of the development. Density and land area used for this use shall be subject to the limits specified under Subsection 601.08(F), except as provided under Subsection 601.08(G).

D. Public and private community buildings, indoor and outdoor recreational facilities, such as swimming pools, racquetball clubs, athletic clubs, health and exercise spas, gymnasiums, tennis courts, playgrounds, and other similar uses, developed to serve primarily the recreational needs of residents and employees of the district, may occupy up to 100 percent of the floor area of the development.

E. Utility carrier cabinets, subject to Section 830.

F. Wireless telecommunication facilities, subject to Section 835.

G. Farmers' markets, subject to Section 840.

601.04 ACCESSORY USES

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

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

B. Employee lounges and dining rooms, conference rooms for tenant use, newsstands, central mail room and self-service postal and banking facilities, and products information and display areas which are included within the primary use structures;

C. Warehouse or storage structures provided in conjunction with a primary use under Subsection 601.03 on the same site;

D. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, exercise and dance studios, community meeting rooms, lounges, playgrounds, tennis and other courts, bike and walking trails, and pedestrian plazas and courts, which are provided in association with a primary use within the same development;

E. Parking structures;

F. Bus shelters, subject to Section 823;

G. Signs, subject to Section 1010;

H. Bicycle racks, pedestrian amenities, and transit amenities;

I. Rental and development information offices;

J. Handyman and maintenance services in association with primary, accessory or limited uses in the development;

K. The temporary storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on site prior to onsite reuse or removal by the generator or licensed or franchised collector to a user or broker;

L. Self-service laundry facilities;

M. Solar energy systems;

N. Rainwater collection systems;

O. Electric vehicle charging stations;

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

Q. Daycare facilities, subject to Section 807; and

R. Level one mobile vending units, subject to Section 837.

601.05 LIMITED USES

A. The following retail and service commercial uses may be permitted on a limited basis as part of the development of the CI District when developed concurrently with or after the primary uses, subject to Subsection 601.05(B):

1. The following neighborhood commercial uses:

a. Apparel stores and dressmaking shops;

b. Bakery shops;

c. Catering establishments;

d. Confectionery stores;

e. Delicatessen shops and restaurants, but not drive-in restaurants or drive-thru service;

f. Drug stores;

g. Fabric and dry goods stores;

h. Florist and gift shops;

i. Grocery and produce stores;

j. Hardware and garden supplies;

k. Meat and fish markets;

l. Barber and beauty shops;

m. Clothes pressing, alterations, and tailoring shops;

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

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

p. Exercise and tanning studios;

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

r. Photo finishing;

s. Shoe repair;

t. Veterinarian services and pet supplies;

u. Video rental stores;

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

w. Preexisting retail or service commercial uses; and

x. Mobile vending units, subject to Section 837;

2. Banks;

3. Clinics for doctors, dentists, chiropractors, naturopathic and counseling treatment personnel, and other health services; and

4. Bars and cocktail lounges in conjunction with a restaurant.

B. Limitations and conditions on the development of the limited uses itemized above shall be as follows:

1. The total combined floor area occupied by all limited uses shall not exceed 10 percent of the total floor area occupied by primary uses.

2. All limited uses shall be located, arranged and integrated within the development to serve primarily the shopping and service needs of residents and employees of the district.

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

601.06 CONDITIONAL USES

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

A. Conversion of multifamily dwellings into condominiums;

B. The following uses that exceed a primary or accessory use:

1. Recreational areas, uses, and facilities, including country clubs, lodges, fraternal organizations, swimming pools, gymnastics facilities, golf courses, equine facilities, boat moorages, parks, and concessions;

2. City, county, state, federal, service district, and municipal corporation uses or buildings;

3. Telephone exchanges and public utility structures without shops, garages, or general administrative offices;

4. Radio and television transmission and receiving towers and earth stations, provided that the base of such towers shall not be closer to the property line than a distance equal to the height of the tower; and

5. Recreational vehicle camping facilities, subject to Section 813;

C. Hydroelectric facilities, subject to Section 829;

D. Heliports;

E. Retail and service commercial uses not included as limited use under Subsection 601.05(A), subject to the additional limitations and conditions of Subsection 601.05(B);

F. Uses listed as limited uses in Subsection 601.05(A) on a site separate from a primary use, when:

1. The site is physically separated from all other undeveloped or underdeveloped properties in the district; or

2. The site is not physically separated from other undeveloped or underdeveloped sites, but the applicant demonstrates;

   a. The site is located on a primary access or frontage road, served or planned to be served, by public transit.

   b. There is no alternative site in the area for the proposed use.

   c. It is not possible to develop the proposed use in conjunction with a primary use.

G. Development of a primary use listed in Subsection 601.03 and its associated accessory and limited uses, on a lot or site area which is smaller than the minimum area requirement for the use, and which is not physically separated from all other undeveloped or underdeveloped properties in this district, may be approved when the applicant demonstrates the following:

   1. The proposed lot size is not smaller than half the minimum lot size for the use.

   2. It is not possible to develop the site in conjunction with an adjacent lot or lots, as provided under Subsection 601.08(B).

   3. The purposes set forth under Subsection 601.08(A) are addressed and satisfied in the proposed use and design of the development; and

H. Multi-use developments, subject to Section 1016.

601.07 PROHIBITED USES

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

601.08 DIMENSIONAL STANDARDS

The following dimensional standards apply in the CI District.

A. Purpose: The dimensional standards are intended to:

   1. Encourage coordinated development, and the most efficient and maximum use of the CI District;

   2. Provide for adequate structure separation to ensure air and light access and fire safety and protection for all development site areas and structures within the district and adjoining districts;

3. Provide for a compatible mix of uses supportive of public transportation facilities;

4. Provide for the protection of adjacent properties; and

5. Provide for open space and outdoor activity areas.

B. Site Area Requirements: A "site area" for purposes of Section 601 shall be the total land area to be developed as a unit, prior to the creation of any new parcels or lots within the land area. A site area may be either of the following:

1. A single tax lot, or two or more contiguous tax lots, under the same ownership.

2. Two or more contiguous tax lots under separate ownership, provided that:

a. All individual property owners are members of a group formed for the purpose of developing the properties as a single planned development, and

b. All individual tax lot ownerships are converted into development shares prior to any building permit being issued for the project, or

c. The group shall record, in the office of the County Clerk, a contract in which all members agree to subject the use and development of individual tax lots or ownerships to the development plan for the site area as approved by the County. No permit shall be issued on any separate tax lot or ownership for any structure or use not indicated on the County approved development plan for the site area.

C. Minimum Site Area:

1. Developments which include uses under at least two of the primary use categories under Subsection 601.03(A) through (D) shall require a minimum site area of three acres.

2. Developments which include only uses under Subsection 601.03(A) and accessory uses shall require a minimum site area of two acres.

3. Developments which include only uses under Subsection 601.03(D) shall require a minimum site area of one acre.

D. Undersized Lots: Any primary use under Subsection 601.03, and its associated accessory and limited uses, may be established on a lot smaller than the minimum site area that is physically separated from all other underdeveloped properties in this district, or that is approved as a conditional use under Subsection 601.06(G). However, any lot less than two acres in size resulting from a property line adjustment is not buildable, except for recreational uses under Subsection

601.03(D) on a lot a minimum of one acre in size, unless combined with other property as provided under Subsection 601.08(B).

E. Floor Area Ratio: The maximum floor area for all primary and conditional uses within a site area shall not exceed the net site area multiplied by one (1:1 ratio).

F. Floor Area Requirements: Any primary use or combination of primary uses under Subsections 601.03(A) through (D) may be allowed within a development at floor area percentages, excluding accessory uses, not exceeding those illustrated in Table 601-1.

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

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

1. Land area and density for residential uses shall be as follows:

   a. No more than 25 percent of a site area may be developed with exclusively high-density residential uses, and associated accessory and limited uses.

   b. The entire site, or any portion thereof, may be developed with mixed-use structures which combine housing and other primary uses allowed in this district.

   c. The entire area may be used to calculate the allowed density under the district land area standard for the HDR District and Section 1012, subject to the floor area limitation of this district.

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

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

1. The modification or waiver is consistent with the purposes under Subsection 601.08(A); and

2. The need for the use for which additional floor area is requested is at least as great as the need for other compatible primary uses allowed in this district; and

3. The proposed use, and location of the use, is compatible with, and complementary to existing or proposed developments within the district area; or

4. A substantial mix of primary uses has been established within the immediate district area to the extent that all primary use categories under Subsections 601.03(A) through (D) are represented.

