

**WHEELER COUNTY ZONING, SUBDIVISION,
PARTITIONING AND LAND DEVELOPMENT**



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WHEELER COUNTY ZONING, SUBDIVISION, PARTITIONING AND LAND DEVELOPMENT ORDINANCE OF 1997

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.1 TITLE. This Ordinance shall be known as the "Wheeler County Zoning, Subdivision, Partitioning and Land Development Ordinance of 1997".

SECTION 1.2 PURPOSE. The purposes of this Ordinance are: To implement the applicable provisions of ORS Chapters 92, 195 197, 215, other related state statutes, relevant state administrative rules (OAR's) and Statewide Planning Goals 1-14; To encourage the most appropriate use of land; To conserve and stabilize the value of property; To aid in the provision of County services; To encourage the orderly growth of the County; and, In general to promote the public health, safety, convenience and general welfare through the implementation of the County's Comprehensive Plan. In addition:

- (1) The intent of this ordinance is also to manage access to land development while preserving the flow of traffic in terms of safety, capacity, functional classification, and level of service. Major roadways, including highways, arterials, and collectors serve as the primary network for moving people and goods. These transportation corridors also provide access to businesses and homes and have served as the focus for commercial and residential development. If access points are not properly designed, these roadways will be unable to accommodate the needs of development and retain their primary transportation function. This ordinance balances the right of reasonable access to private property with the right of the citizens of Wheeler County and the State of Oregon to safe and efficient travel. To achieve this policy intent, state and local roadways have been categorized in the Transportation System Plan by function and classified for access purposes based upon their level of importance and function. Regulations have been applied to these roadways for the purpose of reducing traffic accidents, personal injury, and property damage attributable to poorly designed access systems, and to thereby improve the safety and operation of the roadway network. This will protect the substantial public investment in the existing transportation system and reduce the need for expensive remedial measures. These regulations

also further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed road and access systems and discouraging the unplanned subdivision of land.

- (2) This ordinance shall apply to all arterials and collectors within the county and to all properties that abut these roadways.
- (3) This ordinance is adopted to implement the access management policies of the county as set forth in the Transportation System Plan.

SECTION 1.3 CONSTRUCTION AND TERMINOLOGY.

Construction. Words used in the present tense include the future tense; words used in the singular include the plural, and words used in the plural include the singular; the word "may" is permissive, and the word "shall" is mandatory; and the masculine shall include the feminine and the neuter.

Terminology. The word "County" shall mean Wheeler County, Oregon. The words "County Court" and "Court" shall mean the County Court of Wheeler County. The words "Planning Commission" and "Commission" shall mean the County Planning Commission for Wheeler County as duly appointed by the County Court. The words "County Clerk," "County Planning Official or Director," "County Sheriff," "County Legal Counsel, Counsel or Attorney," and "County road and/or Public Works Superintendent, or Roadmaster," shall mean such respective positions for Wheeler County as applicable.

SECTION 1.4 DEFINITIONS. As used in this Ordinance, the following words and phrases, unless the context of this Ordinance requires or provides otherwise, shall have the meaning set forth herein. Words and phrases not defined herein shall have the meaning set forth in state statutes, administrative rules, planning goals, policies and other relevant regulations in effect on the effective date of this Ordinance. Note: ORS's or OAR's set forth herein in parenthesis "(" are for reference information relative to the basis and/or source of the relevant definition.

Accepted Farming Practices. A current or future mode of operation that is common to farms and ranches of a similar nature, necessary for the operation of such farms and ranches with the intent to obtain a profit in money, and customarily utilized in conjunction with farm use as defined in ORS 215.203 (2) (a).

Access. The right to cross between public and private property, allowing pedestrians and vehicles to enter and leave property.

Access Classification. A ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties, and existing level of access control.

Access Connection. Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

Access Management. The process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed.

Accessory Use or Structure. A use or structure, or a portion of structure, the use of which is incidental and subordinate to the main use of the property or structure and located on the same premises as the main or primary use and/or structure, and for which the owner files a restrictive covenant in the deed records of the County agreeing that the accessory structure will not be used as a residence or rental unit.

Access way. A walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Access ways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Access ways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where access ways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians

Adult Day Care Center. A facility where care is provided to adults for part of the 24 hours of the day in the home of the person providing the care.

Agricultural building. Any structure that is considered to be an “agricultural building” as defined in ORS 455.315 on a lot or parcel that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner 1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and 2) files a restrictive covenant in the deed records of the county agreeing that the agricultural building will not be used as a residence or rental unit.

Agri-tourism. A common, farm-dependent activity that promotes agriculture, any income from which is incidental and subordinate to a working farm. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally-based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals. Except for small, farm-themed parties, regularly occurring celebratory gatherings, weddings, parties or similar uses are not Agri-tourism.

Airport or Aircraft Landing Facility. Any landing area, runway, landing pad, or other facility designed, used or intended to be used by aircraft, including helicopters, and including all necessary taxi-ways, hangars and other necessary buildings and open spaces.

Alteration. A change in construction or a change in occupancy. Where the term "alteration" is applied to a change in construction, it is intended to apply to any change,

addition, or modification. Where the term is used in connection with a change in occupancy, it is intended to apply to changes in occupancy from one use to another.

Alteration, Structural. A change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders. A change in the external dimensions of a building shall also be considered a structural alteration.

Associated Transmission Lines. Transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

Automobile Service Station. A retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles; Such may include petroleum products, tires, batteries, automotive accessories and replacement parts and items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products.

Automobile Wrecking Yard. A premises used for the storage and/or sale of used automobile or truck parts, and/or for the storage, dismantling or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts.

Automobile and/or Trailer Sales Area. An open area, other than a street, used for the display, sale or rental of new and/or used automobiles or trailers, and where no repair work is done except minor incidental repair of units to be displayed, sold or rented on the premises.

Auxiliary. As used in the ETU Zone, means a use or alteration of a structure or land that 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.

Basement. A story partly underground. A basement shall be counted as a story in building height measurement, when the floor level directly above is more than 6 feet above the average level of the adjoining ground.

Bed and Breakfast Facility. Means any establishment located in a structure designed for a single family residence, where the owner of the establishment resides in such structure, which: (a) Has more than two rooms for rent on a daily basis to the public; (b) Offers a breakfast meal as a part of the cost of the room; and (c) Serves one breakfast meal a day to guests, staff and owners only. The breakfast meal is the meal served to guests during the a.m. or morning hours each day.

Bicycle. A vehicle designed to operate on the ground on wheels, propelled solely by

human power, upon which any person or persons may ride, and with two tandem wheels at least 14 inches in diameter. An adult tricycle is considered a bicycle.

Bicycle Facilities. A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

Bikeway. Any road, path, or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. The five types of bikeways are:

- (a) Multi-use Path. A paved 10 to 12-foot wide way that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other non-motorized users.
- (b) Bike Lane. A 4 to 6-foot wide portion of the roadway that has been designated by permanent striping and pavement markings for the exclusive use of bicycles.
- (c) Shoulder Bikeway. The paved shoulder of a roadway that is 4 feet or wider; typically shared with pedestrians in rural areas.
- (d) Shared Roadway. A travel lane that is shared by bicyclists and motor vehicles.
- (e) Multi-use Trail. An unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians.

Billboard. A sign which has a surface space upon which advertising may be posted, painted or affixed, and which is primarily designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists or is located.

Boarding or Rooming House. A building or portion thereof, other than a motel, restaurant or hotel, where meals or lodging or both are provided for compensation for more than 5 but not more than 10 persons.

Building. A structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

Building Official. The building official is that person or official who is responsible for the enforcement of the building codes, ordinances and regulations within the County.

Business. Any commercial or non-commercial activity, service, institution or governmental unit.

Campground. An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on, or is contiguous to, lands with a park or other outdoor natural amenity that is accessible for recreation use by the occupants of the campground.

Chemical Process Mine. A mining and processing operation for metal-bearing ores that uses chemicals to dissolve metals from ore.

Child-caring Facility. A residence or building used by an agency to provide substitute residential care for children.

Church. A building or edifice used primarily for religious worship.

Clinic. A place where professional services are provided, including but not limited to medical, dental, counseling, optometry, veterinarian and other medical and social type services.

Commercial Activities in Conjunction with Farm Use. The processing, packaging, treatment and wholesale distribution, and storage of a product primarily derived from farm activities in the local agricultural community. Also, retail sales of products, supplies and services to the agricultural community that support the production and harvesting of agricultural products.

Commercial Dairy Farm. A commercial dairy farm is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by this Article/Chapter from the sale of fluid milk.

Commercial power generating facility. A facility for the production of energy and its related or supporting facilities that:

- (a) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, thermal power, geothermal power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones that allow “Farm Use” and 215.283(1)(r) and 215.283(2)(a) in the EFU zone;
- (b) Is intended to provide energy for sale; and
- (c) Does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84 .

Commercial Tree Species. Trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.

Contiguous. Lots, parcels or lots and parcels that are in a single ownership that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road. Only one lot or parcel exists if:

- (a) A lot or parcel is contiguous to one or more lots or parcels; and
- (b) On July 1, 1983, greater than possessor interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy-in-

common.

Corner Clearance. The distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.

Cross Access. A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

Cubic Foot Per Acre. The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

Cubic Foot Per Tract Per Year. The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

Current Employment of Land for Farm Use. Includes:

- (a) Farmland, the operation or use of which is subject to any farm-related government program;
- (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- (c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of this subsection, prior to maturity;
- (d) Land not in an EFU zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least 3 years;
- (e) Wasteland, in an EFU zone, dry or covered with water, neither economically tillable or grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- (f) Land under buildings supporting accepted farm practices;
- (g) Water impoundments lying in or adjacent to and in common ownership with farm use land;
- (h) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family.
- (i) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- (j) Any land described under ORS 321.267 (3) or 321.824 (3); and
- (k) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

- (A) Only the crops of the landowner are being processed;
- (B) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
- (C) The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

Custom Slaughtering Establishment or Slaughter House. A mobile or stationary establishment wherein meat animals, caused to be delivered by the owners thereof, are slaughtered for compensation, payment or remuneration of any kind, and are thereafter returned to the owner thereof or to the order of the owners.

Day Care. The care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child's home, with or without compensation. Does not include care provided:

- (a) In the home of the child;
- (b) By the child's parent, guardian or person acting in place of a parent;
- (c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;
- (d) On an occasional basis by a person not ordinarily engaged in providing day care;
- (e) By providers of medical services; or
- (f) By a babysitter. (ORS 418.805(3)).

Day Care Facility. Any facility that provides day care to children, including a day nursery, nursery school group, home of a family day care provider or similar unit operating under any name, but not including any:

- (a) Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day;
- (b) Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion;
- (c) Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group;
- (d) Facility operated by a school district, political subdivision of this state or a governmental agency;
- (e) Residential facility licensed under ORS 443.400 to 443.455;
- (f) Babysitters. (ORS 418.804(4)).

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

Dwellings, Multi-Family or Apartment. A building, or portion thereof, designed for occupancy by 3 or more families or households living independently of each other.

Dwelling, Single-Family. A detached building containing one dwelling unit designed for occupancy by one family or one household only.

Dwelling, Two-Family or Duplex. A detached or semi-detached building containing 2 dwelling units and designed for occupancy by 2 families or 2 households.

Dwelling Unit. A building, or portion thereof, consisting of one or more rooms including a bathroom and kitchen facilities, which are arranged, designed or used as living quarters for one family or one household.

Easement. A grant of the right to use a parcel of land or portion thereof for specific purposes where ownership of the land or portion thereof is not transferred.

Erosion Flood Repair. Riprap or any other work necessary to preserve existing facilities and land from flood and high stream flows.

Family Day Care Center. A day care facility where care is provided in the home of the provider to fewer than 13 children including children of the provider, regardless of full or part-time status.

Family Day Care Provider. A day care provider who regularly provides day care in the provider's home in the family living quarters.

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

Farm Operator. 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.

Farm or Ranch Operation All lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.

Farm Stand Structure. A structure that is designed and used for the sale of farm crops and livestock as provided in Section 3.1. A food stand is considered to be a farm stand structure. _

Farm Use. The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, or selling crops, or for feeding, breeding, management and sale of, or the produce of livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use or animal husbandry or any combination thereof. Includes the preparation and storage of products raised on such land for human and animal use and disposal by marketing or otherwise. Also includes the propagation, cultivation, maintenance and harvesting of aquatic species. "Farm Use" also includes the current employment of land for the

primary purpose of obtaining a profit in money by stabling or training equines. Includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. Includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. Includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent t allowed by the rules adopted by the State Fish and Wildlife Commission. Includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. Does not include the use of land subject to provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees.

Fee-based activity to promote the sale of farm crops or livestock (as applied to farm stands). An agri-tourism activity as defined herein that is directly related to the sale of farm crops or livestock sold at the farm stand, and that meets the standards of Section 3.1(6)(d).

Fence. A protective or confining barrier constructed of wood, masonry, or wire mesh. Fence does not include hedges or other plantings.

Fence, Sight-Obscuring. A fence constructed, arranged and maintained in such a manner as to obscure vision.

Forest Lands. As defined in Goal 4, are those lands acknowledged as forest lands, or, in the case of a plan amendment. Forest lands shall include:

- (a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and
- (b) Other forested land that maintain soil, air, water, and fish and wildlife resources.

Forest Operation. Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).

Frontage. All property fronting on one side of a street and measured along the street line, between intersecting and intercepting streets, or between a street and a right-of-way, waterway, end of a dead-end street, alley, or boundary of a city, special district or the county.

Frontage Road. A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street.

Functional Area (Intersection). That area beyond the physical intersection of two roads that comprises decision and maneuver distance, plus any required vehicle storage length.

Functional Classification. A system used to group public roadways into classes according to their purpose in moving vehicles and providing access.

Golf course. An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of this ordinance means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

- (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
- (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
- (c) Non-regulation golf courses are not allowed. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.

Government Assisted Housing. Housing that is financed in whole or part by either a federal or state housing agency or a local housing authority as defined in ORS 456, or housing that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided by either a federal or state housing agency or local housing authority.

Grazing. The use of land for pasture of horses, cattle, sheep, goats and/or other domestic herbivorous animals, alone or in conjunction with agricultural pursuits.

Guest House. A structure of no more than 900 square feet of site area used in conjunction with the main building for the temporary housing of non-paying visitors and guests and containing no cooking facilities.

Guest Ranch. As set forth in Sections 1, 2, 3 and 5 Chapter 728 Oregon Laws, 1997 (located at the end of ORS 215).

Height of Buildings. The vertical distance from the grade to the highest point of the roof.

High-Value Farmland, described as:

- (a) Land in a tract composed predominantly of soils that are:
 - (A) Irrigated and classified prime, unique, Class I or II; or
 - (B) Not irrigated and classified prime, unique, Class I or II.
- (b) In addition to that land described in Subsection (a), high-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and

Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa;

Historical and Archaeological Buildings and Sites. Land and/or buildings which have a special historical or archaeological interest and have at least local significance, and represent one or more periods of time in the history of the county and adjoining areas.

Historic Cemetery. Any land that has been used as a cemetery at any time between 1810 to 1950, contains fewer than 50 marked graves, is less than one acre in size, and was issued a patent, whether recorded or unrecorded, before 1900.

Home Occupation. A limited business activity that is accessory to a residential use. Home occupations are conducted primarily within a residence or a building normally associated with uses permitted in the zone in which the property is located and are operated by a resident or employee of a resident of the property on which the business is located.—

Hospital. An establishment, publicly or privately operated, which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.

Irrigated. Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this ordinance, 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.

Joint Access (or Shared Access). A driveway connecting two or more contiguous sites to the public street system.

Kennel. A lot, building or premise in or on which 4 or more dogs, cats or other animals at least 4 months of age are kept commercially for board, propagation, training or sale.

Land Development. Any subdivision or partition of land, or other division of land provided for in this Document. The division of land into 2 or more lots, parcels or other interests for the purpose of disposition shall constitute a land development.

Livestock. Domestic animals of types customarily raised or kept on farm for profit or other purposes, and includes horses, mules, asses, cattle, sheep, swine, goats, llamas and poultry, including turkeys, of any age or sex. (ORS 599.205)

Livestock Feeding Yard or Feedlot. An enclosure or group of enclosures or group of structures, involving five or more head of livestock, not owned by the property owner designed for the purpose of the concentrated feeding or fattening of livestock for commercial marketing and/or slaughter, excluding those areas involving 4-H, FFA or other recognized youth projects.

Living History Museum. 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.

Loading Space. An off-street space within a building or on the same lot with a building, for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials, and which space has direct access to a street or alley.

Lot. A unit of land (a plot, parcel or tract of land) that is created by a duly platted and approved subdivision or partitioning of land, or a parcel or tract or contiguous parcels or tracts of land under a single ownership on or before the effective date of this Document.

Lot Area. The total horizontal net area within the lot lines of a lot to mean that square footage of a lot that is free from public and private road right-of-ways or easements for access, and river or stream channels.

Lot, Corner. A lot abutting on two intersecting streets, other than an alley, provided that the streets do not intersect at any angle greater than 135 degrees.

Lot Coverage. The percentage of the total lot area covered by buildings, including covered parking areas.

Lot, Depth. The average horizontal distance between the front and rear lot lines.

Lot, Flag. A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way line.

Lot, Interior. A lot other than a corner lot.

Lot, Through. (also called a double frontage lot). A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lots.

Lot Frontage. That portion of a lot extending along a street right-of-way line.

Lot Line. The property line bounding a lot.

Lot Line, Front. The lot line separating a lot from a street other than an alley, and in the case of a corner lot, the shortest lot line along such a street.

Lot Line, Rear. The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other odd shaped lot, a line 10 feet in length

within the lot, parallel to, and at a maximum distance from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line bounding a lot.

Lot, Through or Double Frontage. A lot having frontage on two parallel or approximately parallel streets other than alleys.

Lot, Width. The average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Maintain. Means to allow to exist. (ORS 377.605(7))

Manufactured Home. Means a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and was constructed in accordance with Federal Manufactured Housing Construction and Safety Standards regulations in effect after January 1, 1982

Manufactured Home Park. Any place where two or more manufactured homes are parked 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 space or keep space for rent to any person for a charge or fee to be paid for rental or use of facilities or to offer space free in connection with securing the trade of patronage of such person(s); except that for a construction company, timber company, or for farm laborers, four or more such units shall constitute a manufactured home park. "Manufactured Home Park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured home per lot if the subdivision was approved as a manufactured home subdivision at the time of platting and approval by the county, or if an amendment to the approval of such subdivision for manufactured home or manufactured home use is subsequently granted by the county.

Medical Hardship. "Medical hardship" means a temporary circumstance caused by serious illness or infirmity, authorized by a licensed medical practitioner (Medical Doctor, Physicians Assistant or Nurse Practitioner).

Mining. Includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent off-site borrow pits except those constructed for use as access roads. Minerals includes soil, coal, clay, stone, sand, gravel, metallic ore and any other solid material or substance excavated for commercial, industrial or construction use from natural deposits situated within or upon lands in the state. Processing includes, but is not limited to, crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and Portland cement concrete located within the operating permit area. "Mining" does not include excavations of sand, gravel, clay, rock or other similar

materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on site road construction or other on site construction or non surface impacts of underground mines; and also does not include rock, gravel, sand, silt or other similar substances removed from the beds or banks of any waters of the state pursuant to permit issued under ORS 541.605 to 541.625 and 541.627 to 541.660.

Modular Home or Housing. A prefabricated or other dwelling unit manufactured off-site, normally constructed in two or more sections or components for assembly on a permanent foundation as a permanent residential structure, and when completed is essentially indistinguishable from a conventionally constructed home and conforms to the State of Oregon One and Two Family Dwelling Code, 1990 Edition.

Mobile Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962 and January 1, 1982, and met the construction requirements of Oregon Mobile Home law in effect at the time of construction.

Motel. A building or group of buildings on the same lot or parcel containing motel rental units for rental to transients and consisting of individual sleeping quarters with or without cooking facilities which are designed, intended or used primarily for the accommodation of transients and travelers, and shall include hotels and inns.

Multiple Family Housing. Attached housing where each dwelling unit is not located on a separate lot or parcel.

Museum. Includes any collection of archeological specimens, artifacts, pioneer relics, articles, documents and other things of historical, scientific or artistic import that are assembled, displayed, preserved and protected for the benefit of the public, for educational and scientific purposes or to commemorate the occupation and development of the area or the Pacific Northwest region, and the structure or structures housing such collection(s). (ORS 358.310(2))

Neighborhood Activity Center. An attractor or destination for residents of surrounding residential areas. Includes, but is not limited to existing or planned schools, parks, shopping areas, transit stops, employment areas.

Net Metering Power Facility. A facility for the production of energy that:

- (a) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and

- 215.283(1)(r) in the Exclusive Farm Use zone;
- (b) Is intended to offset part of the customer-generator's requirements for energy;
 - (c) Will operate in parallel with a utility's existing transmission and distribution facilities;
 - (d) Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;
 - (e) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

Non-Commercial/Stand Alone Power Generating Facility. A facility for the production of energy that:

- (a) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;
- (b) Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to;
- (c) Operates as a standalone power generator not connected to a utility grid; and
- (d) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

Nonconforming Access Features. Features of the property access that existed prior to the date of ordinance adopting and do not conform with the requirements of this ordinance.

Non-conforming Use or Structure. A lawful existing use or structure at the time this Ordinance or any amendments that become effective which does not conform to the requirements of the zone in which it is located.

Nursery, Day. An institution, establishment or place in which are commonly received at one time 3 or more children not of common parentage under the age of 14 years for a period or periods not exceeding 12 hours for the purpose of being given board, care and training apart from parents or guardians for compensation or reward.

Nursing Home. Any home, institution or other structure maintained or operating for the nursing and care of 16 or more ill or infirm adults not requiring hospitalization.

Open play field. A large, grassy area with no structural improvements intended for outdoor games and activities by park visitors. The term does not include developed

ballfields, golf courses or courts for racquet sports.

Outdoor Mass Gathering. A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 500 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4).

Outdoor Merchandising. The sale or display for sale of merchandise outside of an enclosed building space.

Owner. The owner of the title to real property, the authorized agent or the contract purchaser of real property of record as shown on the last available complete tax assessment roll, County Clerk's records or City Recorder's records.

Parcel. A unit of land that is created:

- (a) By a partitioning of land as defined in ORS 92.010;
- (b) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or
- (c) By deed or land sales contract if there were no applicable planning, zoning or partitioning regulations; but
- (d) Does not include a unit of land created solely to establish a separate tax account.
- (e) Established prior to 1980.

Pedestrian Facilities. A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, access ways, crosswalks, ramps, paths, and trails.

Person. Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

Personal Use Airport. Airstrips, airports or helicopter pads, including associated hangar, maintenance and service facilities, restricted 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.

Planning Director. A person designated by the Wheeler County Court for the administration of planning. The Wheeler County Judge may designate another county employee to carry out the planning in the Planning Director's absence.

Plat. A final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or partitioning.

Primary, Principal or Main Use. The first use to which property is or may be devoted, and to which all other uses on the premises are derived as accessory or secondary uses. As used relative to dwelling units, the primary dwelling shall be the first dwelling unit to be located on a specific lot or parcel.

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.

Private Road. Any roadway for vehicular travel which is privately owned and maintained and which provides the principal means of access to abutting properties.

Processed. As it applies to farm stands, processed crops and livestock means farm products that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, including the addition of incidental ingredients, but not including the conversion of farm products into food items that are prepared on-site or intended for on-site consumption.

Property Line. The division line between 2 units of land.

Property Line Adjustment. The relocation of a common property line between 2 abutting properties.

Public Park. A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, state or federal agency, or park district and that may be designated as a public park in the applicable comprehensive plan and zoning ordinance.

Public Road. A road under the jurisdiction of a public body that provides the principal means of access to an abutting property.

Public or Semi-Public Use. A use owned and operated by a public, governmental or nonprofit organization for the benefit of the public in general. This does not include landfill sites, solid waste disposal sites, garbage dumps, recycling facilities, or utility facilities.

Public Use Airport. An airport that is open to use by the flying public.

Reasonable Access. The minimum number of access connections, direct or indirect,

necessary to provide safe access to and from the roadway, as consistent with the purpose and intent of this ordinance and any applicable plans and policies of the (city/county).

Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

Recreation Camps, Resorts and Parks. An area devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, playgrounds and other similar uses, whether the use of such area is limited to private membership or whether open to the public upon payment of a fee, or an area designated by the landowner for picnicking or overnight camping and offered to the general public, whether or not a fee or charge is made for such accommodations.

Recreation Vehicle. Vehicle with or without motive power, which is designed for human occupancy and is to be used temporarily for recreational, seasonal or emergency purposes, and has a gross floor space not exceeding 400 square feet in the set-up mode. For the purposes of this Ordinance, such includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, folding or collapsible trailers or truck campers and any vehicle manufactured or converted for use or partial use as a recreational vehicle.

Recreation Vehicle Park or Recreation Park. Any area designated by the person establishing, operating, managing or maintaining the same for picnicking or overnight camping by the general public or any segment of the public. Includes, but is not limited to, areas open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license, membership, association or common ownership, and further includes, but is not limited to, those area divided into two or more lots, parcels, units, spaces or other interests or designations for purposes of such use. Includes such facilities and spaces for tents, tent vehicles, camping vehicles or recreation vehicles of any type.

Recycling Facility. A place and equipment for collecting source separated recyclable material located either at a solid waste disposal site or at another location.

Relative. A child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.

Replat. The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

Residential Care. Means service such as supervision, protection, assistance while bathing, dressing, grooming or eating, management of money, transportation, recreation, and the providing of room and board.

Residential Facility. Means a facility that provides for 6 to 15 physically handicapped

or socially handicapped individuals, residential care in one or more buildings on contiguous properties.

Residential Home. Means a residence for 5 or fewer unrelated physically or mentally handicapped persons and for staff persons who need not be related to each other or to any other home resident. (ORS 197.660(2))

Residential Trailer. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962

Right-of-Way. That area between the boundary lines of a street, road or other easement.

Riparian. Means of, or pertaining to, or situated on the edge of the bank of a river, stream or other body of water. Riparian Vegetation or Habitat means the aquatic and non-aquatic vegetation adjacent to waterways which is dependent upon freely available water or is at least water-tolerant.

Road or Street. A public or private way that is created to provide ingress and egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for agricultural, forestry or mining purposes. Such includes the entire width of every right-of-way which provides for public or private use for the purpose of vehicular and pedestrian traffic and includes the terms highway, lane, place, avenue, alley, or other similar designations.

Safe and convenient. Bicycle and pedestrian routes that are:

- (a) Reasonably free from hazards, and
- (b) Provides a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile for pedestrians and three miles for bicyclists.

Seasonal Farm Worker. Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to, the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing of piling and disposal of brush and slash and other related activities. (ORS 197.675)

Seasonal Farm Worker Housing. Housing limited to occupancy by seasonal farm workers and their immediate families which is occupied no more than 9 months per year.

Series Partition. A series of partitions of land located within the county resulting in the creation of 4 or more parcels over a period of more than one calendar year.

School: Kindergarten, Primary, Elementary, Junior or High School. Including

public, private or parochial schools, but not a nursery or day nursery school.

Sign. An identification, description, or illustration or device which is affixed to or represented, directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, person, institution, business or service, excluding house numbers.

Significant Change in Trip Generation. A change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding: (1) local-10 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under local jurisdiction; or (2) State-exceeding 25 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under state jurisdiction.

Skirting. A weather resistant material that is required to be used to enclose the space below a manufactured home or residential trailer.

Solid Wastes. All wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animals solid and semisolid wastes, dead animals and other wastes; but does not include:

- (a) Hazardous wastes as defined in ORS 466.005; and
- (b) Materials used for fertilizer or other productive purposes or which are salvageable as such materials are used on agricultural lands.

Solid Waste Disposal Site. Land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site.

Start of Construction. The Start of Construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes or manufactured homes not within a manufactured home/manufactured home subdivision or manufactured home/manufactured home park, the Start of Construction means the date on which construction of facilities for servicing the site on which the manufactured home or manufactured dwelling is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Structure. That which is built or constructed. An edifice or building of any kind or any

piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a ground location. Retaining walls less than four (4) feet in height are not considered structures for the sake of general property line setbacks.

Structural Alteration. Any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, girders or any structural change in the roof or in exterior walls.

Stub-out (Stub-street). A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

Substantial Enlargements or Improvements. A 10 percent increase in existing square footage or 50 percent increase in assessed valuation of the structure.

Tract. One or more contiguous lots or parcels under the same ownership.

Temporary Structure or Use. A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.

Transfer Station. A fixed or mobile facility normally used, as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and a disposal site, including but not limited to a large hopper, railroad gondola or barge. (ORS 459.005(22))

Unincorporated Community. As defined in OAR 660 Division 22.

Urban Growth Boundary. As defined in Statewide Planning Goal 14.

Use. The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

Utility Facility. Any major structure owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, but excluding local sewer, water, gas, telephone and power distribution lines, and similar minor facilities.

Utility Facilities Necessary for Public Service. Unless otherwise specified by Ordinance, any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.

Walkway. A hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of access ways.

Waterway. Natural waterways including all tidal and non-tidal bays, intermittent streams, constantly flowing streams, lakes and other bodies of water in the state (wetlands) navigable and non-navigable; "wetlands" were clarified as waters of the state in AG Opinion #7755, May 9, 1979.

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

Wrecking Yard. Any property or establishment where a person(s) is engaged in breaking up, dismantling, sorting, storing, distributing, buying or selling scrap or waste materials, or any establishment or place of business where there is accumulated on the premises 8 or more motor vehicles or an equivalent volume of junk that is maintained, operated or used for storing, keeping, buying or selling of junk, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

Yard (Setback). An open space on a lot which is unobstructed including architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues, except as otherwise provided in this Ordinance.

Yard, Front. A yard (setback) between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of a building.

Yard, Rear. A yard (setback) between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building.

Yard, Side. A yard (setback) between the front and rear yards measured horizontally and at right angles to the side lot line from the side lot line to the nearest point of a building.

Youth Camp. A facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.

Yurt. A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

ARTICLE 2. CLASSIFICATION OF ZONES-BASIC PROVISIONS

SECTION 2.1 COMPLIANCE WITH ORDINANCE PROVISIONS. A lot or parcel may only be used and a structure, or part of a structure, may only be constructed, reconstructed, altered, occupied or used as permitted by this Ordinance. No lot or parcel area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required by the provisions set forth in this Ordinance.

SECTION 2.2 INTERPRETATION. Where the provisions of this Ordinance and other county ordinances or resolutions conflict, the provisions of said ordinance or resolution with the more restrictive language shall apply.

SECTION 2.3 CLASSIFICATION OF ZONES. For the purpose of this Ordinance, the County is divided into Zones designated as follows:

ZONE TITLE	ABBREVIATED DESIGNATION
Exclusive Farm Use	EFU
Exclusive Timber Use	ETU
Rural Residential	RR
Commercial	C
Rural Community	RC
Limited Use Combining	LU
Frontier Commercial	FC

SECTION 2.4 LOCATION OF ZONES. The boundaries of the Zones listed in this Ordinance are indicated on Wheeler County Zoning Map, which is hereby adopted by reference.

SECTION 2.5 ZONING MAP AND AMENDMENTS. A Zoning Map or Zoning Map Amendment shall be dated with the effective date of the adoption by the County Court and shall be signed by the County Judge and the County Clerk. The signed original, together with a copy thereof, shall be maintained on file in the office of the County Clerk.

SECTION 2.6 ZONE BOUNDARIES. Unless otherwise specified, Zone boundaries are section lines, subdivision lines, lot lines, center lines of streets and other rights-of-way or utilities, water courses, ridges or rimrocks, or such lines extended. If a zone boundary as shown on the map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary line. If distances exceed 20 feet, but less than 200 feet, then the matter shall be heard by the Planning Commission at a public hearing.

ARTICLE 3. USE ZONES

SECTION 3.1 FARM USE, EFU ZONE. In the EFU Zone, the following regulations shall apply.

- (1) General Purpose. To protect agricultural uses from encroachment by other incompatible uses and to provide tax incentives to assure that a maximum amount of agricultural land is retained in agricultural uses.
- (2) High Value Farmland. High Value Farmland. Due to the fact that Wheeler County does not have a soil survey and is likely to have a limited amount of High Value Farmland, the uses for High Value Farmland are not listed in this Section. If a use permitted in subsections 3, 4, or 5 of this section is found to be located on High Value Farmland, the requirements of this section and the requirements of OAR 660 Division 33 shall be used for the review.
- (3) Non-Residential Permitted Uses. In the EFU Zone, the following uses and activities and their accessory buildings and uses are permitted using an Administrative Review as set forth in Section 9.1(3)(a), unless otherwise noted.
 - (a) Farm use.
 - (b) 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 the wellhead.
 - (c) Operations for the exploration for minerals as defined by ORS 517.750.
 - (d) Climbing and passing lanes within the right of way existing as of July 1, 1987.
 - (e) 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.
 - (f) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

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- (g) 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.
- (h) 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, subject to Subsection (6)(j) and (7), and reviewed as set forth in Section 9.1(3)(b).
- (i) Churches, and cemeteries in conjunction with churches, subject to Subsection (6)(j) and reviewed as set forth in Section 9.1(3)(b).
- (j) Temporary hardship dwelling subject to Subsection (6)(k), (6)(1) and (7), and reviewed as set forth in Section 9.1(3)(b).
- (k) Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection (6)(h) and reviewed as set forth in Section 9.1(3)(b).
- (l) Propagation or harvesting of a forest product.
- (m) Agricultural buildings customarily provided in conjunction with farm use.
- (n) Creation of, restoration of, or enhancement of wetlands.
- (o) 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 and reviewed as set forth in Section 9.1(3)(b).
- (p) Fire service facilities providing rural fire protection services and reviewed as set forth in Section 9.1(3)(b).
- (q) Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
- (r) Firearms training facility in existence on September 9, 1995.

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- (s) A facility for the processing of farm crops, biofuel or poultry subject to Subsection (6)(a) and reviewed as set forth in Section 9.1(3)(b).
- (t) Dog training classes or testing trials subject to Subsection (6)(c).
- (u) Farm stands subject to Subsection (6)(d).
- (v) A winery subject to Section (12) and reviewed as set forth in Section 9.1(3)(b).
- (w) A cider business subject to Section (12) and reviewed as set forth in Section 9.1(3)(b).
- (x) Agri-tourism and other commercial events or activities subject to Section (13) and reviewed as set forth in Section 9.1(3)(b).
- (y) 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. This use is subject to Section (7) and shall be reviewed as set forth in Section 9.1(3)(b).
- (z) Land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, subject to Subsection (6)(f) and reviewed as set forth in Section 9.1(3)(b).
- (aa) Utility facility service lines subject to Subsection (6)(g).
- (bb) A site for the takeoff and landing of model aircraft subject to Subsection (6)(i) and reviewed as set forth in Section 9.1(3)(b).
- (cc) An outdoor mass gathering of more than 500 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735 to 433.770 and 433.990(7) and subject to Article 5.8(16).
- (dd) Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763.

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- (ee) Destination resorts, subject to Section 7, ORS 197.435 to 197-467 and Goal 8, and reviewed by the Planning Commission pursuant to Sections 5.6 and 5.7.
- (4) Residential Permitted Uses. In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted using an Administrative Review as set forth in Section 9.1(3)(a), unless otherwise noted.
 - (a) Dwelling customarily provided in conjunction with farm use subject to Subsection (6)(k) and Section (8) and is reviewed as set forth in Section 9.1(3)(b).
 - (b) A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse if the farm operator does, or will, require the assistance of the relative in the management of the farm use subject to Subsections (6)(b), and (6)(k). Review shall be as set forth in Section 9.1(3)(b).
 - (c) Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 and listed on the National Register of Historic Places subject to Subsection (6)(k) and is reviewed as set forth in Section 9.1(3)(b).
 - (d) Alteration, restoration, or replacement of a lawfully established dwelling subject to Subsection (6)(k) and Section (11).
 - (e) Accessory farm dwellings for year-round and seasonal farm workers subject to Subsection (6)(k) and Section (9) and reviewed as set forth in Section 9.1(3)(b).
 - (f) One single-family dwelling on a lot of record subject to Subsection (6)(k) and Section (10) and reviewed as set forth in Section 9.1(3)(b)
- (5) Conditional Uses Permitted. In an EFU Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Article 5 of this Ordinance and reviewed subject to Section (7):
 - (a) Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Subsection (3)(s), but excluding activities in conjunction with a marijuana crop.

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- (b) Home occupations.
- (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.
- (d) Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
- (e) Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
- (f) Processing of other mineral resources and other subsurface resources.
- (g) Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community subject to Subsection (6)(j).
- (h) Private parks, playgrounds, hunting and fishing preserves, and campgrounds subject to Subsection (6)(j).
- (i) Golf courses as defined in Article 1 and subject to Subsection (6)(j).
- (j) Residential home as defined in ORS 197.660, in existing dwellings, subject to Subsection (6)(k).
- (k) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.
- (l) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
- (m) 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.
- (n) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

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- (o) Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.
- (p) Room and board arrangements for a maximum of five unrelated persons in existing residences subject to Subsection (6)(k).
- (q) Single-family residential dwelling, not provided in conjunction with farm use subject to Subsection (6)(k) and reviewed as set forth in Section 9.1(3)(b).
- (r) Public parks and playgrounds subject to Subsections (6)(j).
- (s) Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities.
- (t) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.
- (u) A site for the disposal of solid waste 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.
- (v) Transmission towers over 200 feet in height.
- (w) Guest ranch.
- (x) A facility for the primary processing of forest products.
- (y) Parking of up to seven log trucks.
- (z) Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Subsection (3)(t).
- (aa) Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.
- (bb) Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.
- (cc) Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060.

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- (dd) Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.
 - (ee) Living history museum as defined in Article 1 and subject to Subsection (6)(j).
 - (ff) Operations for the extraction and bottling of water.
 - (gg) Equine and equine-affiliated therapeutic and counseling activities, subject to (6)(e).
 - (hh) Destination resorts, subject to Section 7, ORS 197.435 to 197-467 and Goal 8 and reviewed by the Planning Commission pursuant to Sections 5.6 and 5.7.
- (6) Use Standards
- (a) A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. 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 or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.
 - (b) To qualify for a relative farm help dwelling:
 - (1) A dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm.

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- (2) A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.
- (c) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:
- (1) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
 - (2) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.
- (d) A farm stand may be approved if:
- (1) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in 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 sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
 - (2) 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.
 - (3) As used in this Section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
 - (4) As used in this Subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

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- (5) As used in this Section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.
 - (6) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.
- (e) Equine and equine-affiliated therapeutic and counseling activities are subject to the following:
- (1) The activities are conducted in existing buildings that were lawfully constructed on the property before the January 1, 2019 or in new buildings that are accessory, incidental, and subordinate to the farm use on the tract; and
 - (2) All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.
- (f) Land Application of Reclaimed or Process Water, agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU zone is 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 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251. Onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit, or other approval.
- (g) 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 that are located on one or more of the following:
- (1) A public right of way;
 - (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - (3) The property to be served by the utility.

- (h) A utility facility that is necessary for public service.
 - (1) A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.
 - (i) To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
 - (A) Technical and engineering feasibility;
 - (B) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (C) Lack of available urban and nonresource lands;
 - (D) Availability of existing rights of way;
 - (E) Public health and safety; and
 - (F) Other requirements of state and federal agencies.
 - (ii) Costs associated with any of the factors listed in Subsection (1) of this subsection may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

- (iii) The owner of a utility facility approved under Subsection (A) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
- (iv) The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
- (v) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Subsection (7). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.
- (vi) In addition to the provisions of Subsection (6)(h)(A)(1) through (4), the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.
- (vii) The provisions of Subsection (A) do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

- (2) An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (1) or Subsection (2) of this Subsection.
 - (i) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:
 - (A) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
 - (B) The associated transmission line is co-located with an existing transmission line;
 - (C) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
 - (D) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.
 - (ii) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections (6)(h)(B)(3) and (4), two or more of the following criteria:
 - (A) Technical and engineering feasibility;
 - (B) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (C) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

- (D) Public health and safety; or
 - (E) Other requirements of state or federal agencies.
- (iii) As pertains to Subsection (2), the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
 - (iv) The county may consider costs associated with any of the factors listed in Subsection (2), but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.
- (i) 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 this Section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section. An owner of property used for the purpose authorized in this Section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this Section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
 - (j) Three-mile setback. For uses subject to this Subsection:
 - (1) 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.

- (2) Any enclosed structures or group of enclosed structures described in Subsection (A) within a tract must be separated by at least one-half mile. For purposes of this Subsection, “tract” means a tract that is in existence as of June 17, 2010.
- (3) 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 this ordinance.
- (k) Single-family dwelling deeds. The landowner 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.
- (l) A temporary hardship dwelling is subject to the following:
 - (1) One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
 - (i) The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required;
 - (ii) The county shall review the permit authorizing such manufactured homes every two years; and
 - (iii) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.

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- (2) A temporary residence approved under this Section is not eligible for replacement under Subsection (4)(d). Department of Environmental Quality review and removal requirements also apply.
 - (3) As used in this Section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.
- (7) Review Criteria. A use in the EFU Zone subject to this Section may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with farm operations and agriculture and to conserve values found on forest lands.
 - (a) Is compatible with farm uses described in ORS 215.203(2);
 - (b) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;
 - (c) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use;
 - (d) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract, and the availability of necessary support resources for agriculture;
 - (e) Complies with other applicable significant resource provisions;
 - (f) The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria:
 - (1) The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;
 - (2) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;
 - (3) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;

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- (4) The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and
 - (5) The use is or can be made compatible with existing uses and other allowable uses in the area; and
 - (g) Complies with other condition as deemed necessary
- (8) Dwellings Customarily Provided in Conjunction with Farm Use
 - (a) Large Tract Standards. On land not identified as high-value farmland as defined in Article 1, a dwelling may be considered customarily provided in conjunction with farm use if:
 - (1) The parcel on which the dwelling will be located is at least
 - (i) 160 acres and not designated rangeland; or;
 - (ii) 320 acres and designated rangeland
 - (2) The subject tract is currently employed for farm use.
 - (3) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
 - (4) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.
 - (b) Farm Income Standards (non-high value). On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - (1) The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:
 - (i) At least \$40,000 in gross annual income from the sale of farm products; or

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- (ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and
- (2) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;
- (3) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (A); and
- (4) In determining the gross income required by Subsection (A):
 - (i) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
 - (ii) Only gross income from land owned, not leased or rented, shall be counted; and
 - (iii) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- (c) Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - (1) The subject tract is currently employed for the 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; and
 - (2) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and

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- (3) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (A);
 - (4) In determining the gross income required by Subsection (A):
 - (i) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
 - (ii) Only gross income from land owned, not leased or rented, shall be counted; and
 - (iii) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- (d) Farm Capability Standards.
- (1) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - (i) 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 that includes all tracts wholly or partially within one mile from the perimeter of the subject tract;
 - (ii) 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 (A)(1);
 - (iii) The subject tract is currently employed for a farm use, , at a level capable of producing the annual gross sales required in Subsection (A)(1);
 - (iv) The subject lot or parcel on which the dwelling is proposed is not less than 20 acres;
 - (v) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;

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- (vi) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
- (vii) 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 (A)(3).
- (viii) In determining the gross sales capability required by Subsection (A)(3):
 - (A) The actual or potential cost of purchased livestock shall be deducted from the total gross sales attributed to the farm or ranch tract;
 - (B) Only actual or potential sales from land owned, not leased or rented, shall be counted; and
 - (C) Actual or potential gross farm sales earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- (2) In order to identify the commercial farm or ranch tracts to be used in Subsection (A)(1), the potential gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the county pursuant to OAR 660-033-0135(2)(c).
- (e) Additional Farm Income Standards.
 - (1) For the purpose of Subsections (b) or (c), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.

- (2) Prior to the final approval for a dwelling authorized by Subsections (b) and (c) that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall complete and record with the county clerk the covenants, conditions, and restrictions form provided by the county (Exhibit A to OAR Chapter 660 Division 33). The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
 - (i) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
 - (ii) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- (3) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;
- (f) Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by Subsections (b) or (c) above, subject to the following requirements:
 - (1) The subject tract will be employed as a commercial dairy as defined in Subsection (G);
 - (2) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
 - (3) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;

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- (4) 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;
 - (5) 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
 - (6) 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.
 - (7) As used in this Section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsections (b) or (c), whichever is applicable, from the sale of fluid milk.
- (g) Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:
- (1) Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection (b) or (c), whichever is applicable;
 - (2) The subject lot or parcel on which the dwelling will be located is:
 - (i) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection (b) or (c), whichever is applicable; and
 - (ii) At least the size of the applicable minimum lot size under Section (14);

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- (3) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
 - (4) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (A); and
 - (5) In determining the gross income required by Subsection (A) and Subsection (B):
 - (i) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
 - (ii) Only gross income from land owned, not leased or rented, shall be counted.
 - (h) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.
- (9) Accessory Farm Dwellings
- (a) Accessory farm dwellings may be considered customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:
 - (1) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;
 - (2) The accessory farm dwelling will be located:
 - (i) On the same lot or parcel as the primary farm dwelling;
 - (ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;

- (iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;
 - (iv) On any lot or parcel, 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 farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this Subsection to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or
 - (v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and
- (3) There is no other dwelling on the 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.
- (b) In addition to the requirements in Subsection (a), the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

- (1) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:
 - (i) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
 - (ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;
- (2) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch 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. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
- (3) It is located on a commercial dairy farm as defined in Section (8)(f); and
 - (i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;
 - (ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
 - (iii) A Producer License for the sale of dairy products under ORS 621.072.

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- (c) No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this Subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this ordinance, a parcel may be created consistent with the minimum parcel size requirements in Subsection (14)(a).
 - (d) An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection (5)(q).
 - (e) For purposes of this Subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.
 - (f) Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.
 - (g) No accessory farm dwelling unit may be occupied by a relative of the owner or operator of the farmworker housing. "Relative" means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.
- (10) Lot of Record Dwellings
- (a) A lot of record dwelling may be approved on a pre-existing lot or parcel if:
 - (1) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in Subsection (e):
 - (i) Since prior to January 1, 1985; or
 - (ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - (2) The tract on which the dwelling will be sited does not include a dwelling;
 - (3) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

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- (4) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;
 - (5) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in Subsections (c) and (d); and
 - (6) When the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.
- (b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;
 - (c) Notwithstanding the requirements of Subsection (10)(a)(E), a single-family dwelling may be sited on high-value farmland if:
 - (1) It meets the other requirements of Subsections (a) and (b);
 - (2) The lot or parcel is protected as high-value farmland as described as land in a tract composed predominantly of soils that are irrigated and classified prime, unique Class I or II; or not irrigated and classified prime, unique, Class I or II.
 - (3) The *planning director* determines that:
 - (i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.

- (A) For the purposes of this Section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot or parcel cannot be practicably managed for farm use.
- (B) Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms.
- (C) A lot or 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;
 - (ii) The dwelling will comply with the provisions of Section (7); and
 - (iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in Subsection 5.8(12)(d).
- (d) Notwithstanding the requirements of Subsection (10)(a)(E), a single-family dwelling may be sited on high-value farmland if:
 - (1) It meets the other requirements of Subsections (a) and (b);
 - (2) The tract on which the dwelling will be sited is:
 - (i) Is not high-value farmland as described as land in a tract composed predominantly of soils that are irrigated and classified prime, unieque Class I or II; or not irrigated and classified prime, unique, Class I or II;
 - (ii) Twenty-one acres or less in size; and

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- (3) 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
 - (4) The tract is not a flaglot and 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; or
 - (5) The tract is a flaglot and 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 and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. 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) “Flaglot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - (ii) “Geographic center of the flaglot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.
- (e) For purposes of Subsection (a), “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, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;
 - (f) The county assessor shall be notified that the governing body intends to allow the dwelling.

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- (g) An approved single-family dwelling under this Section may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.
 - (h) The county shall provide notice of all applications for lot of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.
- (11) Alteration, Restoration or Replacement of a Lawfully-established Dwelling
- (a) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:
 - (1) 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;
 - (iv) A heating system; and
 - (v) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.
 - (2) Notwithstanding Subsection (11)(a)(A)(5), 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 to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. “Improperly removed” means that 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.