H. Maximum Lot Coverage: 55 percent.

I. Minimum Perimeter Setback: 15 feet.

1. The following uses may be allowed within a perimeter setback area that fronts on a public, county, or state road:

a. Landscaping;

b. Bikeways, trails, pedestrian walks and plazas;

c. Access driveways; and

d. Bus shelters and other pedestrian amenities.

2. The following uses may be allowed within perimeter setback areas that are adjacent to other site areas:

a. Landscaping;

b. Bikeways, trails, pedestrian walks, patios, courts;

c. Coordinated joint-use circulation drives, parking, loading, recreational activity areas, plazas, and

d. Coordinated joint-use structures.

J. Minimum Street Frontage: 50 feet.

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

601.09 DEVELOPMENT STANDARDS

The following development standards apply in the CI District.

A. General: Development is subject to the applicable provisions of Sections 1000, *Development Standards*, and 1100, *Development Review Process*.

B. Outdoor Storage: No outdoor storage of materials shall be allowed.

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
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Text to be added is underlined. Text to be deleted is ~~strikethrough~~.

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

602.01 PURPOSE

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

602.02 APPLICABILITY

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

602.03 USES PERMITTED

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

A. As used in Table 602-1:

1. "P" means the use is a primary use.

2. "A" means the use is an accessory use.

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

4. "X" means the use is prohibited.

5. Numbers in superscript correspond to the notes that follow Table 602-1.

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

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

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

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

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

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

Use	BP	LI	GI
Retail Services, as follows: auto repairing, overhauling, painting, washing, body and fender work, and reconditioning	X	X	C
Satellite Dishes	A	A	A
Signs, subject to Section 1010	A[8]	A[8]	A[8]
Solar Energy Systems	A	A	A
Surface Mining, subject to Section 818	X	C	C[9]
Telephone Exchanges	C	C	C
Temporary Buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A
Temporary Storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on-site prior to on-site reuse or removal by the generator or licensed or franchised collector to a user or broker	A	A	A
Towing Establishments, Including Storage of Towed Vehicles	X	P	P
Transportation Uses This category includes the transportation of cargo using motor vehicles or rail spurs and may include loading docks and parking of cargo transport vehicles. Examples include freight terminals, parcel delivery services, moving companies, and parking facilities for long-haul trucks. These uses often are associated with warehousing facilities. This category also includes parking, storage, repair, and servicing of fleet vehicles used for the transport of people. Examples include ambulance services and mass transit and school bus fleet facilities. This category also includes commercial motor vehicle fueling services, such as cardlock fueling stations; however, motor vehicle fueling stations that cater to the general public are prohibited.	X	P	P
Utility Carrier Cabinets, subject to Section 830	P	P	P
Warehouse Event Retail Sales	A[10]	A[10]	A[10]

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

Notes to Table 602-1:

[1] In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, places of assembly shall not exceed 20,000 square feet.

[2] A government or special district use is a conditional use only if the proposed use does not also fall within one of the categories identified as a primary or accessory use in the applicable zoning district.

[3] In Regionally Significant Industrial Areas (RSIAs) identified on Comprehensive Plan Map IV-8, parks—intended to serve people other than those working or residing in the RSIA—and schools are prohibited.

[4] Notwithstanding other provisions of Section 602 that may permit outdoor display, storage, or processing, these uses shall be conducted entirely within a building, except the following are permitted: outdoor seating areas associated with a restaurant, outdoor play areas associated with a daycare facility, and similar outdoor amenities. Drive-thru window service facilities are prohibited.

[5] In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 3,000 square feet, and the total building floor area of all such uses in the same development project shall not exceed 20,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of

September 9, 2013, may continue and expand to add up to 20 percent more building floor area. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, the same standards shall apply, except that the single-use limit is 5,000 square feet of building floor area. However, the building floor area limitations do not apply to the following uses in the BP District: destination restaurants that comply with Subsection 1016.05(B)(4) and provide lunch service; and hotels and associated convention facilities, gift shops, and restaurants.

[6] Lots of record created on or after September 9, 2013, shall be subject to Note 6 to Table 602-1 in lieu of Note 5 to Table 602-1. In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 3,000 square feet. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 5,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of September 9, 2013, may continue and expand to add up to 20 percent more building floor area. In all cases, the total building floor area of all such uses on the same lot of record shall not exceed 20,000 square feet or 25 percent of the building floor area on the lot of record, whichever is less. However, the building floor area limitations do not apply to the following uses in the BP District: destination restaurants that comply with Subsection 1016.05(B)(4) and provide lunch service; and hotels and associated convention facilities, gift shops, and restaurants.

[7] This use is limited to indoor areas for retail display and retail sales of products manufactured by the same business occupying the premises, as well as related products. In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area for such retail display and retail sales shall not exceed 3,000 square feet per business, and the total building floor area of all such retail display and retail sales areas in the same development project shall not exceed 20,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of September 9, 2013, may continue and expand to add up to 20 percent more building floor area. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, the same standards shall apply, except that the single-business limit is 5,000 square feet of building floor area.

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

[9] Aggregate batch plant operations are a primary use in the GI District.

[10] Warehouse event retail sales are permitted if the products being sold at the event sale are manufactured, warehoused, or distributed as a primary use on the subject property; no more than one event sale occurs each calendar month; a single event sale lasts a maximum of three consecutive days, which shall be Friday, Saturday, Sunday, or Monday; and the event sales occur indoors.

602.04 DIMENSIONAL STANDARDS

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

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

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

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

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

Notes to Table 602-2:

[1] The minimum lot size standard applies to subdivisions, partitions, and property line adjustments, except that no minimum lot size standard applies to a lot that is developed with a dwelling that is a nonconforming use. Notwithstanding the minimum lot size standard, a lot of record may be developed, subject to other applicable standards of this Ordinance.

[2] The minimum lot size may be reduced to 20,000 square feet, subject to design review approval pursuant to Section 1102, *Design Review*, of the overall development plan for the entire lot of record, including access, circulation, parking, landscaping, and proposed building locations.

[3] The maximum front yard depth standard applies, if required by Subsection 1005.03(L), except that this standard does not apply to dwellings that are nonconforming uses, or to structures that are accessory to such dwellings.

[4] The minimum yard depth requirements of Table 315-2, *Dimensional Standards in the Urban Low Density Residential Districts*, as modified by Subsection 315.04(C), apply to dwellings that are nonconforming uses, as well as to structures that are accessory to such dwellings.

[5] The minimum yard depth for a silo, tower, or other specialized storage or processing structure (unless such structure is enclosed in a building) is 35 feet for structures 35 feet or less in height. An additional five feet of yard depth is required for each additional 10-foot height increment, or portion thereof, for structures over 35 feet in height. These greater yard depth standards do not apply if the yard abuts an LI or GI District.

602.05 DEVELOPMENT STANDARDS

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

A. Outdoor Operations in the BP District: In the operation of a primary use in the BP District:

1. All display areas shall be located within a building. No outdoor display areas shall be allowed.

2. No outdoor storage of materials or products shall be allowed.

3. No outdoor processes shall be employed in the operation of the business.

4. Receptacles for solid waste and recyclable materials shall be maintained within an enclosed structure.

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

1. All display of products shall be located within an enclosed building. No outdoor display areas shall be allowed. Notwithstanding these limitations, outdoor display of finished products may be permitted as a conditional use, as established by Table 602-1 and provided that, at a minimum, outdoor display areas and items on display shall:

   a. Not block visibility to or from any road or driveway, or block visibility of signs located on adjacent lots;

   b. Be located a minimum of 15 feet from the front lot line(s);

   c. Be maintained to project an organized and neat appearance at all times; and

   d. Only include finished products manufactured on, or sold on a wholesale basis from, the subject property.

2. Limited outdoor storage areas shall be allowed, subject to the following criteria:

   a. Except as permitted as a conditional use, as established by Table 602-1, outdoor storage may occupy an area no greater than the area of the ground floor of the building(s) on the same premises.

   b. Outdoor storage areas shall be located behind the building, to the rear of the site, and not adjacent to front lot lines.

   c. Outdoor storage areas shall be screened with a sight-obscuring fence a minimum of six feet in height. Fencing shall be located behind the landscaping strips required by Subsections 1009.04(B) and 1009.06.

   d. Equipment, vehicles, materials, and other items located within outdoor storage areas shall be maintained in an orderly fashion and, except for large industrial or commercial vehicles and equipment, shall be no higher than the height of the fence.

   e. Outdoor storage areas shall not be used to store waste or recyclable materials.

3. No outdoor processes shall be employed in the operation of the business.

4. Receptacles for solid waste and recyclable materials shall be maintained within an enclosed structure.

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

1. Outdoor display of finished products is permitted, provided that outdoor display areas and items on display shall:

   a. Not block visibility to or from any road or driveway, or block visibility of signs located on adjacent lots;

   b. Be located a minimum of 10 feet from the front lot line(s);

   c. Be maintained to project an organized and neat appearance at all times; and

   d. Only include finished products manufactured on, or sold on a wholesale basis from, the subject property.

2. Outdoor storage and processing are permitted, subject to the following standards:

   a. Outdoor storage and processing areas shall be located a minimum of 20 feet from the front lot line(s), a minimum of 15 feet from side or rear lot lines that abut a commercial or mixed use zoning district, and a minimum of 35 feet from side or rear lot lines that abut a residential, natural resource, or Open Space Management zoning district.

   b. Outdoor storage areas shall be screened with a sight-obscuring fence a minimum of six feet in height and a maximum of 10 feet in height. Fencing shall be located behind the landscaping strips required by Subsections 1009.04(B) and 1009.06. Outdoor processing areas shall be buffered pursuant to Subsections 1009.05(D) through (F).

   c. Equipment, stockpiles of materials, and other items located within outdoor storage and processing areas shall be maintained in an orderly fashion.

   d. Waste materials (by-products that are not further processed or recycled on-premise) shall not accumulate in outdoor storage and processing areas for more than two weeks, except that waste materials from water treatment facilities or surface water retention facilities may accumulate for such longer period as necessitated by Best Management Practices for the facility.

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

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

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

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

604 RURAL INDUSTRIAL DISTRICT (RI)

604.01 PURPOSE

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

604.02 APPLICABILITY

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

604.03 USES PERMITTED

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

A. As used in Table 604-1:

1. "P" means the use is a primary use.

2. "A" means the use is an accessory use.

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

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

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

Table 604-1: Permitted Uses in the RI District

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

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

Use	RI
distributed from the subject property, warehoused on the subject property, or sold on a wholesale basis from the subject property	
Sales, Rental, Storage, Repair, and Servicing of equipment and materials associated with farm and forest uses, road maintenance, mineral extraction, and construction	P
Satellite Dishes	A
Sheet Metal and Machine Shops	P
Signs, subject to Section 1010	A[3]
Small Power Production Facilities, provided that if it is a hydroelectric facility, it shall be subject to Section 829	P
Solar Energy Systems	A
Surface Mining, subject to Section 818	C
Telephone Exchanges	C
Temporary Buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work.	A
Temporary Storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on-site prior to on-site reuse or removal by the generator or licensed or franchised collector to a user or broker	A
Upholstery Shops	P
Utility Carrier Cabinets, subject to Section 830	P
Veterinary Hospital	P
Warehousing and Distribution This category includes establishments primarily engaged in operating warehousing and distribution facilities for general merchandise, refrigerated goods, and other products and materials that have been manufactured and generally are being stored in anticipation of delivery to the final customer. A range of logistical services may be provided, including labeling, packaging, price marking and ticketing, and transportation arrangement. This category includes the transportation and distribution of cargo using motor vehicles or rail spurs and may include loading docks and parking of cargo transport vehicles. Mini-storage facilities are not included in this category.	P[2]
Wholesale Trade This category includes establishments engaged in selling and distributing goods and services to retailers; to industrial, commercial, or professional business users; or to other wholesalers, generally without transformation. Wholesalers sell	P[2]

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

Notes to Table 604-1:

[1] A government or special district use is a conditional use only if the proposed use does not also fall within one of the categories identified as a primary or accessory use.

[2] Manufacturing, transportation, distribution, warehousing, and wholesale trade of certain products are conditional uses, when specifically listed as such in Table 604-1.

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

604.04 DIMENSIONAL STANDARDS

The following dimensional standards apply in the RI District.

A. Minimum Front Yard Depth: The minimum front yard depth is 30 feet.

B. Minimum Rear Yard Depth: The minimum rear yard depth is 30 feet if the rear yard abuts a residential zoning district and 10 feet if the rear yard abuts a commercial zoning district. In either case, an additional five feet of yard depth is required for each additional 10-foot height increment, or portion thereof, for structures over 35 feet in height.

C. Minimum Side Yard Depth: The minimum side yard depth is 30 feet if the side yard abuts a residential zoning district and 10 feet if the side yard abuts a commercial zoning district. In either case, an additional five feet of yard depth is required for each additional 10-foot height increment, or portion thereof, for structures over 35 feet in height.

D. Nonconforming Dwellings: Notwithstanding Subsections 604.04(B) and (C), the minimum rear and side yard depth standards applicable in the RA-2 District apply to dwellings that are nonconforming uses, as well as to uses that are accessory to such dwellings.

E. Minimum Lot Size: There is no minimum lot size standard, except within the Portland Metropolitan Urban Growth Boundary, where the minimum lot size is 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.

F. Maximum Building Floor Space:

1. For an industrial use within an unincorporated community, the maximum building floor space per use shall be 40,000 square feet, except that no limit shall apply to:

   a. Uses authorized under Statewide Planning Goals 3 and 4;

   b. Expansion of a use that existed on December 5, 1994;

   c. Uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a);

   d. New uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and

   e. Uses sited on abandoned or diminished mill sites.

2. For an industrial use outside an unincorporated community, the maximum building floor space per use shall be 39,500 square feet, except:

   a. No limit shall apply to the primary processing of raw material produced in rural areas or to uses sited on abandoned or diminished mill sites.

   b. A lawfully established use that existed on December 20, 2001 may expand to occupy a maximum of 40,000 square feet of building floor space or 25 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.

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

604.05 DEVELOPMENT STANDARD

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

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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~~801 GENERAL PROVISIONS~~

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

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

822 HOME OCCUPATIONS

822.01 PURPOSE

Section 822 is adopted to:

A. Encourage economic development in the County by promoting home occupations;

B. Reduce vehicle miles traveled by providing opportunities for people to work from their homes;

C. Recognize the differences between residential communities, and provide standards for home occupations consistent with these differences;

D. Ensure the compatibility of home occupations with other uses permitted in the underlying zoning district;

E. Maintain and preserve the character of the community and residential neighborhoods; and

F. Mitigate noise, traffic, and other possible negative effects of home occupations.

822.02 DEFINITIONS

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

A. Abutting Properties: Properties that are contiguous to the property on which the home occupation is proposed, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.

B. Accessory Space: Any building space, other than the dwelling unit, that is used for the home occupation, including, but not limited to, an attached garage, detached garage, or pole building. Accessory space does not include manufactured dwellings, residential trailers, or recreational vehicles.

C. Employee: Any on-site person, whether they work full-time or part-time in the home occupation, including, but not limited to, the operator, partners, assistants, and any other persons participating in the operation of the home occupation.

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

E. Incidental Use: The use of no more than 25 percent of the floor area of a structure or 500 square feet, whichever is less.

F. Operator: The person who conducts the home occupation, has majority ownership interest in the home occupation, lives full-time in a dwelling unit on the subject property, and is responsible for strategic decisions and day-to-day operations of the home occupation.

G. Property: A lot of record.

H. Vehicle: Any motorized or non-motorized transportation equipment intended for use on public roads and associated with the home occupation, including, but not limited to, a car, van, pickup, motorcycle, truck, detached trailer, or a truck tractor with no more than one trailer. An exception may be made for a detached trailer or trailers, which may be categorized as equipment if stored within an enclosed building approved for this use through a home occupation permit. Accessory space utilized for storage of a trailer shall be included in the calculation of total accessory space approved for the home occupation.

I. Vehicle Trip: A vehicular movement either to or from the subject property by any vehicle used in the home occupation, any delivery vehicle associated with the home occupation, or any customer or client vehicle.

822.03 LEVEL ONE MINOR HOME OCCUPATIONS

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

A. Employees: No persons other than residents of the dwelling unit in which the home occupation is located shall be employees of the home occupation.

B. Building Space: The home occupation shall be conducted in a dwelling unit, but is limited to incidental use thereof. In addition, incidental use of accessory space is allowed for storage purposes only.

C. Noise, Vibration, Glare, Fumes, and Odors: The home occupation shall not create noise, vibration, glare, fumes, or odors detectable to normal sensory perception

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

D. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.

E. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or other external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.03. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.

F. Signs: Signs shall be permitted pursuant to Section 1010.

G. Traffic: The home occupation shall not generate more than 10 vehicle trips per day.

H. Parking: Parking associated with the home occupation shall be regulated as follows:

1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.

2. The maximum number of customer or client vehicles that are associated with the home occupation and located on the subject property shall not exceed two at any time.

3. The home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks. Parcel post, United Parcel Service, or similar in-town delivery services shall be limited to no more than one delivery per day.

4. Two parking spaces for customers/clients shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. The minimum parking space requirement for the home occupation shall be in addition to the parking required for other permitted uses on the subject property.