- (b) For replacement of a lawfully established dwelling under Subsection (4)(d):
 - (1) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
 - (i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
 - (ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
 - (iii) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
 - (2) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

- (3) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- (c) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - (1) The siting standards of Subsection (B) apply when a dwelling qualifies for replacement because the dwelling:
 - (i) Formerly had the features described in Subsection (11)(a)(A);
 - (ii) Was removed from the tax roll as described in Subsection (11)(a)(B); or
 - (iii) Had a permit that expired as described under Subsection (11)(d)(C).
 - (2) The replacement dwelling must be sited on the same lot or parcel:
 - (i) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
 - (ii) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

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- (3) Replacement dwellings that currently have the features described in Subsection (11)(a)(A) and that have been on the tax roll as described in Subsection (11)(a)(B) may be sited on any part of the same lot or parcel.

- (d) A replacement dwelling permit that is issued under (4)(d):
 - (1) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:
 - (i) Formerly had the features described in Subsection (11)(a)(A); or
 - (ii) Was removed from the tax roll as described in Subsection (11)(a)(B);
 - (2) Is not subject to the time to act limits of ORS 215.417; and
 - (3) If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:
 - (i) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and
 - (ii) Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

- (12) Wineries and Cider Business
 - (a) Small Wineries and Cider Businesses. Small wineries and cider businesses are separate uses. The small winery provisions and standards of Subsection (a) may not be applied to a cider business, nor may the provisions and standards for a cider business be applied to a small winery.
 - (1) A winery or cider business may be established as a permitted use if the proposed winery or cider business will produce wine with a maximum annual production of:
 - (i) Less than 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the owner:
 - (A) Owns an on-site vineyard or orchard of at least 15 acres;

- (B) Owns a contiguous vineyard or orchard of at least 15 acres;
 - (C) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 15 acres of a vineyard contiguous to the winery or from an orchard contiguous to the cider business; or
 - (D) Obtains grapes for a winery or apple or pears for a cider business from any combination of Subsection (A), (B), or (C); or
- (ii) At least 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the owner:
- (A) Owns an on-site vineyard for a winery or orchard for a cider business of at least 40 acres;
 - (B) Owns a contiguous vineyard for a winery or orchard for a cider business of at least 40 acres;
 - (C) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 40 acres of a vineyard contiguous to the winery or from an orchard contiguous to the cider business;
 - (D) Owns an on-site vineyard for a winery or orchard for a cider business of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards for a winery or orchards for a cider business in Oregon that are located within 15 miles of the winery or cider business site; or
 - (E) Obtains grapes for a winery or apples or pears for a cider business from any combination of Subsection (A), (B), (C) or (D).
- (2) In addition to producing and distributing wine or cider, a small winery or cider business established under this Section may:

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- (i) Market and sell wine produced in conjunction with the winery or cider produced in conjunction with the cider business.
- (ii) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, including:
 - (A) Wine or cider tastings in a tasting room or other location on the premises occupied by the winery for wine tastings or cider business for cider tastings;
 - (B) Wine or cider club activities;
 - (C) Winemaker or cidemaker luncheons and dinners;
 - (D) Winery and vineyard or cider business and orchard tours;
 - (E) Meetings or business activities with winery or cider business suppliers, distributors, wholesale customers and wine-industry or cider industry members;
 - (F) Winery or cider business staff activities;
 - (G) Open house promotions of wine produced in conjunction with the winery or cider produced in conjunction with the cider business; and
 - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery or cider produced in conjunction with the cider business.
- (iii) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, the marketing and sale of which is incidental to on-site retail sale of wine for a winery or cider for a cider business, including food and beverages:

- (A) Required to be made available in conjunction with the consumption of wine or cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (B) Served in conjunction with an activity authorized by Subsection (12)(i)(B)(ii), (iv), or (v).
 - (iv) Carry out agri-tourism or other commercial events on the tract occupied by the winery or cider business subject to Subsection (5).
 - (v) Host charitable activities for which the winery or cider business does not charge a facility rental fee.
 - (vi) Site a bed and breakfast as a home occupation on the same tract, and in association with, the winery or cider business as provided by Section 5.8(4)(1).
- (3) A winery or cider business may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection (12)(a)(2)(iii). Food and beverage services authorized under Subsection (12)(a)(2)(iii) may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
- (4) The gross income of the winery or cider business from the sale of incidental items or services provided pursuant to Subsection (12)(a)(2)(ii) through (v) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery or cider produced in conjunction with the cider business. The gross income of a winery or cider business does not include income received by third parties unaffiliated with the winery or cider business. At the request of the county, the winery or cider business shall submit to the county a written statement that is prepared by a certified public accountant and certifies the compliance of the winery or cider business with this Subsection for the previous tax year.

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- (5) A winery or cider business may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery or the cider business subject to:
 - (i) If a winery conducts agri-tourism or other commercial events authorized under this Section, the winery may not conduct agri-tourism or other commercial events or activities authorized by Subsections (13)(a) to (d).
 - (ii) Agri-tourism and other commercial events or activities are subject to the requirements of (13)(h).
 - (6) A winery or cider business operating under this Section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery or cider business is established.
 - (7) Prior to the issuance of a permit to establish a winery or cider business under Subsection (12)(a)(1), the applicant shall show that vineyards described in Subsection (12)(a)(1) have been planted or that the contract has been executed, as applicable.
 - (8) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands, the winery or cider business shall:
 - (i) Establish a setback of at least 100 feet from all property lines for the winery or cider business and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and
 - (ii) Provision of direct road access and internal circulation.
- (b) Large Wineries
- (1) A large winery may be established if:
 - (i) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;
 - (ii) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in Subsection (12)(b)(1)(i); and

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- (iii) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this Subsection.
- (2) In addition to producing and distributing wine, a large winery may:
- (i) Market and sell wine produced in conjunction with the winery;
 - (ii) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - (B) Wine club activities;
 - (C) Winemaker luncheons and dinners;
 - (D) Winery and vineyard tours;
 - (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 - (F) Winery staff activities;
 - (G) Open house promotions of wine produced in conjunction with the winery; and
 - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
 - (iii) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:

- (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (B) Served in conjunction with an activity authorized by Subsection (12)(b)(2)(ii), (iv), or (v);
 - (iv) Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
 - (A) Are directly related to the sale or promotion of wine produced in conjunction with the winery;
 - (B) Are incidental to the retail sale of wine on-site; and
 - (C) Are limited to 25 days or fewer in a calendar year; and
 - (v) Host charitable activities for which the winery does not charge a facility rental fee.
- (3) Income requirements:
- (i) The gross income of the winery from the sale of incidental items pursuant to Subsection (12)(b)(2)(iii) and services provided pursuant to Subsection (12)(b)(2)(iv) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
 - (ii) At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant, that certifies compliance with Subsection (i) for the previous tax year.
- (4) A large winery shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.
- (5) A large winery may operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.

- (6) Permit requirements:
 - (i) A winery shall obtain a permit if the winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under Subsection (12)(b)(2)(iv) occurring on more than 25 days in a calendar year.
 - (ii) In addition to any other requirements, a local government may approve a permit application under this Subsection if the local government finds that the authorized activity:
 - (A) Complies with the standards described in Subsections (7)(b) and (c);
 - (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and
 - (C) Does not materially alter the stability of the land use pattern in the area.
 - (iii) If the local government issues a permit under this Subsection for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.
- (7) A person may not have a substantial ownership interest in more than one large winery operating a restaurant.
- (8) Prior to the issuance of a permit to establish a large winery, the applicant shall show that vineyards described in Subsection (12)(b)(1) have been planted.
- (9) A large winery operating under Subsection (12)(b)(1) shall provide for:
 - (i) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and
 - (ii) Direct road access and internal circulation.

- (10) A large winery operating under may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the winery received a permit in similar circumstances before August 2, 2011.
- (c) As used in this Section:
 - (1) “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery or cider produced in conjunction with a cider business is a secondary purpose of the event.
 - (2) “Cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears and includes, but is not limited to, flavored cider, sparkling cider, and carbonated cider.
 - (3) “Cider business” means a facility used primarily for the commercial production, shipping and distribution, wholesale or retail sales, tasting, crushing, making, blending, storage, bottling, administrative functions or warehousing of cider.
 - (4) “On-site retail sale” for wineries includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone. For cider businesses, “On-site retail sale” includes the retail sale of cider in person at a cider business, through a cider club, or over the internet or telephone.
- (13) Agri-tourism and Other Commercial Events. The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established:
 - (a) A single agri-tourism or other commercial event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:
 - (1) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;
 - (2) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

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- (3) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;
 - (4) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;
 - (5) The agri-tourism or other commercial event or activity complies with the standards described in Subsections (7)(b) and (c);
 - (6) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and
 - (7) The agri-tourism or other commercial event or activity complies with conditions established for:
 - (i) Planned hours of operation;
 - (ii) Access, egress and parking;
 - (iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads;
 - (iv) Sanitation and solid waste; or
 - (v) Must comply with the requirements in (13)(b).
- (b) In the alternative to Subsections (a) and (c), the county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:
- (1) Must be incidental and subordinate to existing farm use on the tract;

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- (2) May not begin before 6 a.m. or end after 10 p.m.;
 - (3) May not involve more than 100 attendees or 50 vehicles;
 - (4) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
 - (5) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;
 - (6) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
 - (7) Must comply with applicable health and fire and life safety requirements.
- (c) In the alternative to Subsections (a) and (b), the county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:
- (1) Must be incidental and subordinate to existing farm use on the tract;
 - (2) May not, individually, exceed a duration of 72 consecutive hours;
 - (3) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
 - (4) Must comply with the standards described in Subsections (7)(b) and (c);
 - (5) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and
 - (6) Must comply with conditions established for:

- (i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;
 - (ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
 - (iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;
 - (iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads;
 - (v) Sanitation and solid waste; and
 - (vi) Must comply with the requirements of (13)(h).
- (7) A permit authorized by this Subsection shall be valid for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of Subsection (c), any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.
- (d) In addition to Subsections (a) to (c), the county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with Subsections (a) to (c) if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:
- (1) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
 - (2) Comply with the requirements of (13)(c)(C), (D), (E), and (F);

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- (3) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and
 - (4) Do not exceed 18 events or activities in a calendar year.
- (e) A holder of a permit authorized by a county under Subsection (d) must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:
 - (1) Provide public notice and an opportunity for public comment as part of the review process; and
 - (2) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Subsection (d).
- (f) Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.
- (g) The authorizations provided by Section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.
- (h) Conditions of Approval. Agri-tourism and other commercial events permitted under Subsections (c) and (d) are subject to the following standards and criteria:
 - (1) A permit application for an agri-tourism or other commercial event or activity shall include the following:

- (i) A description of the type of agri-tourism or commercial events or activities that are proposed, including the number and duration of the events and activities, the anticipated daily attendance and the hours of operation and, for events not held at wineries or cider businesses, how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract.
 - (ii) The types and locations of all existing and proposed temporary structures, access and egress, parking facilities, sanitation and solid waste facilities to be used in connection with the agri-tourism or other commercial events or activities;
 - (iii) Authorization to allow inspection of the event premises. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and the Exclusive Farm Use Zone and any other applicable laws or ordinances.
- (2) Approval Criteria.
- (i) The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.
 - (ii) No more than two agri-tourism or commercial events or activities may occur in one month.
 - (iii) The maximum number of people shall not exceed 500 per calendar day.
 - (iv) Notification of agri-tourism and other commercial events or activities.

- (A) The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1 of the subject calendar year or within 30 days of new or renewed permits to County's Planning Department and a list of all property owners within 500 feet of the subject property, as notarized by a title company.
- (B) The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the Department at least 72 hours prior to any change in the date of approved dates.
- (C) If notice pursuant to (i) is not provided, the property owner shall provide notice by Registered Mail to the same list above at least 10 days prior to each agri-tourism and other commercial event or activity.
- (D) The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.
- (v) Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 12:00 p.m.
- (vi) Overnight camping is prohibited.
- (vii) Noise Control
 - (A) All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.

(B) A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during agri-tourism and other commercial events or activities.

(viii) Transportation Management

(A) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.

(B) Driveways extending from paved roads shall have a paved apron, requiring review and approval by the County Road Department.

(C) The parcel, lot or tract must have direct access from a public road or is accessed by an access easement or private road, whereby all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time of initial application.

(D) Adequate traffic control must be provided by the property owner and must include one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.

(E) Adequate off-street parking will be provided pursuant to the parking provisions of in Article 4.

(ix) Health and Safety Compliance

(A) Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.

(B) All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the State of Oregon Building Codes Division and any other applicable federal, state and local laws.

(C) Compliance with the requirements of the State of Oregon Building Codes Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.

(14) Land Divisions

- (a) Minimum Parcel Size. The minimum size for creation of a new parcel shall be 80 acres.
- (b) A division of land smaller than the minimum parcel size providing in Subsection (a) may be approved for the following uses, provided the nonfarm use is not larger than the minimum size necessary for the use.
 - (1) (3)(h). Public or private schools for kindergarten through grade 12,
 - (2) (3)(y) Landscape contracting business or a business providing landscape architecture services,
 - (3) (3)(ee). Destination resorts, or
 - (4) Any use listed in Section 5, except for a residential use or uses listed in subsections (5)(o), (5)(w), (5)(y), or (5)(dd).
- (c) A division of land to create up to two new parcels smaller than the minimum size established under Subsection (a), each to contain a dwelling not provided in conjunction with farm use, may be permitted if:
 - (1) The nonfarm dwellings have been approved under Subsection 5.8(q);
 - (2) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - (3) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection (a); and

- (4) The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection (a).
- (d) A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:
 - (1) The nonfarm dwellings have been approved under Subsection 5 (q);
 - (2) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - (3) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection (a) but equal to or larger than 40 acres;
 - (4) The parcels for the nonfarm dwellings are:
 - (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber; and
 - (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level; and
 - (5) The parcels for the nonfarm dwellings do not have established water rights for irrigation.

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- (e) This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
- (f) This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
- (g) This Section does not allow a division or a property line adjustment of a lot or parcel that separates a use described in (3)(j), (4)(b), , *or* (5)(b) from the lot or parcel on which the primary residential use exists.
- (h) This Section does not allow a division or a property line adjustment of a lot or parcel that separates a processing facility from the farm operation specified in Section (3)(s).
- (i) A division of land may be permitted to create a parcel with an existing dwelling to be used:
 - (1) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section 5.8(12); and
 - (2) For historic property that meets the requirements of Section (4)(c).
- (j) Notwithstanding the minimum lot or parcel size described in Subsection (a),
 - (1) A division of land may be approved provided:
 - (i) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
 - (ii) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

- (iii) The landowner signs and records in the deed records for the county an irrevocable deed restriction prohibiting the owner, and the owner's successors in interest, from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.
 - (2) A parcel created pursuant to this Subsection that does not contain a dwelling:
 - (i) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (ii) May not be considered in approving or denying an application for siting any other dwelling;
 - (iii) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - (iv) May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
- (k) A division of land smaller than the minimum lot or parcel size in Subsection (a) may be approved provided:
 - (1) The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;
 - (2) The church has been approved under Subsection (3)(i);
 - (3) The newly created lot or parcel is not larger than five acres; and
 - (4) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection (a) either by itself or after it is consolidated with another lot or parcel.

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- (l) Notwithstanding the minimum lot or parcel size described Subsection (a), a division for the nonfarm uses set out in Subsection (3)(p) if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (m) The governing body of a county may not approve a division of land for nonfarm use under Subsection (b), (c), (d), (i), (j), (k), or (l) unless any additional tax imposed for the change in use has been paid.
- (n) A land division may not be approved for the land application of reclaimed water, agricultural or industrial process water, or biosolids as described under (3)(z)
- (o) Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.
- (p) A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for agricultural uses and is smaller than the minimum parcel size, provided that:
 - (1) If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use.
 - (2) If the parcel does not contain a dwelling, it:
 - (i) Is not eligible for siting a dwelling, except as may be authorized in ORS 195.120;
 - (ii) May not be considered in approving or denying an application for any other dwelling; and
 - (iii) May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource use.
 - (iv) The landowner signs and records in the deed records for the county an irrevocable deed restriction prohibiting the owner, and the owner's successors in interest, from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

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- (15) Dimensional Standards. In an EFU Zone, the following dimensional standards shall apply.
- (a) New farm parcels shall be a minimum of 80 acres.
 - (b) Minimum lot size-nonfarm parcels. Nonfarm parcels allowed pursuant to the provisions of this Ordinance and more specifically this Section shall meet the following standards:
 - (1) Shall be consistent with the requirements of Section (14).
 - (2) Shall be of adequate size and dimensions to meet applicable setback requirements.
 - (3) Shall be of the minimum size necessary to accommodate the intended use and provide for subsurface sewage disposal thereof.
 - (4) Each such parcel shall contain a minimum of 1 acre unless the minimum size necessary for a use approved under Subsection 14(b) is less than 1 acre.
 - (c) Setback (yard) requirements. In an EFU (EFU) Zone, the minimum setback requirements shall be as follows:
 - (1) The front and rear yard setbacks from the property line shall be 30 feet.
 - (2) Each side yard setback from a property line shall be a minimum of 30 feet.
 - (d) Height.
 - (1) Dwellings or accessory farm dwellings shall not exceed a height of 30 feet.
 - (2) Non-residential, non-farm structures shall not exceed a height of 30 feet.
 - (3) Farm-related structures are exempt from height limits unless subject to airport overlay.

SECTION 3.2 TIMBER USE, ETU ZONE. In an ETU Zone, the following regulations shall apply:

- (1) **General Purpose.** The Timber Use zone (ETU), is intended to implement the Goals and Policies of the Wheeler County Comprehensive Plan by conserving and protecting lands for forest uses. This Zone is designed to provide a classification for commercial forest lands in private ownerships and for public lands administered by forest management agencies, encourage the management of commercial forest lands as a stable timber base, and to conserve natural resources by reducing hazards. This Zone is consistent with Statewide Planning Goal #4 for conservation of forest lands.

The Timber Use Zone is intended to facilitate the right to conduct forest practices consistent with the Forest Practices Act and to encourage and promote the development and conservation of natural resources. Normal forest management, mining, or agricultural practices shall not be considered a nuisance condition in a Timber Use Zone or bordering Zones, provided that such actions are consistent with the standards of the Oregon forest Practices Act and do not extend beyond the boundaries of the Timber Use Zone. Nothing in this regulation is intended to interfere with normal forestry or agricultural practices that might result in conditions such as noise, dust or odor. Residents of this Zone must recognize that the intent of the Zone is to protect resource management activities and that in the event of a conflict between residential use and normal forestry or agricultural practices, this Code will be interpreted in favor of the resource management practice.

- (2) **Outright Uses.** The following uses shall be allowed pursuant to the Oregon Forest Practices Act:
 - (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.
 - (b) Farm use as defined in ORS 215.203.
 - (c) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
 - (d) Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation.

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- (e) 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.
 - (f) Uninhabitable structures accessory to fish and wildlife enhancement.
- (3) Non-Residential Uses Permitted. The following uses and their accessory uses shall be permitted using an administrative review as set forth in Section 9.1(3)(a), unless otherwise noted.
- (a) Temporary portable facility for the primary processing of forest products.
 - (b) Private hunting and fishing operations without any lodging accommodations.
 - (c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.
 - (d) Climbing and passing lanes within the right of way existing as of July 1, 1987.
 - (e) 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.
 - (f) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
 - (g) 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.
 - (h) Water intake facilities, canals and distribution lines for farm irrigation and ponds.

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- (i) Exploration for mineral and aggregate resources as defined in ORS chapter 517.
- (j) Towers and fire stations for forest fire protection.
- (k) Temporary forest labor camps.
- (l) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head. This use shall be reviewed as set forth in Section 9.1(3)(b) if it includes production.
- (m) An outdoor mass gathering of more than 500 persons that is not anticipated to continue for more than 120 hours in any three-month period, as provided in ORS 433.735.
- (n) An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building authorized by this section to another use.
- (o) Home occupations subject to Section (7), the requirements of Section 5.8(4), and is reviewed as set forth in Section 9.1(3)(b).
- (p) Cemeteries subject to Subsection (7) and is reviewed as set forth in Section 9.1(3)(b).
- (q) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations subject to Subsection (7) and is reviewed as set forth in Section 9.1(3)(b).
- (r) Aids to navigation and aviation subject to Subsection (7) and is reviewed as set forth in Section 9.1(3)(b).
- (s) Reservoirs and water impoundments subject to Subsection (7) and is reviewed as set forth in Section 9.1(3)(b).
- (t) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects subject to Subsection (7) and is reviewed as set forth in Section 9.1(3)(b).
- (u) Destination resorts, subject to ORS 197.435 to 197-467 and Goal 8 and reviewed by the Planning Commission pursuant to Sections 5.6 and 5.7.

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- (v) Youth camps subject to Section (10) and reviewed as set forth in Section 9.1(3)(b).
- (w) Any outdoor gathering of more than 3,000 persons that is expected to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763.
- (x) Log scaling and weigh stations, subject to Subsection (7) and reviewed as set forth in Section 9.1(3)(b).
- (y) Parking of up to seven dump trucks and seven trailers, subject to Subsection (7) and is reviewed as set forth in Section 9.1(3)(b).
- (z) Permanent facility for the primary processing of forest products subject to (6)(k) and (7) and is reviewed as set forth in Section 9.1(3)(b).
- (aa) Permanent logging equipment repair and storage, subject to (7) and is reviewed as set forth in Section 9.1(3)(b).
- (bb) Private accommodations for fishing occupied on a temporary basis may be allowed subject to Subsections (6)(g), (7), (8) and (9) and is reviewed as set forth in Section 9.1(3)(b).
- (cc) Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065, subject to (7), and reviewed as set forth in Section 9.1(3)(b).
- (dd) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels subject to (7), and reviewed as set forth in Section 9.1(3)(b).
- (ee) 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 subject to (7), and reviewed as set forth in Section 9.1(3)(b).
- (ff) 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 subject to (7), and is reviewed as set forth in Section 9.1(3)(b).

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- (gg) Television, microwave and radio communication facilities and transmission towers subject to (7), and is reviewed as set forth in Section 9.1(3)(b).
 - (hh) Water intake facilities, related treatment facilities, pumping stations, and distribution lines subject to (7), and is reviewed as set forth in Section 9.1(3)(b).
 - (ii) Firearms training facility as provided in ORS 197.770(2), subject to (7), and is reviewed as set forth in Section 9.1(3)(b).
 - (jj) Fire stations for rural fire protection subject to Subsection (7) and is reviewed as set forth in Section 9.1(3)(b).
 - (kk) Storage structures for emergency supplies.
- (4) Residential Uses Permitted. The following residential uses and their accessory uses shall be permitted using an administrative review as set forth in Section 9.1(3)(b), unless otherwise noted.
- (a) A large tract forest dwelling subject to Subsection (6)(a) and (6)(j).
 - (b) An ownership of record dwelling subject to Subsections (6)(b) and (6)(j).
 - (c) Alteration, restoration or replacement of a lawfully established dwelling subject to Subsections (6)(d) and (6)(j).
 - (d) A template dwelling subject to Subsection (6)(c) and (6)(j).
 - (e) Caretaker residences for public parks and public fish hatcheries subject to Subsection (6)(j).
 - (f) A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative subject to Subsection (6)(e), (6)(j), and (7).

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- (5) Conditional Uses. In an ETU Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Article 5 of this Ordinance and reviewed subject to Section (7):
- (a) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.
 - (b) Commercial utility facilities for the purpose of generating power. A Commercial Utility Facility for the purpose of generating power shall not preclude more than 10 acres from use as a commercial forest operation.
 - (c) Private seasonal accommodations for fee hunting operations subject to Subsections (6)(f), (7), (8) and (9), and is reviewed as set forth in Section 9.1(3)(b).
 - (d) Private parks and campgrounds.
 - (e) Expansion of existing airports.
 - (f) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Subsection (3)(1) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
 - (g) Disposal site for solid waste approved by the governing body of a city or county or both and 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.
 - (h) Public parks.
- (6) Use Standards
- (a) A large tract forest dwelling authorized under ORS 215.740 may be allowed on land zoned for forest use if it is sited on a tract that does not include a dwelling and complies with other provisions of law, including the following:

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- (1) The tract is at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to paragraph (C) for all tracts that are used to meet the acreage requirements of this subsection.
 - (2) A tract shall not be considered to consist of less than 240 acres because it is crossed by a public road or a waterway.
 - (3) Where one or more lots or parcels are required to meet minimum acreage requirements:
 - (i) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (ii) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
- (b) Lot of record dwelling
- (1) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph (D):
 - (i) Since prior to January 1, 1985; or
 - (ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - (2) The tract on which the dwelling will be sited does not include a dwelling;
 - (3) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

- (4) For purposes of this subsection, "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, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
 - (5) The dwelling must be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and 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:
 - (i) A United States Bureau of Land Management road; or
 - (ii) A United States Forest Service 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 United States Forest Service and landowners adjacent to the road, a local government or a state agency.
 - (6) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and
 - (7) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
- (c) A single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
- (1) Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:

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- (i) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (ii) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- (2) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
 - (i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (ii) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- (3) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
 - (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (ii) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- (4) Lots or parcels within urban growth boundaries shall not be used to satisfy eligibility requirements.
- (5) A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.
- (6) Except as provided by paragraph (G), if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.
- (7) The following applies where a tract 60 acres or larger abuts a road or perennial stream.

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- (i) The measurement shall be made in accordance with paragraph (F). However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:
 - 1. Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
 - 2. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.
 - (ii) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.
- (8) A proposed “template” dwelling under this ordinance is not allowed:
- (i) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;
 - (ii) Unless it complies with the requirements of Sections (8) and (9);
 - (iii) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (6)(a)(C) for the other lots or parcels that make up the tract are met; or
 - (iv) If the tract on which the dwelling will be sited includes a dwelling.
- (9) Where other lots or parcels that make up a tract in Subsection (H):

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- (i) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (ii) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
- (d) Alteration, restoration or replacement of a lawfully established dwelling, where Subsections (A) or (B) apply:
 - (1) Alteration or restoration of a lawfully established dwelling that:
 - (i) Has intact exterior walls and roof structures;
 - (ii) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (iii) Has interior wiring for interior lights; and
 - (iv) Has a heating system.
 - (2) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- (e) A temporary hardship dwelling is subject to the following:
 - (1) One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

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- (i) The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required;
 - (ii) The county shall review the permit authorizing such manufactured homes every two years; and
 - (iii) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.
- (2) A temporary residence approved under this section is not eligible for replacement under Subsection (4)(c). Department of Environmental Quality review and removal requirements also apply.
- (3) As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.
- (f) Private seasonal accommodations for fee hunting operations are subject to the following requirements:
 - (1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (2) Only minor incidental and accessory retail sales are permitted; and
 - (3) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.
- (g) Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:
 - (1) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (2) Only minor incidental and accessory retail sales are permitted;

- (3) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 - (4) Accommodations must be located within one-quarter mile of fish-bearing Class I waters.
- (h) Solid waste disposal facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under ORS 459.245, shall meet the requirements of Section (7) and shall comply with the following requirements:
 - (1) The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Comprehensive Plan.
 - (2) The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest and grazing dwellings(s) or a residential zone.
 - (3) The facility shall be fenced when the site is located adjacent to dwelling(s) or a residential zone and landscaping, buffering and/or screening shall be provided.
 - (4) The facility does not constitute an unnecessary fire hazard. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, which may include but are not limited to the following:
 - (i) The area surrounding the facility is kept free from litter and debris.
 - (ii) Fencing will be installed around the facility, if deemed appropriate to protect adjacent farm crops or timber stand.
 - (iii) If the proposed facility is located in a forested area, construction materials shall be fire resistant or treated with a fire retardant substance and the applicant will be required to remove forest fuels within 30 feet of structures.
 - (5) The facility shall adequately protect fish and wildlife resources by meeting minimum Oregon State Department of Forestry regulations.

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- (6) Access roads or easements for the facility shall be improved to the county's Transportation System Plan standards and comply with grades recommended by the Public Works Director.
 - (7) Road construction for the facility must be consistent with the intent and purposes set forth in the Oregon Forest Practices Act to minimize soil disturbance and help maintain water quality.
 - (8) Hours of operation for the facility shall be limited to 8 am – 7 pm.
 - (9) Comply with other conditions deemed necessary.
- (i) Storage structures for emergency supplies are subject to the following requirements:
- (1) Areas within an urban growth boundary cannot reasonably accommodate the structures;
 - (2) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction;
 - (3) Sites where the structures could be co-located with an existing use approved under this subsection are given preference for consideration;
 - (4) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
 - (5) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and
 - (6) Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.

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- (j) For single-family dwellings, the landowner 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.
- (k) Permanent facility for the primary processing of forest products may be permitted where the facility is:
 - (1) Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or
 - (2) Located in an outdoor area that does not exceed one acre excluding laydown and storage yards, or
 - (3) Located in a combination of indoor and outdoor areas described in Subsections (A) and (B); and
 - (4) Adequately separated from surrounding properties to reasonably mitigate noise, odor, and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body.
- (7) Review Criteria. A use in the ETU Zone subject to this Section may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.
 - (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.
 - (b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
 - (c) 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 adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized by subsections (3)(o), (3)(s), (3)(bb), (4)(f), and (5)(d).

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- (d) The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria:
 - (1) The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;
 - (2) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;
 - (3) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;
 - (4) The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and
 - (5) The use is or can be made compatible with existing uses and other allowable uses in the area.

- (8) Siting Standards for Dwellings and Structures in Forest Zones. The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest zones. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this section together with the requirements of Section (9) to identify the building site:
 - (a) Dwellings and structures shall be sited on the parcel so that:
 - (1) They have the least impact on nearby or adjoining forest or agricultural lands;
 - (2) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - (3) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - (4) The risks associated with wildfire are minimized.

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- (b) Siting criteria satisfying Subsection (a) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.
- (c) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:
 - (1) 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;
 - (2) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (3) Verification from the Water Resources Department 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) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (e) Approval of a dwelling shall be subject to the following requirements:
 - (1) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;

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- (2) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
- (3) Stocking survey report:
 - (i) If the lot or parcel is more than 30 acres, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;
 - (ii) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and
- (4) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling 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.

- (9) Fire-Siting Standards for Dwellings and Structures. The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest zone:
- (a) 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 the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards that shall comply with the following:
- (1) The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
 - (2) 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;
 - (3) The applicant shall provide verification from the 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; and
 - (4) 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 fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (b) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

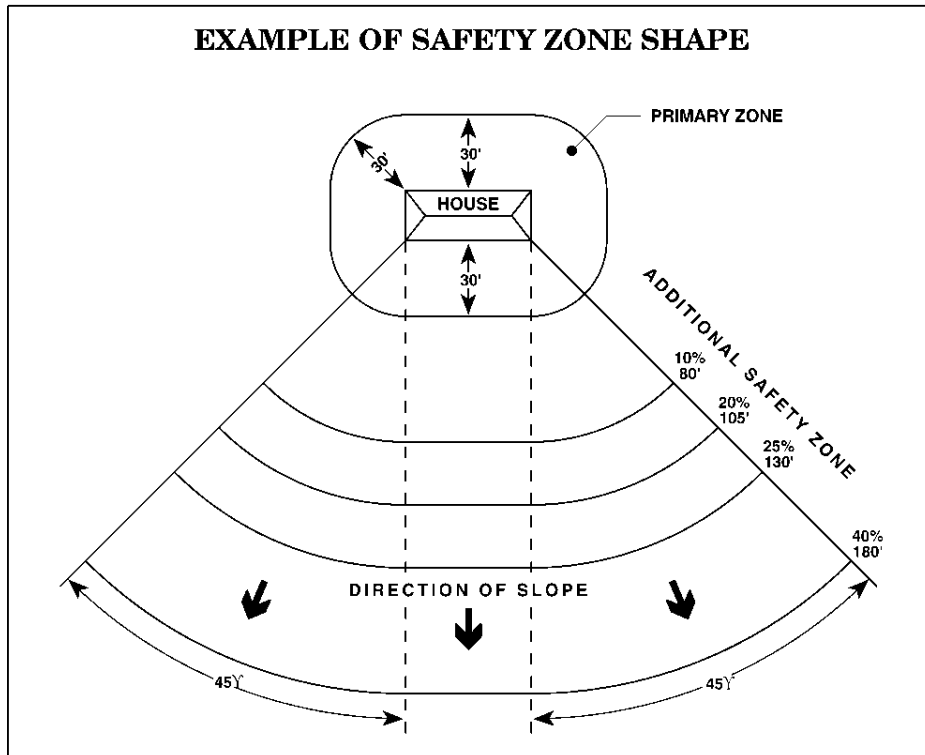
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- (c) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry *and shall demonstrate compliance with Table 3.2-1.*

TABLE 3.2-1 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 3.2-1



- (d) The dwelling shall have a fire retardant roof.
 - (e) The dwelling shall not be sited on a slope of greater than 40 percent.
 - (f) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
- (10) Youth Camps
- (a) The purpose of this section is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.
 - (b) Changes to or expansions of youth camps established prior to the effective date of this section shall be subject to the provisions of ORS 215.130.
 - (c) An application for a proposed youth camp shall comply with the following:

- (1) The number of overnight camp participants that may be accommodated shall be determined by the governing body, or its designate, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (10)(c)(B) a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.
 - (2) The governing body, or its designated may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under paragraph (10)(c)(A).
 - (3) Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.
 - (4) The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
 - (5) A campground as described in Subsection 5(d) shall not be established in conjunction with a youth camp.
 - (6) A youth camp shall not be allowed in conjunction with an existing golf course.
 - (7) A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.
- (d) The youth camp shall be located on a lawful parcel that is:
- (1) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. A youth camp shall be located on a parcel of at least 80 acres.

- (2) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the governing body, or its designate sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
 - (i) The proposed setback will prevent conflicts with commercial resource management practices;
 - (ii) The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and
 - (iii) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
 - (3) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate shall verify that a proposed youth camp will not result in the need for a sewer system.
- (e) A youth camp may provide for the following facilities:
- (1) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.

- (2) Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.
 - (3) Bathing and laundry facilities except that they shall not be provided in the same building as sleeping quarters.
 - (4) Up to three camp activity buildings, not including primary cooking and eating facilities.
 - (5) Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.
 - (6) Covered areas that are not fully enclosed.
 - (7) Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.
 - (8) An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).
 - (9) A caretaker's residence may be established in conjunction with a youth camp prior to or after June 14, 2000, if no other dwelling exists on the subject property.
- (f) A proposed youth camp shall comply with the following fire safety requirements:
- (1) The fire siting standards in Section (9);

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- (2) A fire safety protection plan shall be developed for each youth camp that includes the following:
 - (i) Fire prevention measures;
 - (ii) On site pre-suppression and suppression measures; and
 - (iii) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
- (3) Except as determined under paragraph (D), a youth camp's on-site fire suppression capability shall at least include:
 - (i) A 1000 gallon mobile water supply that can access all areas of the camp;
 - (ii) A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;
 - (iii) A sufficient number of fire-fighting hand tools; and
 - (iv) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
- (4) An equivalent level of fire suppression facilities may be determined by the governing body, or its designate. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.
- (5) The provisions of paragraph (D) may be waived by the governing body, or its designate, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.

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- (g) The governing body, or its designate, shall require as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(11) Land Divisions

- (a) The minimum parcel size for new forest parcels is 80 (eighty) acres.
- (b) New land divisions less than the parcel size in Subsection (a) may be approved for any of the following circumstances:
 - (1) For the uses listed in the following subsections provided that such uses have been approved pursuant to section (7) and the parcel created from the division is the minimum size necessary for the use.
 - (i) (3)(l). Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
 - (ii) (3)(p). Cemeteries.
 - (iii) (3)(r). Aids to navigation and aviation.
 - (iv) (3)(s). Reservoirs and water impoundments.
 - (v) (3)(u). Destination resorts, subject to ORS 197.435 to 197.467 and Goal 8.
 - (vi) (3)(x). Log scaling and weigh stations
 - (vii) (3)(z). Permanent facility for the primary processing of forest products subject to (6)(k).
 - (viii) (3)(aa). Permanent logging equipment repair and storage.

- (ix) (3)(gg). Television, microwave and radio communication facilities and transmission towers.
 - (x) (3)(hh). Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
 - (xi) (3)(ii). Firearms training facility as provided in ORS 197.770(2).
 - (xii) (3)(jj). Fire stations for rural fire protection.
 - (xiii) (5)(b). Commercial utility facilities for the purpose of generating power subject to Subsection (6)(b).
 - (xiv) (5)(d). Private parks and campgrounds.
 - (xv) (5)(f). Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Subsection (3)(h) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
 - (xvi) (5)(g). Disposal site for solid waste approved by the governing body of a city or county or both and 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.
 - (xvii) (5)(h). Public parks.
- (2) For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:
- (i) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres; and
 - (ii) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

- (A) Meets the minimum land division standards of the zone;
or
 - (B) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.
- (3) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection (a). Approvals shall be based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection (a) in order to conduct the forest practice. Parcels created pursuant to this paragraph:
 - (i) Are not eligible for siting of a new dwelling;
 - (ii) May not serve as the justification for the siting of a future dwelling on other lots or parcels;
 - (iii) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
 - (iv) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
 - (A) Facilitate an exchange of lands involving a governmental agency; or
 - (B) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
- (4) To allow a division of a lot or parcel zoned for forest use if:
 - (i) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
 - (ii) Each dwelling complies with the criteria for a replacement dwelling under paragraph (6)(d);

- (iii) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;
 - (iv) At least one dwelling is located on each parcel created under this paragraph; and
 - (v) The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.
- (5) To allow a proposed division of land to preserve open space or parks, as provided in ORS 215.783.
- (c) A lot or parcel may not be divided under paragraph (11)(b)(4) if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel.
 - (d) Restrictions
 - (1) An applicant for the creation of a parcel pursuant to paragraph (11)(b)(2) shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection (b).

- (2) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.
- (e) A landowner allowed a land division under Subsection (b) shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, 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) The county governing body or its designate may not approve a property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists.
- (g) A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for forest use and is smaller than the minimum parcel size, provided that:
 - (1) If the parcel contains a dwelling, it must be large enough to support continued residential use.
 - (2) If the parcel does not contain a dwelling:
 - (i) It is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (ii) It may not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use; and
 - (iii) The owner of the parcel shall record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(12) Development Standards. All dwellings and structures approved pursuant to Article 3.2 shall be sited in accordance with this Section.

(a) Lot Size Standards. Lot size shall be consistent with the requirements of Section (11).

(b) Setbacks.

(1) Front Yard: All buildings or structures with the exception of fences shall be setback a minimum of 50 feet from the property line, unless approved by the Planning Commission.

(2) Rear Yard: 30 feet

(3) Side Yard: 30 feet

SECTION 3.3 RURAL RESIDENTIAL, R-R ZONE. In an R-R Zone the lot size may be 10, 20, or 40 acres and set forth on the zoning map, and the following regulations shall apply:

APPLICATION: This zone shall only be applied when 66% of the property owners in an area to be designated R-R, agree to the designation, either as part of the application or a petition attached to the zone change application. All necessary material to comply with an exception set forth in OAR 660 Division 4, and the plan amendment procedures set forth in Article 8 of this Ordinance shall be submitted with the zone change application.

- (1) Uses Permitted Outright. In an RR Zone, the following uses and their accessory uses are permitted outright:
- (a) Single-Family Residential Dwelling, including Modular, Prefabricated and Manufactured Homes.
 - (b) Two-Family Dwelling or Duplex.
 - (c) Residential Home as defined by ORS 443.580(3).
 - (d) Family Day Care Center as defined in ORS 418.
 - (e) Utility lines and service facilities necessary for local or community public service.
 - (f) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
 - (g) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
 - (h) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
 - (i) Landscaping as part of a transportation facility.
 - (j) Emergency measures necessary for the safety and protection of property

- (k) Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones.
 - (l) Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.
- (2) Conditional Uses Permitted. In an RR Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this Section and Article 5 of this Ordinance:
- (a) Public or Private School or Church, including buildings essential to the operation thereof.
 - (b) Governmental structure or land use including, but not limited to, a public park, playground recreation building, fire station, library or museum, including a living history museum.
 - (c) Home Occupation or Cottage Industry.
 - (d) Boarding, lodging or rooming house, or Bed and Breakfast facility.
 - (e) Bed and Breakfast Facility.
 - (f) Guest House.
 - (g) Residential Trailer or Mobile Home as a single family residential dwelling.
 - (h) Temporary residential dwellings as permitted in Article 4 of this Ordinance.
 - (i) Community building owned and operated by a governmental agency or a nonprofit, social or fraternal organization.
 - (j) Medical service facilities such as clinics, sanitariums, rest homes, homes for the aged, nursing or convalescent homes.
 - (k) Telephone exchanges, radio and television facilities, electrical substations, and other public or private utility facilities.
 - (l) Residential Facility or Adult Foster Home.
 - (m) Planned Unit Development.
 - (n) Recycling Center and/or Solid Waste Transfer Station.
 - (o) Wireless telecommunications facilities
 - (p) Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:
 - (A) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.
 - (B) The project is designed to minimize avoidable environmental

- impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.
 - (C) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 - (D) Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.
 - (q) Construction of rest areas, weigh stations, temporary storage, and processing sites.
 - (r) If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.
 - (s) Cluster Development
 - (t) Recreational Vehicles Parks; as set forth in Article 5.8(9).
- (3) Dimensional Standards. In an R-R Zone, the following Dimensional Standards shall apply:
- (a) RR-10 the minimum lot size shall be 10 acres
RR-20 the minimum lot size shall be 20 acres
RR-40 the minimum lot size shall be 40 acres
 - (b) Front yard shall be a minimum of 30 feet, and each side yard shall be a minimum of 30 feet.
 - (c) No building shall exceed a height of 35 feet measured from grade.

SECTION 3.4 GENERAL COMMERCIAL, C-1 ZONE. In a C-1 Zone, the following regulations shall apply:

- (1) An exception to the Statewide Planning Goals as set forth in OAR 660 Division 4 shall be necessary before this zone may be applied.
- (2) Uses Permitted Outright. In a C-1 Zone, the following uses and their accessory uses are permitted outright:
 - (a) Retail trade establishments such as food store, drug store, hardware store, furniture store or automotive sales.
 - (b) Financial institutions.
 - (c) Business, governmental or professional offices.
 - (d) Service commercial establishments such as a motel, gasoline service station or restaurant.
 - (e) Manufactured home parks meeting the requirements described in Section 5.8(6) of this Ordinance.
 - (f) Personal and business services such as a barber shop, tailoring shop, printing shop, funeral home, laundry or dry cleaning establishment.
 - (g) Recreation vehicle park meeting the requirements described in Section

- 5.8(12) of this Ordinance.
- (h) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
 - (i) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
 - (j) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
 - (k) Landscaping as part of a transportation facility.
 - (l) Emergency measures necessary for the safety and protection of property
 - (m) Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones.
 - (n) Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.
- (3) Conditional Uses Permitted. In a C-1 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this Section and Article 5 of this Ordinance:
- (a) Residential use in conjunction with a use permitted outright in this Section.
 - (b) Kennel or veterinary clinic.
 - (c) Automobile wrecking yard.
 - (d) Commercial amusement establishments such as a bowling alley or dance hall.
 - (e) Utility facilities necessary for public service.
 - (f) Wireless telecommunications facilities
 - (g) Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:
 - (A) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.
 - (B) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.
 - (C) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 - (D) Project includes provision for bicycle and pedestrian circulation as

consistent with the comprehensive plan and other requirements of this Ordinance.

- (h) Construction of rest areas, weigh stations, temporary storage, and processing sites.
 - (i) If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.
- (4) Yards. Except as provided to the contrary by this Ordinance, in a C-1 Zone:
- (a) The front yard shall be a minimum of 30 feet.
 - (b) The side and rear yard shall be a minimum of 30 feet.
- (5) Use Limitations. In a C-1 Zone, allowed uses shall be subject to the following limitations and standards:
- (a) All parking demand created by a use shall be accommodated on the subject premises except as otherwise approved by the County.
 - (b) No use permitted in this Zone shall require the backing of traffic onto a public street right-of-way to accommodate ingress and egress to any use on the subject premises thereof except as otherwise approved by the Planning Commission.
 - (d) All non-residential uses permitted in this Zone may be required to be screened from abutting properties in a residential zone by a sight-obscuring fence and/or by vegetative landscaping.
- (6) Off-Street Parking and Loading. At the time a new structure is erected or an existing structure is enlarged or the use of an existing structure is changed off-street parking spaces shall be provided as follows, unless greater requirements are otherwise established. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property.
- (1) Residential Uses: One space per dwelling unit
 - (2) Commercial Accommodations: One space per guest room
 - (3) Institutional Uses: One space per bed
 - (4) Places of Assembly: One space per 4 seats or 8 feet of bench length in the main auditorium. If no permanent seats are provided, one space per 35 square feet of floor area used for meeting rooms.
 - (5) Commercial Uses: One space per 600 square feet of floor area
 - (6) Bicycle Parking: Unless otherwise specifically established at the time of erection of a new structure, bicycle parking will be provided as follows:
 - (a) A minimum of 2 bicycle parking spaces per use (at least one sheltered) shall be required.
 - (b) The following Special Minimum Standards shall be considered as

supplemental requirements for the number of required bicycle parking spaces.

(1) Multi-Family Residences. Every residential use of four (4) or more dwelling units shall provide at least one sheltered bicycle parking space for each unit. Sheltered bicycle parking spaces may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the required bicycle parking spaces shall be sheltered under an eave, overhang, an independent structure, or similar cover.

(2) Parking Lots. All public and commercial parking lots and parking structures shall provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces.

(3) Schools. Elementary and middle schools, both private and public, shall provide one bicycle parking space for every 10 students and employees. High schools shall provide one bicycle parking space for every 5 students and employees. All spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.

(4) Downtown. In downtown, bicycle parking for customers shall be provided along the street at a rate of at least one space per use, but may be placed in clusters in appropriate locations. Spaces may be clustered to serve up to six (6) bicycles; at least one cluster per block shall be provided. Bicycle parking spaces shall be located in front of the stores along the street, either on the sidewalks in specially constructed areas such as pedestrian curb extensions. Inverted "U" style racks are recommended. Bicycle parking shall not interfere with pedestrian passage, leaving a clear area of at least 5 feet. Customer spaces are not required to be sheltered. Sheltered parking (within a building, or under an eave, overhang, or similar structure) shall be provided at a rate of one space per 10 employees, with a minimum of one space per store.

(5) Rural Schools, Service Centers, and Industrial Parks. Where a school, service center, or industrial park is located 5 or more miles from the closest urban area or rural residential subdivision with a density of more than one dwelling unit per 20 acres, a minimum of two bicycle parking spaces per use shall be required.

(c) The following formulas for calculating the number of required bicycle parking spaces are recommended shall be used:

(1) Fractional numbers of spaces shall be rounded up to the next whole space.

(2) For facilities with multiple uses (such as a commercial center), the bicycle parking requirements shall be calculated by using the total

number of motor vehicle parking spaces required for the entire development.

- (7) Signs. The following signs are permitted in the C-1 Zone:
 - (a) Signs advertising only the name and nature of the business being conducted on, or the products, facilities, goods or services being sold or supplied or distributed on or from the premises on which the signs are located and comply with ORS 377.
 - (b) Signs erected and maintained by a public utility for the purpose of giving warning of the location of an underground cable or other installation; and
 - (c) Signs advertising the sale or lease of the property upon which they are located.

SECTION 3.5 LIMITED USE COMBINING ZONE (LU ZONE). In any Limited Use Combining Zone (LU), the requirements and standards of this Section shall apply in addition to those specified in this title for the underlying zone and any other applicable combining zones. In the event of a conflict between the requirements and standards of this Section and those of the underlying zone or other applicable combining zones, the provisions of this Section shall govern.