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

1. Marijuana production;

2. Marijuana processing;

3. Marijuana wholesaling; and

4. Marijuana retailing.

822.04 LEVEL TWO MAJOR HOME OCCUPATIONS

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

A. Location: The home occupation shall be located on a property where the majority of abutting properties are equal to or less than two acres. A renewal application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation.

B. Operator: The operator of the home occupation shall reside in a dwelling unit on the subject property.

C. Employees: The home occupation shall have no more than five employees.

D. Building Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. A maximum of 500 square feet of accessory space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.

E. Noise: Noise shall be regulated as follows:

1. From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise detectable to normal sensory perception off the subject property.

   a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.04(E)(1).

   b. Subsection 822.04(E)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.

2. A noise study may be required to demonstrate compliance with Subsection 822.04(E)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability.

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

F. Vibration, Glare, Fumes, and Odors: The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

G. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.

H. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.04. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.

I. Signs: Signs shall be permitted pursuant to Section 1010.

J. Traffic: The home occupation shall not generate more than 20 vehicle trips per day.

K. Parking: Parking associated with the home occupation shall be regulated as follows:

1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.

2. The maximum number of vehicles that are associated with the home occupation and located on the subject property shall not exceed four at any time, including, but not limited to, employee vehicles and customer/client vehicles.

3. The home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks.

4. Parking spaces needed for employees or customers/clients of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. Parking for the home occupation may be required to comply with Americans with Disabilities Act requirements, as determined by the County Building Codes Division.

L. Change of Occupancy Classification: If the home occupation will alter the occupancy classification of an existing structure as determined by the County Building Codes Division, then the structure shall be made to conform with the current edition of the Oregon Structural Specialty Code or the Oregon Residential Specialty Code and the requirements of the State Fire Marshal or the local fire district.

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

1. Repair of motorized vehicles and equipment, including the painting or repair of automobiles, trucks, trailers, or boats;

2. Towing and vehicle storage business;

3. Any other use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than an automobile repair shop with open flame; ~~and~~

4. Hazardous materials on the subject property in quantities greater than those normally associated with the primary uses allowed in the underlying zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less~~.~~;

5. Marijuana production;

6. Marijuana processing;

7. Marijuana wholesaling; and

8. Marijuana retailing.

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

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

822.05 LEVEL THREE MAJOR HOME OCCUPATIONS

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

A. Location: The home occupation shall be located on a property where a minimum of 50 percent of abutting properties are greater than two acres. A renewal application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation.

B. Operator: The operator of the home occupation shall reside in a dwelling unit on the subject property.

C. Employees: The home occupation shall have no more than five employees.

D. Building Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. A maximum of 1,500 square feet of accessory space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.

E. Noise: Noise shall be regulated as follows:

1. From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise that is detectable to normal sensory perception off the subject property.

   a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.05(E)(1).

   b. Subsection 822.05(E)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.

2. A noise study may be required to demonstrate compliance with the noise standards. If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

F. Vibration, Glare, Fumes, and Odors: The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

G. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.

H. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.05. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.

I. Signs: Signs shall be permitted pursuant to Section 1010.

J. Traffic: The home occupation shall not generate more than 30 vehicle trips per day.

K. Parking: Parking associated with the home occupation shall be regulated as follows:

1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.

2. The maximum number of vehicles that are associated with the home occupation and located on the subject property shall not exceed five at any time, including, but not limited to, employee vehicles, customer/client vehicles, and vehicles to be repaired. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from off the subject property.

3. No more than one of the five vehicles permitted to be located on the subject property at one time shall exceed a gross vehicle weight of 11,000 pounds.

4. Parking spaces needed for employees or customers/clients of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. Parking for the home occupation may be required to comply with Americans with Disabilities Act requirements, as determined by the County Building Codes Division.

L. Change of Occupancy Classification: If the home occupation will alter the occupancy classification of an existing structure as determined by the County Building Codes Division, then the structure shall be made to conform with the current edition of the Oregon Structural Specialty Code or the Oregon Residential

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

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

1. Any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than aircraft engine repair; ~~and~~

2. Hazardous materials on the subject property in quantities greater than those normally associated with the primary uses allowed in the underlying zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less~~.~~;

3. Marijuana production;

4. Marijuana processing;

5. Marijuana wholesaling; and

6. Marijuana retailing.

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

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

822.06 EXCEPTIONS

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

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

2. The use shall remain compatible with the area. The following factors shall be considered when determining if a use is compatible with the area:

   a. The number of standards identified in Subsections 822.04(C) through (M) or 822.05(C) through (M) that will be exceeded; it is presumed that the more standards exceeded, the more difficult it will be to demonstrate compatibility;

   b. The character of the neighborhood, including such factors as the presence of other similar uses, proximity of other dwellings, the level of surrounding traffic, the size of accessory buildings, background noise levels, and other outside storage uses;

   c. The ability to mitigate impacts by screening, landscaping, building location, building design, and other property improvements (for example, driveway or road improvements);

   d. Potential environmental impacts, including effects on air and water quality; and

   e. Provision of adequate and safe access to public, County, or state roads.

3. Services adequate to serve the proposed use shall be available, including transportation, public facilities, and other services existing or planned for the area affected by the use. At a minimum, compliance with Subsections 1006.02(F), 1006.06(B), and 1006.08(C) (except as set forth in Subsection 1006.09), and 1007.09 is required.

B. Notwithstanding Subsection 822.06(A):

1. Maximum accessory space for the home occupation shall not exceed 3,000 square feet; and

2. If the subject property is in an EFU, TBR, or AG/F zoning district, the number of employees shall not exceed five.

822.07 PREEXISTING HOME OCCUPATIONS

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

822.08 APPROVAL PERIOD AND RENEWALS

A. A major home occupation permit is valid for three years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.

B. A major home occupation permit may be renewed an unlimited number of times. Renewals also shall be valid for three years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.

C. A renewal of a major home occupation permit, including one for a home occupation with one or more previously approved exceptions under Subsection 822.06, requires review as a Type II application pursuant to Section 1307. However, if the renewal application includes a request for an exception not approved under the prior home occupation permit, the renewal requires review as a Type III application pursuant to Section 1307.

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

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
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Text to be added is underlined.

841 MARIJUANA PRODUCTION, PROCESSING, AND RETAILING

841.01 APPLICABILITY

Section 841 applies to marijuana production, marijuana processing, and marijuana retailing.

841.02 PROCEDURE

Marijuana production, marijuana processing, and marijuana retailing require review as Type I applications pursuant to Section 1307, *Procedures*, except:

A. In the EFU and AG/F Districts, marijuana processing requires review as a Type II application pursuant to Section 1307; and

B. In the RRFF-5 and FF-10 Districts, marijuana processing is a conditional use that requires review as a Type III application pursuant to Section 1307.

841.03 MARIJUANA PRODUCTION AND MARIJUANA PROCESSING

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

A. Minimum Yard Depth. No land area or structure used for marijuana production or marijuana processing shall be located closer than 100 feet from any lot line.

B. 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 marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.

C. Odor. A building used for marijuana production or marijuana processing shall be equipped with a carbon filtration system for odor control. The system shall consist of one or more fans and filters. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM.

D. Lighting. Lighting shall be regulated as follows:

1. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.

3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not spill onto adjacent lots.

E. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way.

F. Water. The applicant shall submit proof of a water right for the proposed marijuana production or marijuana processing, or proof of access to a public or community water system.

G. Secure Disposal. Secure disposal of discarded marijuana items shall be provided; marijuana items shall not be placed within exterior refuse containers on the subject property.

H. Rural Residential Zoning Districts. In the RRFF-5 and FF-10 Districts, marijuana production and marijuana processing shall be subject to the following additional standards and criteria:

1. An owner of the subject property shall reside in a dwelling unit on the subject property.

2. The subject property shall be a minimum of five acres.

3. Marijuana production and marijuana processing shall be located entirely within one or more completely enclosed buildings.

a. A maximum of 5,000 square feet of building space may be used for all activities associated with marijuana production on the subject property.

b. A maximum of 3,000 square feet of building space may be used for all activities associated with marijuana processing on the subject property.

c. If only a portion of a building is authorized for use in marijuana production or marijuana processing, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production or marijuana processing space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the

marijuana production or marijuana processing space and the remainder of the building.

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

841.04 MARIJUANA RETAILING

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

A. Hours. Operating hours shall be no earlier than 10:00 a.m. or later than 9:00 p.m. on the same day.

B. Odor. A building used for marijuana retailing shall be equipped with a carbon filtration system for odor control. The system shall consist of one or more fans and filters. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM.

C. Window Service. The use shall not have a walk-up window or drive-thru window service.

D. Secure Disposal. Secure disposal of discarded marijuana items shall be provided; marijuana items shall not be placed within exterior refuse containers on the subject property.