- (1) Purpose.
 - (a) The purpose of the LU Zone is to limit the list of permitted uses and general activities allowed in the underlying zone, when a plan amendment and zone change rezones a parcel of land to that underlying zone through the taking of an exception to a statewide land use planning goal under ORS 197.732. It is further the purpose of the LU Zone to aid in achieving the goal of economic diversification and increased employment opportunities for existing and future residents of the County.
 - (b) The LU Zone is an overlay zone which may be applied, where appropriate, to plan amendments/zone changes effected under ORS 197.732(1)(a), 197.732(1)(b) and 197.732(1)(c).
 - (c) The LU Zone, when adopted, shall carry out the requirement of Oregon Administrative Rule 660-04-018 which indicates that where a goal exception is taken, permitted uses shall be limited to those uses justified by the exception statement.
- (2) Combining Zone Requirements. When the LU Zone is applied, the uses permitted in the underlying zone shall be limited to those uses and general activities specifically set forth in the ordinance adopting the underlying zone and the LU Zone. Any change in those uses and general activities must be made through the plan/land use regulation amendment process.
- (3) Use Limitations. The following limitations shall apply to the underlying zone when the LU Zone is applied:
 - (a) In all cases, the County Court shall establish that:

- (1) The uses and general activities subject to the rezoning are required to be limited to those uses and general activities justified in the goal exception taken.
 - (2) A review of all existing appropriately zoned property in the County demonstrates that such property does not adequately accommodate the requested use or sufficiently limit the proposed use and general activities.
 - (3) The LU Zone, when applied to the underlying zone, is consistent with the Comprehensive Plan and other applicable policies of the County.
- (4) Adoption. The ordinance adopting the underlying zone and the LU Zone shall set forth those specific uses and general activities which will be permitted. The description of the permitted and conditional uses may be qualified as necessary to achieve the purpose of the LU Zone.
- (5) Official Plan/Zoning Map. The official plan/zoning map shall be amended to show an LU suffix on any parcel where the LU Zone has been applied and the exception will be included in the Wheeler County Comprehensive Plan.
- (6) Site Plan Requirement.
- (a) In addition to limiting the uses in the underlying zone where the LU Zone is applied, the County may also require approval of the location of buildings, access, parking, screening and other site planning considerations in order to reasonably reduce the impact of the new use on existing permitted uses within the area.
 - (b) The process of reviewing the site plan shall be described at the time of the LU Zone application. Site plan requirements may be added by specific reference in the LU adopting ordinance. Specifications and standards of the underlying zone remain in effect unless specifically altered by the site plan required under the LU adopting ordinance.

SECTION 3.6 RURAL COMMUNITY R-C ZONE. In an R-C zone the procedures for establishment of a Rural Community in OAR 660-022-0030 shall apply.

- (1) Use Permitted: Permitted uses are those allowed in OAR 660-022-0030 and:
- (a) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
 - (b) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
 - (c) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
 - (d) Landscaping as part of a transportation facility.
 - (e) Emergency measures necessary for the safety and protection of property.

- (f) Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones.
- (2) Conditional Uses Permitted:
- (a) Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:
 - (A) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.
 - (B) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.
 - (C) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 - (D) Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this Ordinance.
 - (b) Construction of rest areas, weigh stations, temporary storage, and processing sites.
 - (c) If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.
- (3) Yards: All lot sizes, building sizes and setbacks shall not exceed the standards in OAR 660-022-0030
- (4) Use limitations. In a C-1 Zone, allowed uses shall be subject to the following limitations and standards:
- (a) All parking demand created by a use shall be accommodated on the subject premises except as otherwise approved by the County.
 - (b) No use permitted in this Zone shall require the backing of traffic onto a public street right-of-way to accommodate ingress and egress to any use or the subject premises thereof except as otherwise approved by the Planning Commission.
 - (c) All non-residential uses permitted in this Zone may be required to be screened from abutting properties in a residential zone by a sight-

- obscuring fence and/or by vegetative landscaping.
- (5) Off-street Parking and Loading. In the R-C zone off street parking and loading facilities shall be provided in accordance with the provisions set forth by article 4 of this Ordinance.
 - (6) Signs. The following signs are permitted in the C-1 Zone:
 - (a) Signs advertising only the name and nature of the business being conducted on, or the products, facilities, goods or services being sold or supplied or distributed on or from the premises on which the signs are located and comply with ORS 377.
 - (b) Signs erected and maintained by a public utility for the purpose of giving warning of the location of an underground cable or other installation.
 - (c) Signs advertising the sale or lease of the property upon which they are located.

SECTION 3.7 FRONTIER COMMERCIAL FC ZONE: The purpose of the FC Zone is to provide standards and review procedures for the development of remote rural commercial areas serving travelers, recreational users and resident of interior Wheeler County.

- A. Uses permitted Outright. The following uses and their accessory uses are permitted outright, subject to applicable provisions of this chapter:
 - 1. Class I and II road or street project subject to approval as part of a land partition, subdivisions or subject to the standards and criteria established by DCC 18.116.230.
 - 2. Class III road and street project.
 - 3. Farm use as defined in ORS 215.203 and excluding livestock feed lot or sales yard and hog or mink farms.

- B. Uses Permitted Subject to Administrative Review. For Purposes of the section the Administrative Review will be conducted by the county Planning Commission. The following uses and their accessory uses are permitted, subject to applicable provisions of the Ordinance. New buildings will be reviewed for consistency with the design standards described at Section 3.7.G.
 - 1. Retail store, business offices, and/or commercial establishment in a building or buildings each not exceeding 3,500 square feet of floor space.
 - 2. Single-family dwellings in conjugation with a permitted commercial use.
 - 3. Park or playground.
 - 4. Community building.
 - 5. Public or semipublic building or use.
 - 6. Highway maintenance facility.

- C. Conditional uses Permitted. The following uses and their accessory uses are permitted subject to applicable provisions of this Ordinance, including but not limited to the provision of Article 5 and Section 3.7.G.

1. Church.
2. School.
3. Cemetery.
4. Home occupation.
5. Medical clinic or veterinary clinic.
6. Community center.
7. Recreational vehicle or trailer park.
8. Recreational lodging opportunities pursuant to Section 3.7.E.
9. Single family dwelling not in conjunction with a permitted commercial use to be located on a lot or parcel existing as of March 8, 2005. Multiple single family dwelling may be permitted on the same lot or parcel so long as the overall residential density for single family dwellings not in conjunction with a permitted commercial use don't not exceed one dwelling per 10 acres.
10. Residential home and residential facility.

D. Yard and Setback Requirements.

7. The front yard setback shall be a minimum of 20 feet.
8. The minimum side yard setback shall be 10 feet.
9. The minimum rear yard setback shall be 20 feet.
10. The minimum side and rear yard setbacks for property that is adjacent to land zoned exclusive farm use shall be 50 feet.

E. Standards for Recreational Lodging Opportunities. Recreational Lodging Opportunities may be approved, subject to the applicable provisions of this ordinance and provided that:

1. Recreational lodging opportunities are intended to serve individuals traveling, recreating or otherwise visiting interior Wheeler County. Under no circumstances may Recreational Lodging Opportunities be occupied as a principal residence.
2. May be a bed & breakfast operation, small lodge or a collection of small detached cabins.
3. Recreational Lodging Opportunities expresses as a bed and breakfast or a small lodge shall have a minimum of eight (8) overnight unities and shall be included in a single building.
4. Recreational Lodging Opportunities expressed as a collection of small cabins may not exceed six (6) unites on any one property and shall maintain an average size that does not exceed 800 square feet of floor space.
5. Clear demonstration must be provided by the applicant that the proposed development will not exceed the subject property's capacity for water supply and wastewater disposal.

F. Requirements for Lots and Parcels.

1. Commercial and Public Uses.
 - a. The minimum lot size for a commercial use served by an on-site septic system and individual well shall be the size necessary to accommodate the use.
 - b. Each lot shall have a minimum width of 150 feet.

- c. On-site sewage disposal. For new lots or parcels, an applicant shall demonstrate that the lot or parcel can meet DEQ on-site disposal rules prior to final approval of a subdivision or partition.

G. Design Standards. New buildings that exceed 120 square feet and are not in conjunction with a use permitted outright shall be designed and constructed to promote a rustic, frontier theme. The county Planning Commission shall act as the Design Review body for purposes of this Article.

1. Commercial and Public Uses.

- a. Roofs. Coverings shall be non-reflective metal, tile, asphalt, and other appropriate materials. If wood roofing is used it shall be fire retardant treated. All roofs shall have a minimum 6-12 pitch unless a detailed store front design is proposed that includes regularly spaced and similar shaped windows with window hoods or trim and a decorative cornice at the top of the building.
- b. Exterior materials. Typical materials are varieties of horizontal wood siding, vertical board and batten (rough and sawn or surfaced four sides) and cedar shingles, with the latter particularly applicable to ornamental patterns on residential structures. Any T-111 (grooved) plywood siding is prohibited.
- c. Exterior Colors. The exterior of a building is to be painted or oiled and/or stained to protect the surface materials. Rough sawn or milled boards and batten, particularly cedar and redwood, may be retained in a natural finish. Other colors for large surface areas shall be earthy ochres, yellows, browns, and reds with appropriate trim.

2. Residential Uses including Recreational Lodging Opportunities.

- a. Roofs. Coverings shall be non-reflective metal, tile, asphalt and other appropriate materials, If wood roofing is used it shall be fire retardant treated. All roofs shall have a minimum 6-12 pitch.
- b. Exterior Materials. Typical materials are varieties of horizontal wood siding, vertical board and batten (rough sawn or four surfaced sides) and cedar shingles with the latter particularly applicable to ornamental patterns on residential structures. Any T-111 (grooved) plywood siding is prohibited on elevation facing a public or private street.
- c. Exterior Colors. The exterior of a building is to be painted or oiled and/or stained to protect the surface materials. Rough sawn or milled boards and batten, particularly cedar and redwood, may be retained in a natural finish. Other colors for large surface areas shall be earthy ochers, yellows, browns, and reds, with appropriate trim.
- d. Additional Features. Residential development is strongly encouraged to include features such as dormers and gables in addition to the primary roof pitch, covered porch entries, recessed entries, bay or bow windows, and exterior window sills.

H. Existing Uses.

1. Any use existing on the date this article is applied to a particular area or property shall be considered a conforming use.
2. Any building that contains elements of a use existing on the date this article is applied to a particular area or property may be expanded by 50% or up to 4,000 square feet, whichever is larger.

ARTICLE 4. SUPPLEMENTARY PROVISIONS

SECTION 4.1 AUTHORIZATION OF SIMILAR USES. The Planning Commission may permit in a particular zone, except in the EFU and ETU Zones, a use not listed in this ordinance, provided that the use is of the same general type as the uses permitted in this Ordinance.

SECTION 4.2 PROJECTIONS FROM BUILDINGS. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 2 feet into a required yard.

SECTION 4.3 OFF-STREET PARKING. At the time a new structure is erected or an existing structure is enlarged or the use of an existing structure is changed in an R-1, R-5 or C-1 zone, off-street parking spaces shall be provided as follows, unless greater requirements are otherwise established. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property.

- (1) Residential Uses: One space per dwelling unit
- (2) Commercial Accommodations: One space per guest room
- (3) Institutional Uses: One space per bed
- (4) Places of Assembly: One space per 4 seats or 8 feet of bench length in the main auditorium. If no permanent seats are provided, one space per 35 square feet of floor area used for meeting rooms.
- (5) Commercial Uses: One space per 600 square feet of floor area
- (6) Bicycle Parking: Unless otherwise specifically established at the time of erection of a new structure, bicycle parking will be provided as follows;
 - (a) A minimum of 2 bicycle parking spaces per use (at least one sheltered) shall be required.
 - (b) The following Special Minimum Standards shall be considered as supplemental requirements for the number of required bicycle parking spaces.
 - (1) Multi-Family Residences. Every residential use of four (4) or more dwelling units shall provide at least one sheltered bicycle parking space for each unit. Sheltered bicycle parking spaces may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the required bicycle parking spaces shall be sheltered under an eave, overhang, an independent structure, or similar cover.
 - (2) Parking Lots. All public and commercial parking lots and parking structures shall provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces.
 - (3) Schools. Elementary and middle schools, both private and public, shall provide one bicycle parking space for every 10 students and employees. High schools shall provide one bicycle parking space for every 5 students and employees. All spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.
 - (4) Downtown. In downtown, bicycle parking for customers shall be provided along the street at a rate of at least one space per use, but may be placed in clusters in appropriate locations. Spaces may be clustered to serve up to six (6) bicycles; at least one cluster per block shall be provided. Bicycle parking spaces shall be located in front of the stores along the street, either on the sidewalks in specially constructed areas such as pedestrian curb extensions. Inverted "U" style racks are recommended. Bicycle parking

shall not interfere with pedestrian passage, leaving a clear area of at least 5 feet. Customer spaces are not required to be sheltered. Sheltered parking (within a building, or under an eave, overhang, or similar structure) shall be provided at a rate of one space per 10 employees, with a minimum of one space per store.

- (5) Rural Schools, Service Centers, and Industrial Parks. Where a school, service center, or industrial park is located 5 or more miles from the closest urban area or rural residential subdivision with a density of more than one dwelling unit per 20 acres, a minimum of two bicycle parking spaces per use shall be required.
- (c) The following formulas for calculating the number of required bicycle parking spaces are recommended shall be used:
 - (1) Fractional numbers of spaces shall be rounded up to the next whole space.
 - (2) For facilities with multiple uses (such as a commercial center), the bicycle parking requirements shall be calculated by using the total number of motor vehicle parking spaces required for the entire development.

SECTION 4.4 RESIDENTIAL TRAILER OR MOBILE HOME, SINGLE-WIDE, OR RECREATION VEHICLE AS A TEMPORARY RESIDENCE ON AN INDIVIDUAL LOT. A single-wide residential trailer or mobile home, or recreation vehicle may be authorized as a temporary residence on an individual lot if found to comply with the following conditions:

- (1) The unit shall only be occupied by the owner of the lot on which the unit is located.
- (2) The unit shall only be placed upon a lot and occupied by the owner for which a building permit for a conventional housing unit or a placement permit for a manufactured home meeting the standards of the applicable Zone has been obtained.
- (3) The unit shall only be occupied during a period in which satisfactory progress is being made towards the completion of the conventional housing unit or placement of the manufactured home for which a permit has been obtained, and in no case shall such time period exceed 18 months involving a conventional dwelling or 6 months involving a manufactured home.
- (4) Electric, sewer and water connections shall be made to the unit, and in the case of on site subsurface sewage disposal, such system shall be completed as approved for the ultimate use of the intended permanent dwelling unit.
- (5) The owner of the lot agrees in writing to remove said unit from the lot no later than the applicable time period set forth in Subsection (3) above, or not later than one month following the completion of the housing unit or placement of the manufactured home, whichever occurs first.
- (6) The County Planning Official may review permits issued under this Section at any time and revoke such permits when found to not be in compliance, including evidence of unsatisfactory progress on construction or placement of the intended housing unit.

SECTION 4.5 RESIDENTIAL USE OF RECREATIONAL VEHICLES. Recreational vehicles may not be occupied for residential purposes or other purposes on any lot in the County except as follows:

- (1) As permitted as a Temporary Residence by Section 4.4.
- (2) In an approved Recreational Vehicle park or in an approved Mobile or Manufactured Home Park on spaces specifically approved for RV Vehicle use.
- (3) The owner of a lot or parcel and up to one invitee may place a RV on a lot for 14 days in a 90-day period with either an approved septic system, or all wastewater is properly disposed of in an approved septic system or dumping station

SECTION 4.6 RESIDENTIAL TRAILER OR MOBILE HOME, SINGLE-WIDE, OR MOBILE

HOUSE OR MANUFACTURED HOME, DOUBLE-WIDE, AUTHORIZED AS TEMPORARY RESIDENCE FOR CARE OF A RELATIVE IN CONJUNCTION WITH AN EXISTING RESIDENTIAL USE. It is the intent of this Temporary Use permit Section to provide a set of procedures and standards for the temporary placement and use of certain structures which, because of personal hardship and special needs, require special consideration for such temporary usage after a demonstration of temporary special need, and a finding of no adverse impact on the welfare of adjacent properties and the County as a whole, nor of detriment to the overall intent of this Ordinance and the applicable Zone designation.

- (1) No such temporary permit shall be granted which would have the effect of creating a permanent rezoning, nonconforming use or variance, or result in a hardship when the use is not permitted to continue at the expiration of the permit period. Further, no such permit shall be granted which has the effect of conferring a special privilege for which other property within the same Zone would not be equally eligible under the same applicable provisions.
- (2) As a temporary special use permit in every Zone in which residential uses are permitted, farm or nonfarm, the County Planning Official, as a Conditional Use Permit, may approve one accessory Manufactured Home dwelling unit in conjunction with a pre-existing primary dwelling unit with the following findings and limitations:
 - (a) That such a unit is necessary to give care for or provide custody of an elderly, handicapped, or infirm relative whom a medical doctor certifies is in need of this special kind of care or custody; and
 - (b) That no additions, except handicapped accessibility, to the Manufactured Home unit shall be permitted, nor shall such unit be connected in any way except for a covered walkway to the main dwelling unit; and
 - (c) That all common utilities and facilities can be provided, including electricity, domestic water and sewage disposal; and
 - (d) That all setback requirements of the applicable Zone designation can be met; and
 - (e) That the subject Manufactured Home unit is not of such condition as to constitute a visual nuisance or be a safety hazard to the occupant thereof.
- (3) A temporary special use permit granted under this Section shall be null and void when the elderly, handicapped or infirm relative who is the subject of the permit moves to another residence, or is absent from the residence for more than 120 days, or leaves the residence with no likelihood of returning. Exception to the 120 day limit may be approved because of extraordinary circumstances such as extended hospitalization, but in any case, the subject unit shall not be occupied by any other person(s) than originally intended and approved for.
- (4) Within 30 days of the permit becoming void or revoked, the unit shall be removed by the owner of the real property unless otherwise approved by the County.
- (5) The County may review permits issued under this Section at any time, and revocation thereof shall be effected upon a finding of noncompliance with the provisions of this Section or with any other conditions set forth at the time of issuance of the permit. Such permits shall be issued on a one-year basis and renewable on an annual basis without reapplication or additional fees provided compliance with the conditions applicable to such permit is maintained.
- (6) A unit placed under a permit authorized by this Section shall be located as close as possible to the primary dwelling, and unless there are physical limitations of the property, this should be within 300 feet.

SECTION 4.7 MINIMUM STANDARDS FOR MOBILE HOMES OR MANUFACTURED HOMES PERMITTED ON INDIVIDUAL LOTS AS SINGLE-FAMILY DWELLINGS. A Mobile Home or Manufactured Home permitted as a single-family dwelling on an individual lot as an Outright Use shall be in compliance with the following standards as a minimum:

- (1) All pre-owned and pre-occupied units (i.e. used) shall be inspected by a certified Building Official and/or by the County Planning Official prior to installation and occupancy to insure that such units are in such condition as to not be detrimental to the public health, safety and general welfare of the occupants or to the adjoining properties. The costs of such inspection shall be borne by the applicant. In lieu of an actual inspection of such units which are not readily available for such inspection, the applicant may submit "current" color photographs of the unit, both exterior and interior, and a certification by the current owner as to the condition of said unit.
- (2) The unit shall be placed upon a foundation having permanence and strength equal to that provided by a concrete or masonry block foundation, and such foundation shall be installed according to the manufacturer's instructions and as approved by the State Building Codes Agency or other approving agency. All road and transient lights, wheels, axles and the hitch shall be removed.
- (3) The unit shall have a continuous perimeter of skirting that shall be composed of the same material and finish as the exterior of the unit, or shall be of brick, concrete or masonry block. Such skirting shall be secure against the entrance of animals, but there shall be provisions for ventilation and access to the space under the unit.
- (4) All plumbing, electrical, and other public service and utility connections shall be approved by the State Building Codes Agency or other approving agency, and a placement permit shall be issued by the appropriate agency.

SECTION 4.8 WIRELESS TELECOMMUNICATIONS FACILITIES.

- (1) Application Requirements. An application for a wireless telecommunications facility shall comply with the following meeting, notice and submittal requirements.
 - (a) Neighborhood Meeting. Prior to scheduling a pre-application conference with the Planning Department staff, the applicant shall provide notice of and hold a meeting with interested owners of property nearby to a potential facility location. Notice shall be in writing and shall be mailed no less than 10 days prior to the date set for the meeting to owners of record of property within a) 1,320 feet for a tower or monopole no greater than 100 feet in height, and b) 2000 feet for a tower or monopole at least 100 feet and no higher than 150 feet in height. Such notice shall not take the place of notice required by section 9 of this ordinance. A tower or monopole more than 150 feet shall require a variance as required in section 7 of this ordinance, but does not require additional notice requirements as set forth in subsection b).
 - (b) Pre-Application Conference. The applicant shall attend a scheduled preapplication conference prior to submission of a land use application. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with the Planning Department staff.
 - (c) Submittal Requirements. An application for a conditional use permit for a wireless telecommunications facility shall include:
 - (A) A copy of the blank lease form.
 - (B) A copy of the applicant's Federal Communications Commission license.
 - (C) A map that shows the applicant's search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles.
 - (D) A copy of the written notice of the required neighborhood meeting and a certificate of mailing showing that the notice was mailed to the list of property owners falling within the notice area designated under subsection (1)(a) of this Section.

- (E) A written summary of the neighborhood meeting detailing the substance of the meeting, the time, date and location of the meeting and a list of the meeting attendees.
 - (F) A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, and any equipment shelter, utility connections, and any fencing proposed to enclose the facility.
 - (G) A copy of the design specifications including proposed colors and elevation of an antenna array proposed with the facility.
 - (H) An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape.
 - (I) A copy of a letter of determination from the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA) whether or not aviation lighting would be required for the proposed facility.
- (2) Approval Criteria: An application for a wireless telecommunication facility will be approved upon findings that:
- (a) The facility will not be located on irrigated land.
 - (b) The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that it has made a good faith effort to co-locate its antenna on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served.
 - (c) The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residents.
 - (d) The applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available. approved by the Planning Commission.
 - (e) A tower or monopole is finished with natural wood colors or other colors approved by the Planning Commission.
 - (f) A required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODA.
 - (g) The form of lease for the site does not prevent the possibility of co- location of additional wireless telecommunication facilities at the site.
 - (h) Any tower or monopole shall be designed in a manner that it can carry the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting that statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers.
 - (i) An approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner, or as

set forth in the lease between the landowner and the applicant.

SECTION 4.9 COMPLIANCE WITH AND CONSIDERATION OF STATE AND FEDERAL AGENCY RULES AND REGULATIONS.

- (1) Approval of any use or development proposal pursuant to the provisions of this Ordinance shall require compliance with and consideration of all applicable State and Federal agency rules and regulations.

SECTION 4.10 REPLACEMENT DWELLINGS. The alteration, restoration or replacement of a lawfully established dwelling that:

- (1) Has intact exterior walls and roof structure;
- (2) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (3) Has interior wiring for interior lights;
- (4) Has a heating system; and
- (5) In the case of replacement, is removed, demolished or converted into an allowable nonresidential use within 3 months of the completion of the replacement dwelling.

SECTION 4.11 CONDITIONS FOR DEVELOPMENT PROPOSALS

- (1) The proposed use shall not impose an undue burden on the public transportation system. For developments that are likely to generate more than 400 average daily motor vehicle trips (ADTs), the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding street system. The developer shall be required to mitigate impacts attributable to the project.
- (2) The determination of impact or effect and the scope of the impact study should be coordinated with the provider of the affected transportation facility.
- (3) Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.
- (4) Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use where the existing transportation system may be burdened by the proposed use.

ARTICLE 5. CONDITIONAL USES

SECTION 5.1 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

Uses designated in this Ordinance as Conditional Uses may be permitted, enlarged or otherwise altered when authorized in accordance with the standards and procedures set forth in this Ordinance. In the case of a use existing prior to the effective date of this Ordinance, a change in use, enlargement or alteration of such use shall conform with the provisions of a conditional use if so classified. An application for a Conditional Use may be approved, modified, approved with conditions, or denied by the designated authority.

SECTION 5.2 GENERAL CRITERIA. In determining whether or not a Conditional Use proposal shall be approved or denied, it shall be determined that the following criteria are either met or can be met through compliance with specific conditions of approval.

- (1) The proposal is compatible with the County Comprehensive Plan and applicable Policies.
- (2) The proposal is in compliance with the requirements set forth by the applicable primary Zone, by any applicable combining zone, and other provisions of this Ordinance that are determined applicable to the subject use.
- (3) That, for a proposal requiring approvals or permits from other local, state and/or federal agencies, evidence of such approval or permit compliance is established or can be assured prior to final approval.
- (4) The proposal is in compliance with specific standards, conditions and limitations set forth for the subject use in this Article and other specific relative standards required by this or other County Ordinance.
- (5) That no approval be granted for any use which is or expected to be found to exceed resource or public facility carrying capacities, or for any use which is found to not be in compliance with air, water, land, solid waste or noise pollution standards.
- (6) That no approval be granted for any use or activity in violation of this Ordinance.