E. Minors. No minor shall be permitted to be present anywhere in the building space occupied by the marijuana retailer, unless accompanying a parent or guardian as allowed by state law.

F. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.

G. Minimum Separation Distances. Minimum separation distances shall apply as follows:

1. The use shall be located a minimum of:

a. 2000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching

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

b. 1500 feet from a public park, public playground, government-owned recreational use, public library, licensed treatment center, light rail transit station, or a multifamily dwelling owned by a public housing authority.

c. 500 feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool;

d. 100 feet from a residentially zoned property; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial, as identified on Comprehensive Plan Map 5-4a, *Road Functional Classification Urban*.

2. If the use is licensed by the Oregon Liquor Control Commission (OLCC) pursuant to [*insert reference from Oregon Laws*], it shall be located a minimum of 1,000 feet from any other marijuana retailer so licensed by the OLCC.

3. If the use is registered with the Oregon Health Authority (OHA) pursuant to [*insert reference from Oregon Laws*], it shall be located a minimum of 1,000 feet from any other marijuana retailer so registered with the OHA.

4. For purposes of Subsection 841.04(G), all distances shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer.

5. A change in use (including a zone change) to another property to a use identified in Subsection 841.04(G) after a marijuana retailer has been licensed by or registered with the State of Oregon shall not result in the marijuana retailer being in violation of Subsection 841.04(G).

6. Subsection 841.04(G) does not apply to any marijuana retailer that applied for a registration with the Oregon Health Authority on or before March 3, 2014, and subsequently obtained full, unconditional approval on or before May 31, 2014.

7. A marijuana retailer that falls under Subsection 841.04(G) may relocate to another location in the same building.

8. In case of a conflict under Subsection 841.04(G)(2) or (3), any person who has submitted a complete Type I land use permit application after first obtaining final approval from the relevant State of Oregon licensing/registering agency, shall be deemed to have established marijuana retailing at the licensed/registered location, so long as the marijuana retailer

begins operation within 180 days of the date of the County's final decision on the Type I land use permit application.

841.05 APPROVAL PERIOD AND TIME EXTENSION

A. Approval of a permit under Subsection 841.03 is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

1. Implemented means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:

a. A building permit for a new primary structure that was part of the approved development; or

b. A permit issued by the County for parking lot or road improvements required by the approved development.

B. Approval of a permit under Subsection 841.04 is valid for 180 days from the date of the County's final decision. During this 180-day period, the approval shall be implemented, or the approval will become void. Implemented means that the marijuana retailer has begun operation.

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 9/21/15

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

1307 PROCEDURES

1307.01 PURPOSE

Section 1307 is adopted to:

A. Implement the goals and policies of the Comprehensive Plan for citizen involvement and the planning process;

B. Establish uniform procedures for the review of land use applications and legislative land use proposals;

C. Facilitate timely review of land use applications by the County;

D. Clarify the land use application review process for applicants; and

E. Enable the public to effectively participate in the County's land use permit decision-making process.

1307.02 APPLICABILITY

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

A. No person shall engage in or cause development to occur without first obtaining the necessary land use permit approvals required by, and according to the procedures in, Section 1307.

B. Where the provisions of Section 1307 conflict with other provisions of this Ordinance, the more specific provisions shall control.

1307.03 REVIEW AUTHORITIES

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

1. The review authority charged with making the initial decision;

2. The review authority charged with making the decision on the initial County-level appeal, if any;

3. The review authority charged with making the decision on the second County-level appeal, if any; and

4. Those circumstances where an additional review authority is charged with making a recommendation on the application or proposal to the decision maker.

B. Planning Director: Pursuant to Oregon Revised Statutes 215.042, the Planning Director is the County official designated to administer land use planning in the County. In this role, the Planning Director administers the Comprehensive Plan and this Ordinance, issues decisions on certain land use permit applications, and provides administrative support to other review authorities. As used in this Ordinance, the term Planning Director includes any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by this Ordinance.

C. Hearings Officer: Pursuant to ORS 215.406, the Hearings Officer is appointed by the Board of County Commissioners to conduct public hearings and issue decisions on certain land use permit applications.

D. Historic Review Board: The Historic Review Board is designated as an advisory body on matters pertaining to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district and has the powers and duties described in Sections 707 and 1307.

1. The Historic Review Board shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.

2. Historic Review Board members shall have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of historic preservation. Three positions on the Historic Review Board shall be filled as follows:

   a. One architect, with knowledge in historic restoration;

   b. One contractor, with expertise in construction techniques applied to historic structures; and

   c. One representative from a historic group in the County.

3. Unless otherwise provided for, members of the Historic Review Board shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.

4. If a member of the Historic Review Board does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Historic Review Board until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(D)(3).

6. The Historic Review Board shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

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

E. Design Review Committee: The Design Review Committee is designated as an advisory body on matters pertaining to the design review process and has the powers and duties described in Sections 1102 and 1307.

1. The Design Review Committee shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.

2. Five positions on the Design Review Committee shall be filled as follows:

   a. One landscape architect;

   b. One architect;

   c. One registered engineer;

   d. One graphic design representative; and

   e. One representative from the field of finance or the construction and development industry.

3. Unless otherwise provided for, members of the Design Review Committee shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.

4. If a member of the Design Review Committee does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Design Review Committee until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(E)(3).

6. The Design Review Committee shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

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

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

1. The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.

2. Members of the Planning Commission shall be residents of the various geographic areas of the County. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.

3. Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.

4. If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(F)(3).

6. The Planning Commission shall adopt bylaws governing its proceedings and

appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

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

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

1307.04 REVIEW PROCEDURE TYPES

A. Land use permits and legislative land use proposals provided for under this Ordinance are classified as one of four types, each of which is subject to a corresponding review procedure. The four types are described as follows:

1. Type I permits are ministerial in nature and involve land use actions governed by non-discretionary standards and clear and objective approval criteria. Approval of a Type I permit may require imposition of conditions of approval to ensure compliance with this Ordinance. The Type I procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.

2. Type II permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.

3. Type III permits are quasi-judicial in nature, and involve land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.

4. Type IV proposals are legislative in nature, and involve the creation, broad-scale implementation, or revision of public policy. These include amendments to the text of the Comprehensive Plan or this Ordinance. Large-

scale changes in the Comprehensive Plan Land Use Plan maps and zoning maps also may be characterized as legislative where a larger number of property owners are directly affected.

B. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and assigns a procedure type to each. In the event that the procedure type for a land use permit application is not identified in Table 1307-1, specified elsewhere in this Ordinance, or otherwise required by law, the Planning Director shall determine the applicable procedure based on the guidelines in Subsection 1307.04(A). Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

1. As used in Table 1307-1:

a. "PD" means Planning Director.

b. "HO" means Hearings Officer.

c. "BCC" means Board of County Commissioners

d. Numbers in superscript correspond to the notes that follow Table 1307-1.

Table 1307-1: Land Use Permits by Procedure Type

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

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Comprehensive Plan Map Amendment[1]	III or IV	Type III Only	BCC	No County-Level Appeal
Comprehensive Plan Text Amendment	IV	No	BCC	No County-Level Appeal
Conditional Use	III	Yes	HO	No County-Level Appeal
Condominium Plat[2]	I	No	PD	No County-Level Appeal
Conversion of a Manufactured Dwelling Park or a Mobile Home Park to a Subdivision	I	No	PD	No County-Level Appeal
Design Review[3]	II	Yes	PD	HO
Design Review of a Master Plan in the PMU District	III	Yes	HO	No County-Level Appeal
EFU District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(A)]	I	No	PD	No County-Level Appeal
EFU District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(4)]	III	No	HO	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1	II	No	PD	HO
Farmers' Market	II	No	PD	HO
Floodplain Development	II	No	PD	HO
Floodway, Fish Enhancement Project [pursuant to Subsection 703.07(F)]	I	No	PD	No County-Level Appeal
Habitat Conservation Area District	See Subsection 706.06	No	See Subsection 706.06	See Subsection 706.06
Historic Landmark, Historic District, and Historic Corridor, Maintenance	I	No	PD	No County-Level Appeal
Historic Landmark, Historic District, and Historic Corridor, Major Alteration[4]	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Minor Alteration	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Moving or Demolition[4]	II[3]	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction[4]	II[3]	Yes	PD	HO
Home Occupation, Major, New, with an Exception	III	Yes	HO	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Home Occupation, Major, New, without an Exception	II	No	PD	HO
Home Occupation, Major, Renewal, with a New Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, Renewal, without a New Exception	II	No	PD	HO
Interpretation, Comprehensive Plan[5]	II	No	PD	PC
Interpretation, Zoning and Development Ordinance[6]	II	No	PD	HO
Marijuana Production, Marijuana Processing, and Marijuana Retailing, if regulated by Section 841, *Marijuana Production, Processing, and Retailing*[8]	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Extraction Area Permit	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Impact Area Permit	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Two	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Three	II	Yes	PD	HO