SECTION 5.3 GENERAL CONDITIONS. In addition to the standards and conditions set forth in a specific Zone, this Article, this Ordinance, and other applicable local, county, state and/or federal regulations, additional conditions may be imposed which are found to be necessary to avoid a detrimental impact on adjoining properties, the general area, or the County as a whole, and to otherwise protect the general welfare and interests of the surrounding area, the County as a whole and the general public. Such conditions may include, but are not limited to, the following:

- (1) Limiting the manner in which the use is conducted, including restricting the time an activity may take place, and restrictions to minimize environmental impacts such as noise, vibration, air or water pollution, glare and odor.
- (2) Establishing a special setback or other open space requirements, and increasing the required lot size or other dimensional standards.
- (3) Limiting the height, size or location of a building or other structure or use.
- (4) Increasing street width and/or requiring improvements to public streets and other public facilities serving the proposed use, even including those off-site but necessary to serve the subject proposal.
- (5) Designating the size, number, improvements, location and nature of vehicle access points and routes, and requiring pedestrian and/or bicycle ways.

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- (6) Limiting or otherwise designating the number, size, location, height, and lighting of signs and outdoor or security lighting, and the intensity and/or direction thereof.
- (7) Requiring diking, screening, fencing, or other improvements or facilities deemed necessary to protect adjacent or nearby properties, and establishing requirements or standards for the installation and maintenance thereof.
- (8) Protecting and/or preserving existing trees, other vegetation, and water, scenic, historic, archaeological, unique, landmark, or other natural or manmade significant resources.

SECTION 5.4 APPLICATION FOR A CONDITIONAL USE. A property owner or duly authorized agent may initiate a request for Conditional Use or the modification of an existing Conditional Use by filing an application with the County using forms prescribed by the County.

- (1) The standard application form shall be completed in its entirety and shall be accompanied by a site plan, drawn to scale, and showing the dimensions, arrangement and intended use of the proposed development.
- (2) Said application shall also be accompanied by a vicinity map showing the subject property, all properties within 250 feet, and the names and addresses of all property owners within 250 feet in an RR or C Zone and within 500 feet in all other Zones as reported by the current County Assessor's records.
- (3) If an application is submitted by any person or persons other than the property owner or authorized agent thereof, the application shall be jointly signed by said owner or agent, or there shall be submitted an accompanying certified statement from the owner or agent attesting to the knowledge and approval of such submittal.
- (4) In addition to the foregoing requirements, the County may require any additional information or documentation deemed necessary as a part of the application in order to render a proper decision on the subject proposal as related to environmental, social, economic, resource or public facility carrying capacity, or other factors.
- (5) An application shall not be deemed complete unless it contains all of the information set forth by Subsections (1) to (4) of this Section and is accompanied by the required filing fee established by the County Court by ordinance or court order.

SECTION 5.5 PROCESSING. Conditional Uses set forth by this Ordinance shall be subject to review by the Planning Commission in accordance with the public hearing requirements set forth in this Ordinance.

SECTION 5.6 PUBLIC HEARING REQUIREMENTS ON CONDITIONAL USES. Before the Planning Commission may act on any request for a Conditional Use subject to review, the Commission shall conduct a public hearing. The hearing shall be held within 60 days after an application has been received and deemed complete. Notice of such hearings shall be given in the following manner:

- (1) Notice of the hearing shall be published in a newspaper of general circulation in the County not less than 10 day prior to the date of said hearing.
- (2) Not less than 10 days prior to the date of the hearing, individual notices shall be mailed or otherwise delivered to the applicant and to owners of record of property on the most recent property tax assessment roll.
- (3) The notice of a public hearing before the Planning Commission shall be in compliance with the provisions set forth in Section 9.5.

SECTION 5.7 NOTIFICATION OF ACTION. Within 10 working days after a decision has been rendered on an application for a Conditional Use, the County Planning Official and/or Secretary of the Planning

Commission, shall provide the applicant, the property owner if different than the applicant, persons or parties participating in the proceedings leading up to the decision, and those specifically requesting such information, with written notice of the decision taken on the subject request. Such notice shall clearly set forth the procedures and conditions for appeal of such decision.

SECTION 5.8 STANDARDS GOVERNING SPECIFIC CONDITIONAL USES. A Conditional Use set forth by this Ordinance shall be subject to review by the Planning Commission in accordance with the public hearing requirements set forth in this Ordinance.

- (1) Adult Foster Home, Residential Care Facility, or Residential Home. When permitted as a Conditional Use, such facilities shall be subject to the following conditions and limitations: (UBC ch.13 and ORS 413)
 - (a) A provider must live in the home that is to be used for such purpose and must be certified for the intended care, or must hire a certified resident care manager whom shall reside in the subject home.
 - (b) Such facilities shall only be permitted in an existing residential structure.
 - (c) Off-street parking shall be provided for all needs generated by the proposed use unless approved otherwise by the County.
 - (d) Such facilities shall be maintained in compliance with applicable State regulations, shall maintain compliance with such annual licensing requirements as may be applicable, and a copy of all State inspection reports shall be provided to the County within 10 days of the receipt of said reports by the owner/operator.
 - (e) Failure to comply with these requirements shall constitute grounds for permit denial and/or revocation.
- (2) Bed and Breakfast Facility. In the review and approval of such a facility as a Conditional Use, the following conditions and limitations shall apply: (ORS 333- 170)
 - (a) Compliance with applicable State regulations shall be established or assured, and continued compliance therewith shall be a Condition of Approval.
 - (b) Subject facility shall be inspected by a Deputy State Fire Marshal and a certified Building Official relative to structural and fire safety conditions and hazards. A report and recommendation there from shall be received and considered prior to final action on a proposed facility. The costs of such inspection, as applicable, shall be borne by the applicant.
 - (c) No exterior structural alterations except those necessary to install handicap access facilities shall be allowed to accommodate the proposed use unless approved otherwise by the reviewing authority.
 - (d) The owner and/or manager of the facility shall reside on the premises.
 - (e) All parking demands shall be accommodated totally off-street on the premises, except as approved otherwise by the reviewing authority.
 - (f) Total occupancy load shall be limited to the number of available private bedroom facilities, but in no case shall the number of rental units exceed 6.
 - (g) Inspections reports of the subject facility required by the appropriate local, county or state official(s) shall be provided to the County within 10 days of the receipt thereof, and the costs of such inspection shall be borne by the applicant/owner.

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- (h) As applicable, State licensing requirements shall be complied with on a continuing basis, and failure to comply therewith shall constitute grounds for immediate revocation.
- (3) Dog Pounds or Kennels. The reviewing authority may authorize dog pounds or kennels as a Conditional Use as permitted by the primary zone, and upon a findings that such use would not be detrimental to the adjoining properties and surrounding area because of noise, odor and other associated nuisances. In the review of an application for such a use, the following factors shall be considered, and the following standards shall apply:
- (a) Building and site design shall be adequate to minimize noise and odor.
 - (b) A sight-obscuring and sound reducing fence or hedge or vegetative screening may be acquired.
 - (c) Holding cages and facilities may be restricted to being totally located within a building, and sound-insulating construction may be required.
 - (d) Vehicular access and loading/unloading facilities may be restricted as to number, location and improvement requirements.
 - (e) The types and numbers of animals permitted may be specified.
 - (f) Receipt of a complaint concerning odor, sanitary conditions and/or noise shall constitute grounds for immediate permit review and possible revocation.
 - (g) A public need shall be established.
 - (h) No on site disposal of animals shall be permitted.
- (4) Home Occupations. When permitted as a Conditional Use and conducted as an accessory use to the primary use, a home occupation may be permitted subject to the following standards and limitations:
- (a) Will be operated by a resident or employee of the property on which the business is located.
 - (b) The home occupation is secondary to the main use of the property as a residence, and shall be conducted within the residence or in an existing accessory building on the same property except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences.
 - (c) The home occupation shall be limited to either an accessory structure or to not more than 25 percent of the floor area of the main floor of the primary dwelling.
 - (d) No structural alterations or additions shall be permitted to accommodate the home occupation except as approved otherwise by the County or as otherwise required by law, and in no case shall such alterations or additions detract from the outward appearance of the property as a residential use.
 - (e) Total employment shall not exceed 5 persons at any given time.
 - (f) No use shall be permitted that is found to be detrimental to the residential use of the subject property or adjoining or area properties because of noise, vibration, dust, smoke, odor, traffic, interferences with radio or television reception, or other factors, and no use shall be permitted that will interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.

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- (g) Retail sales shall be limited to those commodities and/or materials used in conjunction with the home occupation.
 - (h) No materials or commodities shall be delivered to and from the premises at a time, or of such bulk or quantity, as to create undesirable traffic, noise, congestion, or hazards.
 - (i) The existence of a home occupation shall not be used as justification for a zone change.
 - (j) All parking shall be accommodated totally off-street on the subject premises except as approved otherwise by the County.
 - (k) A permit issued for a home occupation shall be reviewed annually following the initial approval to determine continued compliance with these standards and any conditions set forth for said approval, and for any identifiable adverse impacts on the residential uses or other permitted uses in the surrounding area.
 - (l) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery or cider business established pursuant to Section 3.1(12) and is operated in association with the winery or cider business:
 - (A) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
 - (B) The meals may be served at the bed and breakfast facility or at the winery or cider business.
 - (m) One (1) or more signs, up to a total of 32 square feet in area, are permitted.
- (5) Manufactured Home Park. In addition to the standards and conditions set forth herein, such a facility shall be in compliance with applicable State regulations, and compliance with applicable State regulations, and compliance with the standards and conditions set forth herein, with State regulations, and with any additional conditions set forth in the approval thereof, may be required prior to occupancy of such a facility. (ORS 446 and OAR 814-28).
- (a) Each access road intersecting a public street shall have a surface width of not less than 30 feet, and driveways with the park shall be at least 20 feet in width, or if parking is permitted thereon shall be at least 30 feet in width.
 - (b) All roads and driveways shall be well drained and hard surfaced as approved by the County Roadmaster in accordance with county standards.
 - (c) Walkways, bicycle paths or other pedestrian ways may be required, and if required shall not be less than 3 feet in width.
 - (d) Each space within the park shall be serviced with approved water and sewer facilities and electric power, receptacles for solid wastes shall be provided, and fire hydrants shall be installed as deemed necessary.
 - (e) At a minimum, the park shall be provided with at least one box for outgoing mail and another box for incoming mail, however the preferred mail facilities consist of a U.S. Postal Service approved block of individual mail boxes with one for each unit in the park.
 - (f) There shall be constructed on each unit space, adjacent and parallel thereto, one of

more wooden decks or slabs or patios of concrete, asphalt, flagstone or the equivalent, which singularly or in combination total at least 120 square feet.

- (g) When possible and reasonable, the park shall have a public or private telephone available to the tenants, including service for emergency calls on a 24-hour basis.
- (h) In no case shall an individual unit space be permitted that is less than 30 feet in width or less than 40 feet in length.
- (i) In no case shall such a park be established on a lot or parcel less than one acre, and except as provided otherwise herein, in no case shall the overall density exceed 12 units per acre. An increase in density may be approved by the County in accordance with the following standards:
 - (A) If dedicated open space equals 30 percent or more of the total area of the park, and a program is established and approved for its improvement and maintenance, a maximum increase of 10 percent may be approved.
 - (B) If, in addition to (A) above, an approved recreation and/or community use building is provided, an additional increase of 10 percent in density may be approved.
 - (C) If not otherwise required, and if in addition to (A) and (B) above, a developed and maintained playground area with approved equipment and facilities such as swings, slides, basketball and/or tennis court, picnic tables, etc., is provided, an additional increase of 5 percent in density may be approved.
- (j) For any park accommodating or permitting children under 14 years of age and proposing to have any unit spaces less than 4,000 square feet, a separate general play area (i.e. playground as described in (C) above shall be provided. No such play area shall be less than 2,500 square feet and shall contain not less than 100 square feet of play area for each unit space occupied by or permitted to be occupied by children.
- (k) No dwelling unit in the park shall be located closer than 15 feet from another unit or from a general use building in the park. No dwelling unit, other building or structure shall be located within 25 feet of a public street right-of-way line, or within 10 feet of any other property boundary line.
- (l) A unit permitted in a park shall be provided with continuous skirting within 30 days of placement.
- (m) The total land area used for park purposes may be required to be surrounded, except at entry and exit places, by a sight-obscuring fence or hedge not less than 6 feet in height.
- (n) If a park provides spaces for 50 or more units, each vehicular way in the park shall be named and marked with signs which are similar in appearance and location to those used to identify public roads and streets in the County. A map of the entire development showing named vehicular ways shall be provided to the serving Fire Protection Agency, other emergency service agencies, the County Sheriff's Department, the County Planning Official and the County Clerk.
- (o) An updated listing of the names and addresses of the occupants of each space in the park shall be maintained at all times and a copy provided to the County within 5

working days upon request.

- (6) Temporary Manufactured Home Park. With the exception of standards concerning access and driveway improvements, mail service, telephone, playground areas, patios and overall density set forth by Subsection (6) of this Section, the County may approve a Temporary Manufactured Home Park for the establishment of such a facility for a construction company, timber company or farm, or by exclusive use by such companies by a party independent thereof. Such approval may only be granted if: (ORS 446.105)
- (a) There is no available space, or inadequate space available in existing or planned manufactured home parks for which construction has commenced within a reasonable distance; and
 - (b) A manufactured home park is necessary for the proper housing of the subject company's employees until the construction, farm or logging project is finished; and
 - (c) The subject facility will not be occupied by any parties not employed by the subject company or sub-contractors; and
 - (d) There is an identified housing shortage in the area due to the size of the subject project to be served; and
 - (e) Such a facility shall not be permitted for a period to exceed the time required to provide temporary housing for the special use or project to be served, or for a period of 18 months, whichever is less; and
 - (f) If such facility is converted or proposed to be converted to a permanent facility at the end of such period, full compliance with the standards and requirements set forth by Subsection (6) of this Section shall be required prior to conversion and Occupancy as a result thereof.
- (7) Multi-Family Dwelling Complex. A multi-family dwelling complex permitted as a Conditional Use shall comply with the following standards and conditions, and such compliance shall be evident prior to occupancy except as may otherwise be approved by the County:
- (a) All such complexes with more than 20 dwelling units shall be so located as to have direct access onto an improved arterial or collector street unless approved otherwise by the County.
 - (b) All such complexes shall provide both an improved ingress and egress.
 - (c) Each access road permitting two-way traffic and intersecting a public street shall have a minimum surface width of not less than 30 feet, and not less than 16 feet in width for single lane, one way traffic. Interior complex driveways shall not be less than 24 feet in width for two way traffic, and not less than 12 feet in width for single lane traffic.
 - (d) All access roads, driveways and parking facilities shall be improved and maintained with Durable and Dustless Surfaces as defined in Section 4 of this Ordinance.
 - (e) Sidewalks, walkways, bicycle paths and other pedestrian ways may be required. Such walks, paths and ways shall not be less than 3 feet in width and shall be surfaced as required by said Section 4.
 - (f) Such complexes may be required to provide storage facilities and/or extra parking spaces as deemed necessary to provide for tenant storage of household goods,

equipment, extra furnishings, and/or recreation vehicles.

- (g) Each such complex and each individual unit contained therein shall be serviced with water and sewer, electrical power, receptacles for garbage and garbage collection service, and fire hydrants shall be installed as deemed necessary.
 - (h) Facilities for incoming and outgoing mail shall be installed in accordance with the requirements of the U.S. Postal Service.
 - (i) When possible and reasonable, each such complex shall have a public or private telephone available to the tenants, including such service for emergency calls at night.
 - (j) The overall density of such a complex shall not exceed the dimensional standards set forth by the applicable Zone, except as approved otherwise by the County in accordance with the following factors:
 - (A) An increase of 5 percent in the maximum allowable density for dedicated and improved open space equaling 25 percent or more of the total land area of the development; and
 - (B) An increase of 5 percent in the maximum allowable density for the development and maintenance of an approved recreation and/or community use building or other indoor Community use type facility; and
 - (C) An increase of 5 percent for a developed playground area, picnic facilities including a covered picnic area, basketball and/or tennis court facilities, etc.
 - (k) For any complex permitting or accommodating children under the age of 14 years, a separate play area shall be provided. No such play area shall be less than 2,500 square feet and shall contain at least 100 square feet of play area for each unit in the complex occupied by or permitted to be occupied by children. Such playground area shall be improved, a minimum of facilities and equipment installed and shall be secured from driveways and parking areas.
 - (l) For any complex permitting tenants to have recreation vehicles, camp trailers, boats and similar recreational equipment, there shall be provided a separate, designated parking area for such uses at a ratio of one space per each 3 units in the complex.
 - (m) If each unit in the complex is not provided with clothes washer and dryer hook-ups and there is not a private commercial coin-operated laundry facility within a reasonable walking distance, then there shall be provided within the complex a separate laundry facility providing not less than one washer and one dryer for each 4 units in the complex.
 - (n) The total land area of such a complex may be required to be surrounded, except at entry and exit locations, by a sight-obscuring fence or hedge not less than 6 feet in height.
- (8) Radio or Television Transmitter Tower, Utility Station or Substation. When authorized as a Conditional Use, the following standards and limitations shall apply:
- (a) In a residential zone or area, all equipment storage on the site shall be enclosed within a building.
 - (b) The use may be required to be fenced and provided with landscaping.

- (c) Coloring of structures, buildings and other permanent installations shall be of neutral colors or as otherwise required by the Commission or reviewing authority.
- (9) Recreation Vehicle Parks. A recreation vehicle park shall be constructed, maintained and operated in accordance with applicable State standards and conditions. (ORS 446 and OAR 333-31)
- (a) Water supply service to each camping space is not required, but at least one water supply service on site shall be provided.
 - (b) In lieu of individual sewer connections, at least one sewage disposal station shall be provided on site for the park.
 - (c) All solid waste shall be stored in individual garbage containers, storage bins or storage vehicles. All such containers shall have tight fitting lids, covers or closeable tops, and shall be durable, rust resistant, watertight, rodent proof and be readily washable. All solid waste shall be collected for disposal at regular intervals not to exceed 7 days.
 - (d) Liquefied petroleum gas storage tanks on site shall be approved by the State Fire Marshall and serving fire protection agency as applicable.
 - (e) Toilet, hand washing and bathing facilities shall be maintained to meet the requirements set forth by the Building Official and the State Health Division.
 - (f) Eating and drinking establishments, commissaries, mobile units, and vending machines operated in conjunction with the park shall be approved in accordance with applicable provisions of this Ordinance and in accordance with applicable regulations administered by the State Health Division.
 - (g) All swimming pools, spa pools and wading pools located at or operated in a recreation park shall comply with the applicable rules of the State Health Division.
 - (h) The owner and/or management of a recreation park shall maintain all buildings, grounds, rental units, spaces, and furnishings in good repair and appearance, and in clean condition at all times.
 - (i) Either the owner, an operator, resident manager, or other such supervisor shall be available on the premises of a recreation park at all times while it is open for use, except as otherwise approved by the city.
 - (j) Each camping space shall be identified by number, letter or name.
 - (k) Each camping space shall be large enough to accommodate the parked camping vehicle, tent vehicle or tent as the case may be and for which the space was intended or designed, and to maintain at least 10 feet separation for any other camping vehicle or tent, 10 feet from any building, 20 feet from a boundary line abutting a public street or highway, and 10 feet from any other boundary line. Only one camping vehicle, tent vehicle or tent is permitted per space.
 - (l) Each recreation park shall have direct access to either an arterial or major collector street or highway. Each access road intersecting a public street or highway shall have a surface width of not less than 30 feet, and driveways within the park shall be at least 20 feet in width, or if parking is permitted thereon, 30 feet in width. All roads and driveways shall be well drained and hard surfaced as approved by the County Planning Official and the County Roadmaster.

- (m) Each space in the park shall have direct access to a park driveway or road.
- (n) Toilet facilities shall be provided in all recreation vehicle parks in the following ratios for both men and women:

Sanitary Facilities

(918-650-0050 – effective 4/1/88)

Recreation Parks

Number of Picnic, Camping or Parking Spaces	Number of Toilets	Lavatories for Parks with Flush Toilets
	Men – Women	Men – Women
1 – 15	1 – 1	1 – 1
16 – 30	1 – 2	1 – 2
31 – 60	2 – 3	2 – 3
61 – 100	3 – 4	3 – 4

1. One additional lavatory must be provided for each two toilets when more than six toilets are required.
2. Urinals may be acceptable for not more than 1/3 of the toilets required in the men’s facilities.
3. Campgrounds in recreation parks and picnic parks with more than 100 spaces must provide one additional toilet per sex for each additional 30 spaces or fraction thereof.

- (o) The density of RV parks shall not exceed 15 campsites per acre; the County may adjust the density downward in the case of limitations necessary by steep slopes, geologic or natural features, or impacts on adjacent areas.
- (p) Each recreation vehicle space shall be a minimum of 1,200 square feet.
- (q) Each RV space shall contain no more than 33 percent paving or concrete.
- (r) Landscaped or open space areas shall be a minimum of 20 percent of the project site, and may include nature trails, buffers, landscaping, common picnic or recreation areas, wetlands or streams.
- (s) Accessory uses may include an owners/managers office/residence, restroom and bathing facilities, laundry, mini-market with limited gasoline and propane gas services, swimming pool and other small scale recreational facilities such as tennis courts, miniature golf and playgrounds for the use of park customers only.
- (t) One additional parking space for each 4 campsites shall be provided in clusters of 4-6 at convenient locations throughout the park.
- (u) Temporary Facilities. The County may exempt certain temporary facilities from the on-site improvement requirements, requirements for toilets, water supply, sewage disposal and spacing if such temporary facilities are for the purpose of accommodating a camping vehicle rally or other groups of camping vehicles assembled for the purpose of traveling together or for special events such as fairs, rodeos, races, derbies, community event celebrations, etc., and the reviewing authority finds that the public health will not be endangered. The period of

operation shall be designated by the reviewing authority as shall other conditions such as solid waste collection and disposal found necessary to protect the public health and general welfare. In no case shall such temporary facilities be approved in conjunction with private commercial activities, except as temporary RV locations for highway or building construction, farm or forestry projects, and in no case shall a temporary facility for such projects be approved if other alternatives for housing the employees associated with such projects is found to be

- (10) Public Facilities and Services.
 - (a) Public facilities including, but not limited to, utility substations, sewage treatment plants, storm water and water lines, water storage tanks, radio and television transmitters, electrical generation and transmission devices, fire stations and other public facilities shall be located so as to best serve the County or area with a minimum impact on neighborhoods, and with consideration for natural or aesthetic values.
 - (b) Structures shall be designed to be as unobtrusive as possible. Wherever feasible, all utility components shall be placed underground.
 - (c) Public facilities and services proposed within a wetland or riparian area shall provide findings that: such a location is required and a public need exists; and dredge, fill and adverse impacts are avoided or minimized.
- (11) Mineral or Aggregate Resource Extraction and/or Processing, and Surface Mining. When permitted as a Conditional Use, the application for and operation of such activities shall comply with the following standards, conditions and limitations:
 - (a) Operations Requiring a Permit in an EFU or ETU Zone. In an EFU or ETU Zone a permit is required for mining (as defined by Subsection 1.4 of this Ordinance) more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre.
 - (b) Operations Requiring a Permit in Other Zones: In all zones except EFU or ETU a permit is required for those activities regulated by DOGAMI pursuant to ORS 517.
 - (c) Operations: In the county a permit for mining of aggregate shall be issued only for a site deemed to be significant as set forth in OAR 660—023- 0180(3) and meets the criteria in OAR 660-023-180(4),(5) and (6).
 - (d) Blending Materials Prohibited near Vineyards: No application shall be approved to allow batching and blending of minerals and aggregate into asphalt cement within 2 miles of a planted vineyard; such limitation shall not apply to such operations approved on or before October 3, 1989, or to the subsequent renewal of an existing approval. **Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date of the application for batching and blending is filed.**
 - (e) An application for a use or activities subject to review pursuant to this Subsection shall contain the following information and whatever additional information the applicant deems relevant or whatever additional information the reviewing authority deems necessary:
 - (A) Name and address of the landowner and site operator.
 - (B) Legal description and map of the property to be mined and included as the

property base for the proposed use.