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Modification	II	No	PD	HO
Nonconforming Use, Alteration not Required by Law	II	No	PD	HO
Nonconforming Use, Verification	II	No	PD	HO
Open Space, Conflict Resolution for Wetlands and Significant Natural Areas	II	No	PD	HO
Open Space Review	II	No	PD	HO
Partition	II	Yes	PD	HO
Principal River Conservation Area	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, Expansion of Existing Use [pursuant to Subsection 712.05(B)]	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, New Use [pursuant to Subsection 712.06]	III	No	HO	No County-Level Appeal
Public Use Airport and Safety Overlay Zones, Use Permitted Subject to Review [pursuant to Subsection 713.05]	III	No	HO	No County-Level Appeal
Property Line Adjustment [except pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3)]	I	No	PD	No County-Level Appeal
Property Line Adjustment [pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3)	II	No	PD	HO

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

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

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

Notes to Table 1307-1:

[1] The Type III procedure~~process~~ shall be modified to include Planning Commission public hearing and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing. In the case of a Comprehensive Plan amendment related to the designation of a Historic Landmark, Historic District, or Historic Corridor, both the Type III and Type IV procedures~~processes~~ shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.

[2] If condominium platting is proposed as part of a design review application, a separate condominium plat application is not required.

[3] The Type II procedure~~process~~ may be modified, pursuant to Subsection 1102.02(B) or (C), to include Design Review Committee review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.

[4] The Type II procedure~~process~~ shall be modified to include Historic Review Board review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.

[5] The Type II procedure~~process~~ shall be modified to allow the Planning Commission's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(1).

[6] The Type II procedure~~process~~ shall be modified to allow the Hearings Officer's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(2).

[7] In the case of a zone change related to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district, the Type III procedure~~process~~ shall be modified to designate the Board of County Commissioners as the initial decision review authority and to include Historic Review Board review and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing, and the Type IV procedure~~process~~ shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.

[8] The Type II procedure shall apply to marijuana processing in the EFU and AG/F Districts. The Type III procedure shall apply to marijuana processing in the RRFF-5 and FF-10 Districts.

C. Notwithstanding any other provision in Section 1307, except for an application for an interpretation of the Comprehensive Plan, an applicant may choose to process a Type II land use permit application using the Type III procedure, and the Hearings Officer shall be the review authority for the initial decision. The decision of the Hearings Officer shall be the final decision of the County, except for an application for an interpretation of this Ordinance, in which case appeal to the Board of County Commissioners is allowed pursuant to Subsection 1307.13(E)(2).

1307.05 PRE-APPLICATION CONFERENCE

A. Purpose: Pre-application conferences are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

B. Applicability: Table 1307-1 identifies the land use permit applications for which pre-application conferences are mandatory. Pre-application conferences are voluntary for all other land use permit applications.

C. Submittal Requirements: Pre-application conference requests shall include:

1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

   a. The names, mailing addresses, and telephone numbers of the applicant(s);

   b. The address of the subject property, if any, and its assessor's map and tax lot number;

   c. The size of the subject property;

   d. The Comprehensive Plan designation and zoning district of the subject property;

   e. The type of application for which the pre-application conference is requested;

   f. A brief description of the proposal for which the pre-application conference is requested; and

   g. Signature(s) of the applicant(s), authorizing the filing of the pre-application request.

2. Additional information necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow County staff to review and comment; and

3. Payment of the applicable fee, pursuant to Subsection 1307.15.

D. Scheduling: Upon receipt of a complete application, the Planning Director will schedule the pre-application conference. The Planning Director will coordinate the involvement of other County departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

E. Summary: Subsequent to the pre-application conference, the Planning Director will provide the applicant with a written summary of the conference. The purpose of the written summary is to provide a preliminary assessment of the proposal, but shall not be deemed to be a recommendation by the County or any other outside agency or service provider on the merits of the proposal.

F. Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences: A follow-up pre-application conference is required for those mandatory pre-application conferences that have already been held when:

1. A complete application relating to the proposed development has not been submitted within one year of the pre-application conference; or

2. The proposed use, layout, or design of the proposed development has changed significantly.

1307.06 REVIEW OF MULTIPLE APPLICATIONS

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

A. One of the applications is a Type III application for a Comprehensive Plan map amendment, in which case the Type III Comprehensive Plan map amendment procedure shall be used;

B. Multiple land use permit applications are subject to the same procedure type with the same initial decision and appeal review authorities. Applications for an interpretation of this Ordinance are excluded from this consolidation provision; or

C. The applicant elects to process multiple applications through a consolidated procedure, if such consolidation is consistent with Subsection 1307.04(C).

1307.07 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

A. Initiation of Applications: Type I, II, and III land use permit applications may be initiated by:

1. The owner of the subject property;

2. The contract purchaser of the subject property, if the application is accompanied by proof of the purchaser's status as such;

3. The agent of the owner or contract purchaser of the subject property, if the application is duly authorized in writing by the owner or the contract purchaser, and accompanied by proof of the agent's authority; or

4. If the application is for Comprehensive Plan designation or zoning of a Historic District or Historic Corridor, the owners or contract purchasers of at least 60 percent of the property within the area to be so designated or zoned.

B. Initiation of Legislative Proposals: Type IV legislative land use proposals may be initiated by the Board of County Commissioners, the Planning Commission, or the Planning Director. However, initiation of a legislative proposal does not obligate the County to further processing of the proposal pursuant to Subsection 1307.11, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.

C. Application Submittal: Type I, II, and III land use permit applications are subject

to the following submittal requirements:

1. The following shall be submitted for an application to be complete:

   a. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

      i. The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

      ii. The address of the subject property, if any, and its assessor's map and tax lot number;

      iii. The size of the subject property;

      iv. The Comprehensive Plan designation and zoning district of the subject property;

      v. The type of application being submitted;

      vi. A brief description of the proposal; and

      vii. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.

   b. A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval criterion and standard and each item on the supplemental application form;

   c. Any additional information required under this Ordinance for the specific land use permit sought; and

   d. Payment of the applicable fee, pursuant to Subsection 1307.15.

2. The Planning Director, at his or her sole discretion, may waive a submittal requirement of Subsection 1307.07(C)(1)(b) or (c), if the Planning Director determines that the requirement is not material to the review of the application.

3. Each application, when received by the Planning Director, shall be date-stamped with the date the application was received.

D. <u>Completeness of a Type I Application</u>: If a Type I application is not complete when submitted, and the applicant does not make it complete within 30 days of submittal, the application is void.

E. Completeness Review for Type II and III Applications: After it is submitted, a Type II or III land use permit application shall be reviewed for completeness, as follows:

1. Except as otherwise provided under Oregon Revised Statutes 215.427, the Planning Director shall review an application for completeness within 30 days of its receipt.

2. Determination of completeness shall be based upon the submittal requirements of Subsection 1307.07(C)(1) and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.

3. If an application is determined to be complete, review of the application shall commence.

4. If an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:

   a. All of the missing information;

   b. Some of the missing information and written notice from the applicant that no other information will be provided; or

   c. Written notice from the applicant that none of the missing information will be provided.

5. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(4), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

6. On the 181st day after first being submitted, the application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(4) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(4).

1307.08 TYPE I MINISTERIAL PROCEDURES

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

A. Notice of Application: Notice of application is not provided.

B. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision.

C. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof.

D. Appeal: The review authority's decision is the final decision of the County.

1307.09 TYPE II ADMINISTRATIVE PROCEDURES

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

A. Notice of Application: Notice of application shall be provided as follows:

   1. A minimum of 20 days prior to the issuance of a decision, written notice of application shall be mailed to:

a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. All property owners of record, pursuant to Subsection 1307.16(C), within:

i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;

ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or

iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district;

c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.

d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

e. Cities, as prescribed in applicable urban growth management agreements;

f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and

i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.

2. At a minimum, notice of application shall include:

a. An explanation of the nature of the application and the proposed use or uses that could be authorized;

b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

d. The name and telephone number of the County staff member to contact where additional information may be obtained;

e. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

f. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and

g. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.

3. A minimum of 20 days prior to the issuance of a decision, a copy of the submitted application shall be mailed to those identified in Subsections 1307.09(A)(1)(d) through (i).

B. Decision: The review authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:

1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

2. The conditions of approval, if any;

3. The street address or other easily understood geographical reference to the subject property;

4. The name and telephone number of the County staff member to contact where additional information may be obtained;

5. A statement that the complete application file is available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

6. The date the review authority's decision becomes effective, unless appealed;

7. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;

8. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Subsection 1307.09(C) may appeal the decision by filing a written appeal, and including the date and time by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and

9. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

C. Notice of Decision: A copy of the decision shall be mailed to those identified in Subsection 1307.09(A)(1).

D. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.13.

1307.10 TYPE III QUASI-JUDICIAL PROCEDURES

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

A. Notice of Application and Public Hearing: Notice of application and public hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development (DLCD), if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.

2. A minimum of 35 days prior to the first evidentiary hearing on the application, a copy of the submitted application shall be mailed to:

a. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

b. Cities, as prescribed in applicable urban growth management agreements;

c. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

d. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

e. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and

f. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.

3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:

a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. All property owners of record, pursuant to Subsection 1307.16(C), within:

i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;

ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or

iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district.

iv. If the application is for a zone change to apply the MAO District, the distances set forth in Subsections 1307.10(A)(3)(b)(i) through (iii) shall be increased to 1,000 feet from the outer boundary of the proposed impact area under Section 708;

c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.

d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

e. Cities, as prescribed in applicable urban growth management agreements;

f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;

i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416; and

j. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.

4. At a minimum, notice of application and hearing shall include:

a. An explanation of the nature of the application and the proposed use or uses that could be authorized;

b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

e. Date, time, and location of the hearing;

f. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;

g. The name and telephone number of the County staff member to contact where additional information may be obtained;

h. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

i. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;

j. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and

k. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.10(E).

5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.

C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.

D. Decision: The review authority shall consider the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:

1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

2. The conditions of approval, if any;

3. The street address or other easily understood geographical reference to the subject property;

4. The date the review authority's decision becomes effective, unless appealed; and

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

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

1. Those identified in Subsections 1307.10(A)(3)(a) and (d) through (i);

2. Anyone who provided evidence, argument, or testimony as part of the record;

3. Anyone who made a written request for notice of decision; and

4. DLCD, if required pursuant to ORS 197.615. Procedures for the giving of the required notice to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.

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

1307.11 TYPE IV LEGISLATIVE PROCEDURES

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

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

1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.

2. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, a minimum of 35 days prior to the first public hearing, a copy of the text, showing proposed additions and deletions, shall be made available to the public for review. All active community planning organizations, hamlets, and villages that are recognized by the County shall be notified when it becomes available.

3. A minimum of 20 days prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:

a. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, all active community planning organizations, hamlets, and villages that are recognized by the County;

b. For proposed Comprehensive Plan Land Use Plan map amendments and zone changes, any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

c. Cities, as prescribed in applicable urban growth management agreements; and

d. Those special districts and government agencies deemed by the Planning Director to have an interest in the proposal.

4. At a minimum, notice of proposal and hearing shall include:

a. An explanation of the nature of the proposal;

b. Date, time, and location of the hearing;

c. The name and telephone number of the County staff member to contact where additional information may be obtained; and

d. For Comprehensive Plan Land Use Plan map amendments and zone changes, a copy of the proposed map change(s).

5. Notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first public hearing, by publication in a newspaper of general circulation in the County. However, if the legislative land use proposal applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

B. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the proposal, comments received to-date, and the relevant issues associated with the proposal. Each staff report shall make a recommendation to the review authority.

C. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission, for the purpose of receiving testimony regarding the proposal.

D. Planning Commission Recommendation: The Planning Commission shall consider the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission and no extension is granted by the Board of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.

E. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the proposal.

F. Decision: The Board of County Commissioners shall consider the record and may adopt, adopt with modifications, or decline to adopt the proposal; remand the matter back to the Planning Commission for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance.

G. Notice of Decision: Notice of decision shall be provided as follows:

1. A maximum of 20 days after the decision is made it shall be submitted to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.

2. On the same day the decision is submitted to DLCD, the County shall mail, or otherwise deliver, notice to persons who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change. The notice shall:

   a. State how and where the materials described in Subsection 1307.11(G)(1)(a) through (d) may be obtained;

   b. Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;

   c. List the locations and times at which the public may review the decision and findings; and

   d. Explain the requirements for appealing the land use decision under ORS 197.830 to 197.845.

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

1307.12 PUBLIC HEARINGS

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

A. Procedure, Generally: Public hearings shall be conducted in accordance with Oregon Revised Statutes (ORS) 197.763, Subsection 1307.12, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.12 authorizes the Hearings Officer, Planning Commission, and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.

B. Parties: Any interested party shall be entitled to participate in a public hearing.

C. Order of Proceeding: The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted bylaws or rules of procedure of the review authority, as appropriate.

1. Jurisdictional Objections: Before receiving the staff report or testimony on the application, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the review authority has the discretion to proceed or terminate the hearing.

2. Disclosure Statement: The review authority (or individual member thereof), or its designee, shall read the land use disclosure statement, which shall include:

a. A list of the applicable substantive criteria, or a reference to the staff report, where a list of the criteria can be found;

b. A statement that testimony, argument, and evidence must be directed toward the criteria described in Subsection 1307.12(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;

c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and

d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, he or she shall declare any ex parte contacts and state for the record the nature and content of the contact.

4. Call for Abstentions: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises. If the review authority is the Hearings Officer, he or she shall declare any potential conflicts of interest. The Hearings Officer shall state the nature of the conflict, and if the nature of the conflict is such that the Hearings Officer cannot fulfill his or her duty to be a fair and impartial decision maker, the Hearings Officer shall recuse himself or herself from hearing the matter.

5. Staff Report: The Planning Director shall present a report and recommendation concerning the proposal.

6. Presentation of the Application:

    a. Applicant's case;

    b. Community planning organizations, hamlets, and villages. Appearance by a representative from any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village, to present the organization's position on the proposal;

    c. Public testimony; and

    d. Rebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters that were introduced during the hearing.

7. Close of Hearing: No additional testimony, evidence, or argument shall be accepted after the close of the hearing unless the record is held open by the review authority.

8. Reopened Hearing: The hearing may be reopened by the review authority, prior to decision, to receive additional testimony, evidence, or argument. Notice shall be provided to the same persons who received notice of the original hearing and to anyone who provided evidence, argument, or testimony as part of the record.

9. Deliberations: If the review authority is the Planning Commission or Board of County Commissioners, deliberations shall immediately follow the hearing, except that deliberations may be delayed to a subsequent date and time certain. If the review authority is the Hearings Officer, deliberations will not occur, and the Hearings Officer will instead take the matter under advisement.

10. Remand: The Board of County Commissioners may remand any matter previously considered by the Planning Commission back to the Planning Commission for further review.

11. Recommendation or Decision: When the review authority is the Planning Commission or Board of County Commissioners, the recommendation or decision, as applicable, will be voted on and announced during a public meeting.

D. Ex Parte Contact:

1. The review authority shall not do any of the following:

   a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;

   b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular application, unless the parties are afforded an opportunity to contest the material so noted; or

   c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. Individuals representing the review authority may inspect the site alone but must put the circumstances of the inspection on record.

2. A party may challenge the review authority, or individual member thereof, on the grounds of Subsection 1307.12(D)(1), or that such individual has a legal conflict of interest as defined by ORS 244.020(1) or ORS 244.120. A challenge and the decision thereon by the review authority shall be entered in the record of the application.

3. While every effort must be made to avoid ex parte contact, no decision of the review authority shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1307.12(D)(1), if the review authority (or individual member thereof) receiving the contact:

    a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and

    b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

4. A communication between County staff and the review authority (or individual member thereof) shall not be considered an ex parte contact for purposes of Subsection 1307.12(D)(1).

E. Evidence and Exhibits:

1. All evidence may be received unless excluded by the review authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the approval of the land use permit or legislative land use proposal more or less probable than it would without the evidence. Evidence may be received subject to a later ruling regarding its admissibility.

2. The review authority may exclude cumulative, repetitious, or immaterial evidence, but erroneous admission of evidence by the review authority shall not preclude action by the review authority or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.

3. All evidence shall be offered and made a part of the record in the application or legislative proceeding; and, except for matters stipulated to and except as provided in Subsection 1307.12(E)(4), no other factual information or evidence shall be considered in the recommendation or decision.

4. The review authority may take notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within specialized knowledge. Except in a Type IV proceeding, interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The review authority may utilize experience, technical competence, and specialized knowledge in evaluation of the evidence presented.

5. All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.

F. Time Limits: The review authority may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing. No person may speak more than once without obtaining permission from the review authority.

G. Questioning: The review authority (or individual member thereof) or County staff may question any person who testifies. The applicant and other parties to the proceeding shall not have the right to question or cross-examine any person who testifies.