- (C) Identification of existing or proposed roads providing access to the site that lead from a public thoroughfare to the property, and a description of the existing conditions and proposed improvement/maintenance standards for such access.
- (D) A list of known materials for which the use and/or operation is to be conducted, and qualified evidence that specifications applicable to intended uses can be met by materials on site.
- (E) If the use and/or operation is intended for a specific project, evidence that materials on site will meet project specifications; identification of the specific project and the responsible agency or party; the estimated beginning and completion dates of said project; and the estimated materials/quantities required.
- (F) A site development and operation plan showing:
 - (1) Areas to be mined or excavated
 - (2) Areas for settling ponds and washing plants.
 - (3) Areas for processing and stockpiling.
 - (4) Location of building and other structures.
- (G) A site and vicinity map showing:
 - (1) Location and names of all streams, roads, railroads and utility facilities within or adjacent to the site.
 - (2) An area land use map showing adjoining and area land uses and structures by use type.
 - (3) Identification of any other significant resources within or in the general area of the site.
 - (4) Topographical and vegetative conditions of the general area.
- (H) A general description of the modes of excavation, the types of equipment to be used, and the disposition of overburden.
- (I) A starting and ending date for the operation.
- (J) An estimate of the total volume of material to be excavated and processed.
- (K) A reclamation plan meeting the requirements of DOGAMI and providing the following information:
 - (1) Rehabilitation of stream channels and banks to prevent erosion, sedimentation, and other water polluting effects.
 - (2) Sloping and other controls to stabilize final surfaces and minimize public hazards.
 - (3) Proposed vegetating of disturbed areas in a manner conducive to restoring them to natural state or to a state consistent with the future use of the site.

- (4) Methods of preventing pools of water from becoming public nuisances or health hazards.
- (5) Proposals for the removing of structures and equipment that otherwise would be abandoned after termination of the operation.
- (L) Proposed methods of controlling contaminants and disposing of wastes and refuse.
- (M) Provisions where applicable or feasible for visual screening by use of native plants and trees, or other plants and trees with a demonstrated or known ability to thrive under natural conditions, and/or use of natural topographical features or man-made berms for such visual screening.
- (N) In the case where the applicant does not own the land on which the mining is to take place, the written consent of the owner for the operation to take place, and the owner's written acknowledgment of the owner's obligation to insure that the site is reclaimed after the mining ceases if the operator fails to do so, and the owner's written consent for the County to impose on the land, if necessary as security, a lien for expense the County may necessarily incur in reclaiming the land.
- (O) Any or all of the information required for applications for the same operation to DOGAMI that meets any of the foregoing requirements may be submitted in the same format as required by DOGAMI as a part of the application to the County; i.e. duplications of such information in a different format is not intended, necessary or required by these provisions.
- (f) No processing shall be permitted within a Commercial C or Rural Residential RR Zone, nor on a site within 200 feet of a lot or parcel within said zones.
- (g) Equipment and access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as practicable, noise, vibration or dust which is injurious or substantially annoying to persons living in the vicinity, or to crops or livestock being raised in the vicinity; an access or service road, while being used for mining and/or processing operations shall be maintained dust free for 300 feet from public thoroughfares and from residences, crops or livestock substantially impacted
- (h) Screening of mining sites may be required to obscure the view or minimize dust and other annoyances from adjoining occupied properties and from public thoroughfares.
- (i) All such operations shall be maintained in compliance with applicable noise, air and water pollution standards administered by DEQ.
- (j) All vehicular and equipment parking, loading and maneuvering areas for such uses shall be maintained off public thoroughfares, and such areas shall be maintained for all employees, customers, visitors and associated operations.
- (k) An entire perimeter fence may be required to control access to a mining site to minimize public safety hazards.
- (l) Compliance with applicable standards and regulations administered by DOGAMI and other state and federal agencies shall be a continuing condition of permit holders under this Subsection.

- (m) In addition to the bonds or other assurances that may be required by DOGAMI and other state and federal agencies for such operations, the County may require a bond, property lien or other security assurance to assure permit compliance and site reclamation.
- (12) Non-farm Dwellings and Lots or Parcels therefore in an EFU Zone: In addition to the provisions set forth in the EFU Zone, non-farm dwellings and lots or parcels created for such a use may be approved upon a findings that:
- (a) The dwelling or activities associated therewith will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;
 - (b) Non-farm dwelling suitability standards
 - (A) The dwelling, including essential or accessory improvements or structures, is situated upon or the lot or parcel encompasses generally unsuitable land for the production of crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract;
 - (B) A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.
 - (C) A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then it is not "generally unsuitable." A new parcel or portion of an existing lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
 - (D) If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.
 - (c) The determination of land generally unsuitable for farm use shall take into account the following factors:

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- (A) Is not predominantly soils of SCS Capability Class I through VI in areas where livestock production is the most dominant or common agriculture use; or
 - (B) Is not predominantly soils of SCS Capacity Class I through IV in areas where cash crop production is the most dominant or common agriculture use;
 - (C) Availability of water for irrigation in areas where irrigated farmland is the dominant or most common agricultural use of cultivated lands;
 - (D) Capability or feasibility of lands for cultivation;
 - (E) Will not decrease the overall carrying capacity or productivity of the affected farm operation;
 - (F) Does not adversely affect the Base for a public grazing allotment; and
 - (G) Will not adversely impact the balance of forage and hay production of an existing livestock operation.
- (d) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in (A) through (C) below. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in (A) through (C) below;
- (A) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;
 - (B) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, 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 Subsection 3.1(10)(a) and this section, 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), ORS 215.263(5), and ORS 215.284(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 under this Subsection; and
- (C) Determine whether approval of the proposed nonfarm/lot-of-record dwellings 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) If a single-family dwelling is established on a lot or parcel as set forth in Subsection 3.1(4)(f), no additional dwelling may be later sited under the provisions of this section.
 - (f) The lot or parcel shall be disqualified for special farm use assessment as required by ORS 215.236, and such lot or parcel shall not requalify for such special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying farm parcel.
- (13) Commercial Slaughtering Facility. Commercial Slaughtering Facilities or Slaughter Houses may only be approved upon a finding that each such use is licensed pursuant to and is
 - (14) Airports, Aircraft Landing Fields, Heliports, Aircraft Rental, Service and Maintenance Facilities: The County reviewing authority may approve such uses upon a findings that the location and site design of the proposed use will not be hazardous to the safety and general welfare of surrounding properties and uses, that the location will not unnecessarily restrict existing and future uses or developments of surrounding lands as designated by the County's Plan and implementing Zoning and that such use is approved by the Oregon Department of Aviation and FAA.
 - (15) Livestock Feeding or Sales Yard. In considering an application for such a use, the reviewing authority shall require:
 - (a) That the facility not be located closer than one-quarter mile to a resident structure not owned by the applicant, to a non-farm zone boundary, or to the incorporated limits of a City;
 - (b) That adequate provisions are provided for drainage and pest control; and
 - (c) In addition to any other requirements of the applicable Zone, an applicable combining zone or this Ordinance in general, the reviewing authority may consider and impose requirements deemed necessary to protect the health, safety and welfare of the surrounding area and the County as a whole including, but not limited to, location of the use with respect to prevailing wind patterns, conditions related to other existing or potential environmental impacts on surrounding and area land uses and limitation on the number of animals to be kept at the use at any specific time.
 - (16) PUBLIC GATHERINGS:
 - (A) Events that meet the State mass gathering ordinance as defined in ORS 433.735 shall comply with state statutory and regulatory requirements in addition this section. All other events that meet the definition of “social gatherings” as defined in this Subsection shall be regulated pursuant to this section in addition to other

provisions as required in Article 5. All events subject to the terms of this Ordinance must comply with all other requirements imposed by State and Local law.

- (B) Gatherings of less than 150 persons will not be regulated by this Ordinance, but shall not be exempt from any and all other local, State, and/or federal law requirements, up to and including costs incurred by local or state agencies.
- (C) Definitions:
 - (1) “Health Department” means the Wheeler County Health Department
 - (2) “Outdoor Mass Gathering” has the meaning set forth in Article 1.
 - (3) “Organizer” includes any person who holds, stages or sponsors a social gathering and the owner, lessee, or possessor of the real property upon which the social gathering is to take place.
 - (4) “Social Gathering” has the following meanings:
 - (a) An event, activity or assembly that continues or can be expected to continue for more than 12 consecutive hours, but less than 120 consecutive hours within any six-month period; and
 - (b) Continuously has more than 150 persons, but fewer than 3000 persons on the gathering site for which clearance has been granted.
- (D) No gathering shall be held in Wheeler County outside any incorporated city limits unless the organizer has:
 - (1) First obtained a permitted use certificate from the Wheeler County Planning Director or Commission showing that all provisions of this ordinance have been or will be met including:
 - (a) Applicable health laws, building and fire codes, zoning regulations, and public safety rules;
 - (b) Proof of permitted use shall be posted on site of the event
 - (c) Failure of the event organizer(s) to meet all requirements of this ordinance may result in enforcement of code violations being turned over to the local law enforcement agency.
 - (2) Requirements of this section of the WCZO do not apply to the following:
 - (a) Any regularly organized and supervised school district gathering that takes place on school property or within city limits;
 - (b) Gatherings occurring at any Wheeler County Park or Fairgrounds; or
 - (c) Any gathering of or event organized by a municipal corporation or governmental agency.
- (E) Application for Permitted Event Certificate:
 - (1) The Planning Director shall send notice of the intended event to all agencies of the county and/or city(ies) involved whose services may be impacted
 - (2) Notice shall be sent to surrounding property owners within 500 feet of the

property line of the subject property where the event is to be held.

- (3) The event organizer shall name a contact person who shall be the primary contact for any instance where assistance is required by either attendees or county regulatory personnel.
 - (F) No ~~social~~ gathering, as defined in this ordinance, shall take place within 1000 feet of any residence between the hours of 12:01 a.m. and 8:00 a.m. unless written consent from property owners within 1000 feet have been submitted with the application.
 - (G) The use of amplification shall be regulated so that it will not interfere with the normal use of any school, church or residence. Any complaint issued by surrounding property owners will be investigated immediately or as soon as is practicable by local authorities and may result in termination of the event if a compromise cannot be immediately reached.
 - (H) No organizer shall permit any person to sell intoxicating liquor at a ~~social~~ gathering, nor permit intoxicating liquor to be sold on the premises without first obtaining appropriate licensure from the Oregon Liquor Control Commission, copies of which shall be submitted with the application to the Planning Department.
 - (I) Event organizer shall be responsible for all clean up following the event and leave the lands zoned as Exclusive Farm Use back to its usable state up to and including removal of portable sanitation units within one week from the end of the event.
 - (J) Compliance with the terms of this section of the WCZO shall constitute minimum health, sanitation and safety provisions; failure to comply with the terms and conditions of this chapter and state law shall constitute a public nuisance and be subject to all provided criminal, civil, and equitable remedies.
- (17) A temporary hardship dwelling is subject to the following:
- (A) One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
 - (1) The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required;
 - (2) The county shall review the permit authorizing such manufactured homes every two years; and
 - (3) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.
 - (B) A temporary residence approved under this Section is not eligible for replacement under Subsection 3.1(4)(d). Department of Environmental Quality review and removal requirements also apply.
 - (C) As used in this Section “hardship” means a medical hardship or hardship for the

care of an aged or infirm person or persons.

- (18) Commercial activities in conjunction with farm use may be approved when:
 - (A) The commercial activity is either exclusively or primarily a customer or supplier of farm products;
 - (B) The commercial activity is limited to providing products and services essential to the practice of agriculture by surrounding agricultural operations that are sufficiently important to justify the resulting loss of agricultural land to the commercial activity; or
 - (C) The commercial activity significantly enhances the farming enterprises of the local agricultural community, of which the land housing the commercial activity is a part. Retail sales of products or services to the general public that take place on a parcel or tract that is different from the parcel or tract on which agricultural product is processed, such as a tasting room with no on-site winery, are not commercial activities in conjunction with farm use.
- (19) A community center 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.
- (20) Private Campgrounds in the EFU zone are subject to the following:
 - (A) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
 - (B) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed by Subsection (C).
 - (C) 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.
- (21) Accessory uses provided as part of a golf course shall be limited consistent with the following standards:
 - (A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily

provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;

- (B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
 - (C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.
- (22) Public parks may include:
- (A) All outdoor recreation uses allowed under ORS 215.283_ in the EFU zone or allowed under OAR 660-006-0025(4) in the ETU zone.
 - (B) The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:
 - (1) Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
 - (2) Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;
 - (3) Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;
 - (4) Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;
 - (5) Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;
 - (6) Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
 - (7) Park Maintenance and Management Facilities located within a park:

residential zone and landscaping, buffering and/or screening shall be provided.

- (D) The facility does not constitute an unnecessary fire hazard. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, which may include but are not limited to the following:
 - (1) The area surrounding the facility is kept free from litter and debris.
 - (2) Fencing will be installed around the facility, if deemed appropriate to protect adjacent farm crops or timber stand.
 - (3) If the proposed facility is located in a forested area, construction materials shall be fire resistant or treated with a fire retardant substance and the applicant will be required to remove forest fuels within 30 feet of structures.
 - (E) The facility shall adequately protect fish and wildlife resources by meeting minimum Oregon State Department of Forestry regulations.
 - (F) Access roads or easements for the facility shall be improved to the county's Transportation System Plan standards and comply with grades recommended by the Public Works Director.
 - (G) Road construction for the facility must be consistent with the intent and purposes set forth in the Oregon Forest Practices Act to minimize soil disturbance and help maintain water quality.
 - (H) Hours of operation for the facility shall be limited to 8 am – 7 pm.
 - (I) Comply with other conditions deemed necessary.
- (26) A guest ranch must comply with the following provisions:
- (A) Definitions
 - (1) "Guest lodging unit" means a guest room in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence.
 - (2) "Guest ranch" means a facility for guest lodging units, passive recreational activities described in Subsection (F) and food services described in Subsection (G) that are incidental and accessory to an existing and continuing livestock operation that qualifies as a farm use.
 - (3) "Livestock" means cattle, sheep, horses and bison.
 - (B) A guest ranch may be established unless the proposed site of the guest ranch is within the boundaries of or surrounded by:
 - (1) A federally designated wilderness area or a wilderness study area;
 - (2) A federally designated wildlife refuge;
 - (3) A federally designated area of critical environmental concern; or
 - (4) An area established by an Act of Congress for the protection of scenic or ecological resources.
 - (C) The guest ranch must be located on a lawfully established unit of land that:
 - (1) Is at least 160 acres;

- (2) Contains the dwelling of the individual conducting the livestock operation; and
 - (3) Is not high-value farmland.
 - (D) Except as provided in Subsection (E), the guest lodging units of the guest ranch cumulatively must:
 - (1) Include not fewer than four nor more than 10 overnight guest lodging units; and
 - (2) Not exceed a total of 12,000 square feet in floor area, not counting the floor area of a lodge that is dedicated to kitchen area, rest rooms, storage or other shared or common indoor space.
 - (E) For every increment of 160 acres that the lawfully established unit of land on which the guest ranch is located exceeds the minimum 160-acre requirement described in Subsection (C), up to five additional overnight guest lodging units not exceeding a total of 6,000 square feet of floor area may be included in the guest ranch for a total of not more than 25 guest lodging units and 30,000 square feet of floor area.
 - (F) A guest ranch may provide passive recreational activities that can be provided in conjunction with the livestock operation's natural setting including, but not limited to, hunting, fishing, hiking, biking, horseback riding, camping and swimming. A guest ranch may not provide intensively developed recreational facilities, including golf courses as identified in ORS 215.283.
 - (G) A guest ranch may provide food services only for guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch. The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell individual meals to an individual who is not a guest of the guest ranch, an individual accompanying a guest or an individual attending a special event at the guest ranch.
 - (H) The governing body of a county or its designee may not allow a guest ranch in conjunction with:
 - (1) A campground
 - (2) A golf course
 - (I) The governing body of a county or its designee may not approve a proposed division of land:
 - (1) for a guest ranch; or
 - (2) to separate the guest ranch from the dwelling of the individual conducting the livestock operation.
- (27) A facility for the primary processing of forest products in the EFU zone shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Article 1. 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 this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section means timber grown upon a tract where the primary processing facility is located.

- (28) Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
 - (A) Compost facility operators must prepare, implement and maintain a site-specific Odor Minimization Plan that:
 - (1) Meets the requirements of OAR 340-096-0150;
 - (2) Identifies the distance of the proposed operation to the nearest residential zone;
 - (3) Includes a complaint response protocol;
 - (4) Is submitted to the DEQ with the required permit application; and
 - (5) May be subject to annual review by the county to determine if any revisions are necessary.
 - (B) Compost operations subject to Section (28)(A) include:
 - (1) A new disposal site for composting that sells, or offers for sale, resulting product; or
 - (2) An existing disposal site for composting that sells, or offers for sale, resulting product that:
 - (3) Accepts as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste (type 3 feedstock); or
 - (4) Increases the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.
- (29) 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.
- (30) Private Campgrounds and Campsites in the ETU Zone are subject to the following:
 - (A) Campgrounds in private parks may be permitted, subject to the following:
 - (1) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.
 - (2) 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.

- (3) Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
 - (4) 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.
- (B) Campsites within campgrounds meeting the requirement of Subsection (A) and permitted pursuant to Section 3.2(7) must comply with the following:
- (1) Allowed uses include tent, travel trailer or recreational vehicle; yurts are also allowed uses, subject to Subsection (B)(3).
 - (2) Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts.
 - (3) 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.

SECTION 5.9 TIME LIMIT ON A CONDITIONAL USE PERMIT AND/OR DESIGN REVIEW PLAN.

- (1) Final Approval - Expiration. Unless otherwise approved in the initial approval by the reviewing authority, the authorization an approval of a Conditional Use Permit and/or a Design Review Plan shall be null and void after one year or such other time as may be specified from the date of final approval unless a building permit has been obtained and construction and/or site improvements have commenced, or other evidence of substantial development, compliance and/or investment is clearly evident. The planning commission may grant an extension not to exceed one year. The planning commission may approve a maximum of two extensions
- (2) Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.
- (3) Issuance of a Conditional Use Permit and/or approval of Design Review Plan shall confer no right to the applicant beyond the time period for which it was issued or approved.
- (4) If the conditions applicable to a Conditional Use Permit and/or a Design Review Plan are not fulfilled within a reasonable time, and specifically within time limits set forth in the approval or by Subsection (1) of this Section in lieu thereof, the Planning Commission may revoke said permit and/or plan approval after giving notice to the applicant, affected property owners, and other "affected" persons or parties, and upon holding a public hearing to make a determination of noncompliance.
- (5) If a permit approval is revoked for such noncompliance, or if the permit is declared null and void as set forth in Subsection (1) of this Section, renewal of such permit may only be achieved by submittal of a new application, payment of the applicable filing fee, and processing of such application as an original application pursuant to the provisions of this Article. Such application shall be subject to any and all regulations in effect on the date of receipt of new application.

SECTION 5.10 CLUSTER DEVELOPMENT (single-family residential uses only).

- A. Such uses may be authorized as a conditional use only after consideration of the following factors:
 - 1. Need for residential uses in the immediate area.
 - 2. Environmental, social and economic impacts likely to result from the development, including impacts on public facilities such as schools and roads.
 - 3. Effect of the development on the rural character of the area.
 - 4. Effect of the development on agricultural, forestry, wildlife or other natural resource uses in the area.
- B. The conditional use shall not be granted unless the following findings are made:
 - 1. Uses permitted in the open space area may include the management of natural resources, trail systems or other outdoor uses that are consistent with the character of the natural landscape.
 - 2. All lots within the development shall be contiguous to one another except for occasional corridors, which shall not be wider than the average lot width, unless the Planning Commission finds that special circumstances warrant a wider corridor.
 - 3. The cluster development shall be located on the least productive land.
 - 4. All subdivision requirements contained in Article 10, the Subdivision/Partition Ordinance, shall be met.
 - 6. The total number of units may exceed the overall density established by the minimum lot size of the zone in which the development is proposed by not more than 33 percent.
 - 7. The open space of the proposed development may be platted as a separate parcel or in common ownership of some or all of the clustered units.
 - 8. Roads within the development shall meet the requirements of the County Road Department and shall be considered private roads. An agreement acceptable to the Road Department shall be required for the maintenance of those roads.
 - 9. The rural character of the area shall not be adversely affected.
- C. Dimensional Standards:
 - 1. Setbacks and height limitations shall be as prescribed in the zone in which the development is proposed unless adequate justification for variation is provided to the Planning Commission, but in no case shall the setbacks be less than 30 feet or the height greater than 35 feet.
 - 2. Minimum area for a cluster development shall be forty (40) acres unless otherwise limited by the zone in which it is proposed.
 - 3. The minimum lot size in a clustered development shall be 2 acres.

SECTION 5.11 WIND POWER GENERATION FACILITY SITING REQUIREMENTS

- 1. Purpose. The Wheeler County Facility Siting Requirements are intended to establish a local conditional use permitting process that is clear, timely, and predictable as well as encompasses important local issues such as the health, safety and welfare of citizens in

Wheeler County.

2. Definitions
 - a. Commercial Wind Power Generation. An activity carried out for monetary gain using one or more wind turbine generators that has a combined generating capacity greater than 10 MW.
 - b. Decommissioning Fund. An adequate financial vehicle dedicated and maintained with appropriate yearly adjustments to assure the money to dismantle the Wind Power Generation Facility and to restore the site to a useful, nonhazardous condition.
 - c. Wind Power Generation Facility. An energy facility that consists of one or more wind turbines or other such devices and their related or supporting facilities that produce electric power from wind and are:
 - (1) Connected to a common switching station; or
 - (2) Constructed, maintained, or operated as a group of devices.
 - d. Energy Facility Siting Council (EFSC). A board of citizens that determines whether a wind facility of 105 MW or more may be built in Oregon.
3. Procedure. The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Article 5 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing will not apply to proposed facilities for which EFSC is making the land use decision.
4. Wind Power Generation Facility Siting Requirements. The requirements set out in this section shall apply for the application and review of the siting of a Wind Power Generation Facility and the issuance of a Wheeler County Facility Conditional Use Permit.
 - a. The following information shall be provided as part of the application:
 - (1) A general description of the proposed Wind Power Generation Facility, a tentative construction schedule, the legal description of the property on which the facility will be located, and identification of the general area for all components of the proposed Wind Power Generation Facility, including a map showing the location of components.
 - (2) Identification of potential conflicts, if any, with:
 - (a) Accepted farming practices as defined in ORS 215. 203(2)(c) on adjacent lands devoted to farm uses;
 - (b) Other resource operations and practices on adjacent lands except for wind power generation facilities on such adjacent lands; and
 - (c) The nature and extent of the proposed facility on the cost of accepted farm or forest practices on surrounding EFU land.
 - (3) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Wheeler County's Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with the Wheeler County Public

Works Director. The plan will designate the size, number, location and nature of vehicle access points.

- (4) An avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:
 - (a) The landowners/farm tenants.
 - (b) Facility owner/operator representative. (Chair)
 - (c) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.
 - (d) Two Wheeler County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Wheeler County Board of Commissioners.
 - (e) U. S. Fish and Wildlife representative, if the agency chooses to participate.
 - (f) Wheeler County Planning Commission member. At the request of applicant, this committee requirement may be waived or discontinued by the County.
- (5) A Covenant Not to Sue with regard to generally accepted farming practice shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.
- (6) A fire prevention and emergency response plan for all phases of the life of the facility. The plan shall address the major concern associated with the terrain, dry conditions, and limited access.
- (7) An erosion control plan, developed in consultation with the Wheeler County Public Works Department. The plan should include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit.
- (8) A weed control plan addressing prevention and control of all Wheeler County identified noxious weeds directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.
- (9) A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities. These effects can be viewed as either

positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed problematic, decision makers need information about the socioeconomic impacts that are likely to occur.