H. Scope of Testimony: Except in a Type IV proceeding, testimony shall be directed towards the applicable standards and criteria that apply to the proposal. The review authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the review authority may call for those in favor and those in opposition to rise, and the review authority shall note the numbers of such persons for the record.

I. Continuances and Open Record Periods:

1. All documents or evidence relied upon by the applicant shall be submitted to the County and be made available to the public. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the review authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.427 and ORS 215.429.

2. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. The review authority shall either continue the public hearing, pursuant to Subsection 1307.12(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.12(I)(2)(b).

a. If the review authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, argument, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, argument, or testimony for the purpose of responding to the new written evidence. Only one continuance is available of right under Subsection 1307.12(I)(2)(a); provided, however, nothing in Subsection 1307.12(I)(2)(a) shall restrict the review authority, in its discretion, from granting additional continuances.

b. If the review authority leaves the record open for additional written evidence, argument, or testimony, the record shall be left open for at least seven days. The review authority may leave the record open for an additional period of at least seven days for any participant to respond to new evidence submitted during the prior open-record period. However, if the review authority has not provided for this additional open-record period, any participant may file a written request with the Planning Director for an opportunity to respond to new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is left open. If such a request is filed, the review authority may reopen the record pursuant to Subsection 1307.12(I)(4).

c. A continuance or extension granted pursuant to Subsection 1307.12(I)(2) shall be subject to the limitations of ORS 215.427 and ORS 215.429, unless the continuance or extension is requested or agreed to by the applicant.

3. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and place certain, in which case notice of the continued hearing shall be given as though it were the initial hearing.

4. If the record is reopened to admit new evidence, argument, or testimony, any person may raise new issues which relate to the new evidence, argument, testimony, or criteria for decision-making which apply to the matter at issue. Notice of the reopened record shall be provided to any person who presented evidence, argument, or testimony as part of the record prior to the date the record was reopened.

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

J. Record of Hearing:

1. A verbatim record of the proceeding shall be made by written, mechanical, or electronic means, which record need not be transcribed except upon review on the record.

2. The record of proceedings is comprised of:

a. The Comprehensive Plan and this Ordinance, all of which shall be automatically incorporated into the record;

b. The application or legislative proposal that initiated the proceeding;

c. All testimony, argument, evidence, and exhibits submitted prior to the close of the record of the proceeding;

d. Any staff reports submitted prior to the close of the record of the proceeding;

e. Any electronic presentation used by either staff, applicant, or other participant in the proceeding;

f. The verbatim record, as provided in Subsection 1307.12(J)(1);

g. Minutes, if any, of the hearing;

h. A verbatim record, as provided in Subsection 1307.12(J)(1), of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority;

i. Minutes, if any, of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority; and

j. The written decision.

1307.13 APPEALS

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

A. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.

B. Notice of Appeal: Notice of appeal shall be made on a form prescribed by the Planning Director and shall be accompanied by the appeal fee. The notice of appeal shall contain:

1. Identification of the decision sought to be appealed, including its assigned file number, the name of the applicant, and the decision date;

2. The name, mailing address, and telephone number of the appellant;

3. The nature of the decision being appealed and the grounds for appeal; and

4. Signature(s) of the appellant(s), or the duly authorized representative(s) thereof, authorizing the filing of the appeal.

C. Proper Filing of Notice of Appeal: The failure to file a timely and complete notice of appeal is a jurisdictional defect, and the Planning Director shall not accept a notice of appeal that does not comply with Subsections 1307.13(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.13(A) and (B) shall be final.

D. Appeal Procedures; Scope: Appeals are subject to the following procedures:

1. De Novo Review: Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record of the appeal. For purposes of Subsection 1307.13(D)(1), the record of the initial proceeding consists of

a. Those items listed in Subsections 1307.12(J)(2)(a) through (d) and (j); and

b. Those items listed in Subsections 1307.12(J)(2)(e) through (i), to the extent that any prior hearing(s) or public meeting(s) were conducted in reaching the decision that is being appealed.

2. Notice of Public Hearing: Notice of public hearing shall be provided as follows:

a. A minimum of 20 days prior to the first evidentiary hearing on the appeal, written notice of the appeal and hearing shall be mailed to:

i. Those who were entitled to notice pursuant to Subsection 1307.09(A)(1);

ii. The appellant; and

iii. Anyone who previously provided evidence, argument, or testimony as part of the record.

b. At a minimum, notice of hearing shall include those elements identified in Subsection 1307.10(A)(4), except that 1307.10(A)(4)(i) will reference the appealed decision, rather than the staff report.

3. Public Hearing: A public hearing shall be held before the appeal review authority, for the purpose of receiving testimony regarding the application.

4. Decision: The appeal review authority shall consider the record and affirm the decision, affirm the decision with additional conditions or modifications, or reverse the decision. The appeal review authority shall issue a written decision in the form of an order, which shall be signed and dated, that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include the elements identified in Subsection 1307.10(D)(1) through (5).

5. Notice of Decision: A copy of the written order shall be mailed to:

a. Those identified in Subsection 1307.10(E); and

b. The appellant.

6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.13(E), the appeal review authority's decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

E. Review of an Interpretation by the Board of County Commissioners:

1. A second County-level appeal is provided for applications for an interpretation of the Comprehensive Plan, where the Board of County Commissioners shall review the decision of the Planning Commission on appeal. Processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given to:

a. Those identified in Subsections 1307.09(A)(1)(a), (d) through (f), and (i);

b. The appellant;

c. Anyone who provided evidence, argument, or testimony as part of the record; and

d. Anyone who made a written request for notice of decision.

2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.

a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.13(E)(1).

b. If the Board of County Commissioners denies a request for review, it shall do so in writing. Notice of the denial shall be given pursuant to Subsection 1307.13(E)(1). If the Board of County Commissioners denies a request for review, the decision of the Hearings Officer stands as the final decision of the County. The period for appeal to the Oregon Land Use Board of Appeals commences on the date of mailing of the Board of County Commissioners' denial of review.

F. Effect of Judicial or Administrative Review: Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the County shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any development permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by County Counsel, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.

G. Remand from the Land Use Board of Appeals: The County shall take final action on decisions remanded by the Oregon Land Use Board of Appeals (LUBA) within one year of the effective date of LUBA's final order, unless the applicant requests in writing that the County proceed with the application pursuant to Oregon Revised Statutes (ORS) 215.435(2)(a), in which case the provisions of ORS 215.435 shall apply. The effective date of LUBA's final order shall be determined pursuant to ORS 215.435(1).

1307.14 CONDITIONS OF APPROVAL

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

A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.16(L).

B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:

   1. Protection of the public from the potentially deleterious effects of the proposed use; or

   2. Fulfillment of the need for public services created by the proposed use.

C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.

D. A surety may be required from the applicant, in an amount sufficient to ensure compliance with one or more conditions of approval, subject to Section 1311, *Completion of Improvements, Sureties, and Maintenance*.

1307.15 FEES

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

A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.

B. The failure to submit the required fee with an application or appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.

C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.

D. Appeal fees shall be refunded if the appellant prevails. Any other fee refund policy shall be established by separate order of the Board of County Commissioners.

E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.16 GENERAL PROVISIONS

A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.

B. Property Owner's Signature: When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.

C. Property Owner Notice: Where notice to property owners of record is required by Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.

D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.

E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.

F. Argument and Evidence: For the purposes of Section 1307:

1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not include facts.

2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.

G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

H. Final Action Deadline: Except as modified by ORS 197.763, the County shall take final action on a land use permit application that is subject to Oregon Revised Statutes (ORS) 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).

I. Effective Date of Decision: The County's final decision on a Type I, II, or III land use permit application becomes effective on:

1. The day the final decision is issued, if no appeal at the County level is allowed;

2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;

3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or

4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.13(E)(2)(b).

J. Reissuing a Decision: The review authority may reissue a Type I, II, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.

K. Re-filing an Application: If a Type II or III land use permit application is denied, or a Type II or III land use permit is revoked pursuant to Subsection 1307.16(L), an applicant may re-file for consideration of the same or substantially similar application only if:

1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or

2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:

   a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, "change" includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;

   b. A mistake in facts, which was material to the application, was considered by the review authority;

   c. There have been changes in circumstances resulting in new facts material to the application;

   d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or

   e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.

L. Revocation of Approval: An approval of a Type II or III land use permit may be revoked, as follows:

1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.

2. Revocation of approval shall be reviewed using the Type III procedure. The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.

3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

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

1. A modification to an approved Type I, II, or III land use permit, or conditions thereto, shall be processed as a new application; and

2. A modification to conditions of approval for a Type II or III land use permit shall be considered only if one or more of the circumstances identified in Subsection 1307.16(K)(2) apply.

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