- (10) If the Wind Power Generation Facility exceeds 20 acres in size, a Goal 3 exception is required as found in OAR 660- 033-0130(22).
 - (11) Information pertaining to the impacts of the Wind Power Generation Facility on:
 - (a) Wetlands;
 - (b) Wildlife (all potential species of reasonable concern);
 - (c) Wildlife habitat;
 - (d) Criminal activity (vandalism, theft, trespass, etc.) and proposed actions, if any, to avoid, minimize or mitigate negative impacts.
 - (12) A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in this section.
- b. Wheeler County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and State law, which Wheeler County considers necessary to protect the best interests of the surrounding area, or Wheeler County as a whole.
 - c. Prior to commencement of any construction, all other necessary permits shall be obtained, e. g., Wheeler County Zoning Permit, road access and other permits from the Wheeler County Public Works Department, and from the Oregon Department of Transportation.
 - d. The following requirements and restrictions apply to the siting of a facility:
 - (1) The Wind Power Generation Facility shall be on property zoned EFU, and no portion of the facility shall be within 3, 520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU Zones are not considered zoned for residential use.)
 - (2) Reasonable efforts shall be made to blend the wind facility's towers with the natural surroundings in order to minimize impacts upon open space and the natural landscape.
 - (3) Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
 - (4) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.
 - (5) The turbine towers shall be of a size and design to help reduce noise or other detrimental effects.
 - (6) Private access roads shall be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

- (7) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.
 - (8) Required permanent maintenance/operations buildings shall be located off-site in one of Wheeler County's appropriately zoned areas, except that such a building may be constructed on-site if:
 - (a) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers; and
 - (b) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of this section.
 - (9) To the extent feasible, the County will accept information presented by an application for an EFSC proceeding in the form and on the schedule required by EFSC.
5. Decommissioning/Dismantling Process. The applicant's dismantling of incomplete construction and/or decommissioning plan for the Wind Power Generation Facility shall include the following information
 - a. A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section.
 - b. A description of actions the facility owner proposes to take to restore the site to a useful, no hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.
 - c. A current detailed cost estimate, a comparison of that estimate with present funds set aside for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and be updated by the facility owner/operator on a 5-year basis.
 - d. Restoration of the site shall consist of the following:
 - (1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.
 - (2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other consistent resource uses of the land.

uncompleted construction and/or decommissioning of the facility. For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.

- b. The actual latitude and longitude location or State Plane NAD 83(91) coordinates of each turbine tower, connecting lines, and transmission lines shall be provided to Wheeler County once commercial electrical production begins.
- c. A summary of as-built changes in the facility from the original plan, if any, shall be provided by the owner/operator.
- d.
 - (1) The Wind Power Generation Facility requirements shall be facility-specific, but can be amended as long as the facility does not exceed the boundaries of the Wheeler County Conditional Use Permit where the original facility was constructed.
 - (2) An amendment to the conditional use permit shall be required if proposed facility changes would:
 - (a) Increase the land area taken out of agricultural production by an additional 20 acres or more;
 - (b) Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;
 - (c) Require an expansion of the established facility boundaries;
 - (d) Increase the number of towers;
 - (e) Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity. No amendment would be required if an expansion of power-generating capacity is due to technology upgrades installed within the existing boundaries of the established Wind Power Generation Facility. Notification by the facility owner/operator to the Wheeler County Planning Department of nonsignificant changes is encouraged, but not required. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC.
- e. Within 120 days after the end of each calendar year, the facility owner/operator shall provide Wheeler County an annual report including the following information:
 - (1) Energy production by month and year.
 - (2) Nonproprietary information about wind conditions (e. g., monthly averages, high wind events, bursts).
 - (3) A summary of changes to the facility that do not require facility requirement amendments.
 - (4) A summary of the avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.

- (5) Employment impacts to the community and Wheeler County during and after construction.
- (6) Success or failures of weed control practices.
- (7) Status of the decommissioning fund.
- (8) Summary comments – any problems with the projects, any adjustments needed, or any suggestions.

The annual report requirement may be discontinued or required at a less frequent schedule by the County. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. (OPTION: For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.)

- 7. As it applies to wind power facilities in the EFU zone.
 - a. For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.
 - (A) Temporary workforce housing described in Subsection 5.8(23)(B) must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.
 - (B) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.
 - b. For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:
 - (1) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
 - (a) Technical and engineering feasibility;
 - (b) Availability of existing rights of way; and
 - (c) The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under Subsection (2);

- (2) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
 - (3) Costs associated with any of the factors listed in Subsection (1) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;
 - (4) The owner of a wind power generation facility shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
 - (5) The criteria of Subsection (7)(c) are satisfied.
- c. For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:
- (1) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
 - (2) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
 - (3) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
 - (4) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county

approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

- d. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection (7)(c)(4) are satisfied.
- e. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections (7)(c) and (7)(d), the approval criteria of Subsection (7)(c) shall apply to the entire project.

Section 5.12 SMALL WIND ENERGY SYSTEMS (SWES)

a. Definitions

- (1) Meteorological tower (met tower) Defined to include the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind directions vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (2) Rotor Diameter Means the cross sectional dimension of the circle swept by the rotating blades.
- (3) Small Wind Energy System (SWES) Means a single towered wind energy system that:
 - A. Is used to generate electricity;
 - B. Has a rated nameplate capacity of 10 MW or less; and
 - C. Has a total height of 175 feet or less.
- (4) Total Height Means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (5) Wind energy system Means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire or other component used in the system.
- (6) Wind Energy System Owner Shall mean the individual that owns, or intends to own, the property upon which he/she will operate a SWES will operate such system in accordance with this section.
- (7) Wind Generator Means blades and associated mechanical and electrical conversion components mounted on the tower.
- (8) Wind Tower Means the monopole, freestanding, or guyed structure that supports a wind generator.

- b. Applicability. In order to properly integrate all regulation provision affection SWES as defined in a. above, and to regulate such systems in an orderly and comprehensive manner, it is hereby provided that SWES are subject to the regulation set forth in this Section. The purpose of this Section is to oversee the permitting of SWES and to preserve and protect public health and safety and surrounding agriculture lands without significantly increasing

the cost or decreasing the efficiency of a SWES. These provisions shall apply to all SWES located in Wheeler County.

c. Standards

- (1) Setbacks A wind tower for a SWES shall be set back a distance equal to its total height plus an additional 25 feet from:
 - A. Any State, County or Federal right-of-way or the nearest edge of a State, County or Federal roadway, whichever is closer;
 - B. Any right of ingress or egress on the owners property;
 - C. Any overhead utility lines;
 - D. All property lines; and
 - E. Any existing guy wire, anchor or small wind energy tower on the property.
- (2) Access
 - A. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - B. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
- (3) Electrical Wires. All electrical wires associated with a SWES, other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box and the grounding wires, shall be located underground.
- (4) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the SWES, such as appurtenant structures, shall be limited to that required for safety purposed, and shall be reasonably shielded from abutting properties.
- (5) Appearance, color and finish. The wind generator and wind tower shall remain painted or finished the color finish that was originally applied by the manufacture.
- (6) Signs. All signs, other than the manufacture's or installer's identification, appropriate warning signs, or owner identification of a wind generator wind tower, building or other structure associated with a SWES visible from any public road shall be prohibited.
- (7) Code Compliance. A SWES including tower shall comply with all applicable construction and electrical codes.
- (8) Utility Notification and Interconnection. SWES that connect to the electric utility shall comply with the utilities regulations.
- (9) Attachments. SWES shall not be attached to any building, including guy wires.
- (10) Met Towers. Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedure as a SWES.
- (11) Number of SWES. Each property is eligible for two SWES only, with the exception

of Meteorological towers which will not exceed 4 towers.

- d. Abandonment
 - (1) A SWES that is out-of-service for a continuous 12 month period will be deemed to have been abandoned. The Planning Director may issue a Notice of Abandonment to the owner of a SWES that is deemed to have been abandoned. The Owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for Operational difficulty and providing a reasonable timetable for corrective action within 30 days from the date of the notice. The Planning Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the SWES has not been abandoned.
 - (2) If the SWES is determined to be abandoned, the owner of a SWES shall remove the wind generator from the wind tower at the Owner's sole expense within 3 months of the date of Notice of Abandonment. If the owner fails to remove the wind generator from the wind tower, the Planning Director may pursue a legal action to have the wind generator removed at the Owner's expense.
- e. Connection to Power Grid. Any property owner seeking to construct a SWES and connect such system to the main power grid with the capability of transporting energy back to the main power company shall provide notice to the Planning Director of the power company's commitment to receive the power.
- f. Variances. Variances to the distances restrictions and standards contained in this section are not permitted.
- g. Violations. It is unlawful for any person to construct, install, or operate a SWES that in not in compliance with this Section or with a condition contained in a conditional use permit issued pursuant to this Section.
- h. Application. This ordinance shall only apply to a SWES applied for after the adoption date of this ordinance.
- i. Approval procedure. A SWES shall be processed as a Planning Director review as set forth in Section 9.1 (3) (b).

Section 5.13 PHOTOVOLTAIC SOLAR POWER GENERATION FACILITY. A proposal to site a photovoltaic solar power generation facility in the EFU zone shall be subject to the following definitions and provisions:

- (1) Definitions:
 - (A) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
 - (B) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.
 - (C) "Dual-use development" means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.

- (D) “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.
 - (E) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.
 - (F) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this Section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.
- (2) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy or cover more than 12 acres unless
 - (A) The provisions of paragraph (3)(H) are satisfied; or
 - (B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual- use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.
 - (3) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).
 - (A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power

generation facility project components on lands in a manner that could disrupt common and accepted farming practices.

- (B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied. The approved plan shall be attached to the decision as a condition of approval;
- (C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
- (D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;
- (E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
- (F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
 - (1) Non high-value farmland soils are not available on the subject tract;
 - (2) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (3) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and
- (G) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
 - (1) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
 - (2) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the

overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, ~~or~~ 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.

- (H) A photovoltaic solar power generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C) without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4, provided the land:
 - (i) Is not located within the boundaries of an irrigation district;
 - (ii) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;
 - (iii) Is located within the service area of an electric utility described in ORS 469A.052(2);
 - (iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and
 - (v) Does not qualify as high-value farmland under any other provision of law; or
- (4) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:
 - (A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033- 0020(8)(a);
 - (B) The project is not located on high-value farmland soils or arable soils listed in OAR 660-033-0020(8)(b)-(e) unless it can be demonstrated that:
 - (1) Nonarable soils are not available on the subject tract;
 - (2) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (3) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;
 - (C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
 - (D) A study area consisting of lands zoned for exclusive farm use located within one

mile measured from the center of the proposed project shall be established and:

- (1) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.
 - (2) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches 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; and
- (E) The requirements of OAR 660-033-0130(38)(h)(A), (B), (C), and (D) are satisfied.
- (5) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on nonarable land:
- (A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033- 0020(8)(a);
 - (B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
 - (1) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (2) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
 - (C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
 - (D) No more than 20 acres of the project will be sited on arable soils;
 - (E) The requirements of OAR 660-033-0130(38)(h)(D) are satisfied;
 - (F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing

ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

- (G) If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife species of concern as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.
- (9) An exception to the acreage and soil thresholds in subsections (2), (3), (4), and (5) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
- (10) The project owner shall sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
- (11) Nothing in this Section shall prevent the county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

ARTICLE 6. EXCEPTIONS AND NONCONFORMING USES

SECTION 6.1 CONTINUATION OF NONCONFORMING USES. Subject to the provisions of ORS 215.130 and the provisions of this article, a nonconforming use may be continued and alterations made to conform with other laws. Such alterations shall be the minimum necessary to comply with the regulations or law.

SECTION 6.2 DISCONTINUANCE OF NONCONFORMING USE. If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this Ordinance.

SECTION 6.3 CHANGE OF NONCONFORMING USE. If a nonconforming use is replaced by another use, the new use shall conform to this Ordinance.

SECTION 6.4 DESTRUCTION OF NONCONFORMING USE. If a nonconforming use or structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of its fair market value as indicated by the records of the County Assessor, and is not returned to use within one year from the date of destruction, a future use on the site shall conform to this Ordinance.

SECTION 6.5 COMPLETION OF STRUCTURE. Nothing contained in this Ordinance shall require any change in the plans, construction, alteration or designated use of a structure on which substantial construction work has commenced prior to the adoption of this Ordinance, provided the building, if nonconforming or intended for a nonconforming use, is completed and used within 2 years from the time this Ordinance is adopted.

SECTION 6.6 GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS. The following minimum lot size exceptions shall apply:

- (1) A duly platted lot contiguous to other lands under the control and ownership of the same owner shall be aggregated with such other lands as necessary to meet the standards of this Ordinance and more specifically the applicable Zone.
- (2) Any parcel of land or portion thereof which is to be dedicated to a public, semi-public, or public utility for a park, school, road, canal, railroad, utility or other public use shall be exempt from the minimum lot size requirements of this Ordinance and the applicable Zone.
- (3) Whereas land sections in the County are affected by survey adjustments creating sections of less than 640 acres, minimum requirements relative to lot sizes where applicable shall be considered as standard metes and bounds land section divisions; i.e. 160, 80, 40, 20, etc. Lot size may be reasonably smaller than required if a total section acreage reduction is due to a survey adjustment or other man-made barrier or acreage adjustment, such as public roads, over which the applicant has had no control.

SECTION 6.7 GENERAL EXCEPTIONS TO YARD REQUIREMENTS. The following exceptions to the front yard requirements are authorized for a lot in any zone:

- (1) If there is a building on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth;
- (2) If there are buildings on both abutting lots with front yards of depths less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots; and
- (3) In determining the depth of a front yard, the required depth shall be measured from a line parallel to and 30 feet distant from the centerline of the road on all roads with less than 60 feet of right-of-way.

SECTION 6.8 GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS. The following types of structures or structural parts are not subject to the building height limitations of this Ordinance: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, flagpoles, masts, aerials, cooling towers, water towers, elevator shafts, windmills, conveyors, grain elevators and other similar projections.

SECTION 6.9 EXCEPTION FOR MINOR REPAIR AND REHABILITATION. Except for nonconforming uses and historic structures, activities involving rehabilitation, replacement, minor betterment, repairs and maintenance, improvements and other similar construction activities involving a lawful use permitted within a specified zone are exempt from the permit requirements of this Ordinance unless specifically regulated and provided such activities do not change the use or expand the capacity of use level.

SECTION 6.10 EXCEPTION FOR PUBLIC FACILITIES IMPROVEMENT OR RECONSTRUCTION. Minor betterment, improvements, replacement or reconstruction of existing public facilities such as sewer and water lines, storm water drainage facilities, sidewalks, and similar public facilities within rights-of-ways and easements for said purposes existing on or before the effective date of this Ordinance, or on contiguous publicly owned property designated, intended or utilized to support such facilities is exempt from the permit requirements of this Ordinance unless specifically set forth otherwise.

ARTICLE 7. VARIANCES

SECTION 7.1 AUTHORIZATION TO GRANT OR DENY VARIANCES. The Planning Commission may authorize variances from the requirements of this Ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of the ordinance would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this Ordinance.

SECTION 7.2 CIRCUMSTANCES OF GRANTING VARIANCE. A variance may be granted only in the event that the applicant can prove all of the following circumstances:

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of this ordinance, topography or other circumstances over which the applicant has no control.
- (2) The variance is necessary for the preservation of property rights of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
- (3) The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the zone or vicinity in which the property is located, or otherwise conflict with objectives of any County plan or policy.
- (4) The variance requested is the minimum variance which would alleviate the hardship.
- (5) If a variance is required for County Facilities, then the following standards apply:
 - (a) The granting of the variation shall be in harmony with the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.
 - (b) Applicants for a variance from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:
 - (A) Indirect or restricted access cannot be obtained;
 - (B) No engineering or construction solutions can be applied to mitigate the condition; and
 - (C) No alternative access is available from a street with a lower functional classification than the primary roadway.
 - (c) No variance shall be granted where such hardship is self-created.

SECTION 7.3 APPLICATION FOR A VARIANCE. A property owner may initiate a request for a variance by filing an application with the Planning Official of the Planning Commission, using forms prescribed pursuant to this Ordinance. The Planning Official shall have the authority to approve a variance that is less than 10 percent of the requirement.

SECTION 7.4 PUBLIC HEARING OF A VARIANCE. Before the Planning Commission may act on a request for a variance, it shall hold a public hearing.

SECTION 7.5 NOTIFICATION OF DECISION. Within 10 days after a decision has been rendered, the Planning Official shall provide the applicant and parties with the notice of the decision.

ARTICLE 8. AMENDMENTS

SECTION 8.1 AUTHORIZATION TO INITIATE AMENDMENTS. An amendment to the text of this Ordinance or to a Zoning Map may be initiated by the County Court, by the County Planning Commission, or by an application of a property owner or the authorized agent of the owner.

SECTION 8.2 APPLICATION FOR A TEXT AMENDMENT OR ZONE CHANGE. An application for an amendment to the text of this Ordinance or for a Zone Change initiated by anyone other than the County, shall be filed with the County Planning Official on forms prescribed by the County and shall be accompanied by the required filing fee as established by the County Court. The applicant shall provide reasons for the requested change, and shall present facts showing that the amendment will substantially be in compliance with the goals, objectives and policies of the County Comprehensive Plan and applicable statewide planning goals and implementing administrative rules.

SECTION 8.3 PUBLIC HEARINGS ON AMENDMENTS. The County Planning Commission shall, at its earliest practical meeting date, duly advertise and conduct a public hearing on the application, and shall, within 30 working days of the conclusion of such hearing, recommend to the County Court approval, disapproval or modified approval of the proposed amendment. Within 45 days of receipt of the Commission's recommendations, the County Court shall duly advertise and conduct a public hearing on the proposed amendment. The County Court shall approve, approve with modifications, or disapprove the proposed amendment. The Commission or County Court may recess or continue a hearing in order to obtain additional information and input on the proposed amendment.

SECTION 8.4 PUBLIC NOTICE REQUIREMENTS. The following public notice requirements shall apply to applications for an amendment to the text of this Ordinance or to an application for a zoning amendment provided for by this Article:

- (1) Each notice of a public hearing regarding an amendment to this Ordinance shall be published once a week for the two successive weeks with the first notice appearing 21 days prior to the date of the hearing in a newspaper of general circulation in the County.
- (2) In addition to the notice requirements set forth by Subsection (1) above, for an amendment that proposes to rezone specific identifiable properties, or such rezoning is for a single lot or parcel, individual notice shall be mailed or otherwise delivered to the owner of each lot or parcel of property that is proposed to be rezoned and to all affected property owners as set forth in Section 9.5 of this Ordinance.
- (3) Notice of an application for a zone change of property which includes all or part of a manufactured home park shall be given by first class mail to each existing

mailing address for tenants of the manufactured home park at least 20 days but not more than 40 day before the date of the first hearing.

- (4) Notice of an application for a proposed zoning amendment, together with a copy or description of the proposed amendment, shall be provided to the State Land Conservation and Development Commission (LCDC) at least 45 days prior to the date of the first hearing. (ORS 197)
- (5) Due to Ballot Measure 56, passed in 1998, a notice to any person whose land values may be affected may be required. The county shall make the decision whether or not Ballot Measure 56 applies to an amendment of this Ordinance.

SECTION 8.5 COMPLIANCE WITH THE TRANSPORTATION SYSTEM PLAN

- (1) All development proposals, plan amendments, or zone changes shall conform with the adopted Transportation System Plan. The applicant must show that the proposed change conforms with the Comprehensive Plan. In addition:
 - (a) Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
 - (A) Limiting allowed land uses to be consistent with the planned function of the transportation facility;
 - (B) Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
 - (C) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.
 - (b) A plan or land use regulation amendment significantly affects a transportation facility if it:
 - (A) Changes the functional classification of an existing or planned transportation facility;
 - (B) Changes standards implementing a functional classification system;
 - (C) Allows types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or
 - (D) Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

SECTION 8.6 RECORDS ON AMENDMENTS. The duly approved and signed amendment to the text or zoning map(s) of this Ordinance shall be maintained on file in the office of the County Clerk. Copies of such amendments shall be available for public review and information.

SECTION 8.7 ADOPTION OF AN AMENDMENT. An amendment to the text of this Ordinance or a Zoning Map shall be approved by Ordinance only.

ARTICLE 9. ADMINISTRATIVE PROVISIONS

SECTION 9.1 ADMINISTRATION AND ENFORCEMENT.

- (1) The County Planning Official shall have the powers and the duties to enforce the provisions of this Ordinance. In addition, the Planning Commission and/or County Court may initiate action to enforce any provision of this Ordinance, including any violation of any restriction or condition established under the provisions of this Ordinance.
- (2) Duties of the Planning Director:
 - (a) Review all permits to determine that the permit requirements of this ordinance have been satisfied.
 - (b) Review all permits to determine that all necessary approvals have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
 - (c) Refer and schedule applications for review.
 - (d) Conduct the correspondence of the Planning Department and Planning Commission.
 - (e) Give required notices, as set forth in this Section.
 - (f) Maintain a record and enter into the record relevant dates such as those of giving notice hearings, postponement, and continuances, and a summary of action taken by the Director and/or Planning Commission.
 - (g) Prepare and maintain findings of fact and/or minutes of public meeting conducted under this Ordinance.
 - (h) Mail a copy of the final order to the applicant and all parties of a proceeding.
 - (i) The Planning Director may delegate the authority to review, process and issue administrative permits, temporary use permits and to conduct site review to other county employees as deemed necessary.
 - (j) Shall be responsible for the administration and enforcement of this Ordinance.
- (3) Types of Planning Director Decisions.
 - (a) Administrative Review The Planning Director may be required to make a review or take an action. Authorization of such uses does not require notice to adjacent property owners, and does not constitute a land use decision pursuant to ORS 197.015(10).
 - (b) Planning Director Review. The Planning Director shall conduct a review that does constitute a land use decision pursuant to ORS 197.015(10), for the items list below. Notice and an opportunity to comment must be provided in the manner described in this Article. The Planning Director may refer any matter under this review to the Planning Commission.

- A. Dwellings provided in conjunction with farm use pursuant to Section 3.1(3)(b).
- B. Dwellings not provided in conjunction with farm use pursuant to Section 3.1(4)(m).
- C. Churches and cemeteries in conjunction with churches more than 3 miles from an Urban Growth Boundary, pursuant to Section 3.1(3)
- D. Public schools more than 3 miles from an Urban Growth Boundary, including all buildings essential to the operation of a school.
- E. Residential dwellings in the forest zone pursuant to Section 3.2.
- F. Wireless Telecommunication Facilities for a governmental unit for public use.

SECTION 9.2 DECISIONS. All decisions made pursuant to the provisions of this Ordinance for the approval or denial of an application authorized or required for a use permitted by this Ordinance shall be based upon and accompanied by a statement that explains the criteria and standards relied upon and considered relevant to the decision, that states the facts relied upon in rendering the decision, and explains the justification for the decision based on the criteria, standards, facts and conclusions set forth. Written notice of the decision shall be given to all parties to the proceedings within 10 working days, or as otherwise required by a specific provision in this Ordinance.

SECTION 9.3 PROCESSING TIME LIMITS

- (1) In accordance with ORS215.428, except as provide in subsection (c) of this Section, the County Court shall take final action upon an application for a permit or zone change including all appeals to the County Court as provided by this Ordinance, within 150 days after the application has been deemed complete.
- (2) In accordance with ORS 215.428, if an application for a permit or a zone change is incomplete, the County; or committee appointed by the County Court shall notify the applicant of exactly what information is missing within 30 days of the receipt of the application and shall allow the applicant a reasonable opportunity to submit the missing information.
- (3) In accordance with ORS215.428, the 150-day period specified in subsection (a) of this Section may be extended for a reasonable period of time at the request of the applicant. Subsection (a) shall not apply to decisions not wholly within the authority and control of the County Court, not to an amendment of the comprehensive plan or land use regulation which as been forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610(7).

SECTION 9.4 APPEALS. A person may appeal a decision or requirement made by the County Planning Commission to the County Court, or a person may appeal a decision or requirement made pursuant to this Ordinance by the County Planning Official or other County Official to the County Planning Commission. The appellate authority, on its own motion, may

review the action of a lower reviewing authority. A person or party aggrieved by a decision made pursuant to this Ordinance may appeal such decision if the person or party:

- (1) Files a notice of intent to appeal as provided in Subsection (4) of this Section; and
- (2) Appeared or participated in the proceedings leading to the decision, either orally or in writing; and
- (3) Meets one of more of the following criteria:
 - (a) Was entitled to right of notice and hearing prior to the decision to be reviewed; or
 - (b) Was a person who would have had a right to notice if a hearing had been scheduled; or
 - (c) Is aggrieved, or has interests adversely affected by the decision.
- (4) Written notice of an appeal must be filed with the County Clerk and/or Planning Official on forms prescribed by the County within 15 days after the decision was mailed to parties to the proceedings.
- (5) The notice of appeal required by Subsection (4) of this Section shall state the nature of the decision or requirement being appealed, have attached a copy of the decision or requirement being appealed, state the grounds for appeal, and shall specifically state the following:
 - (a) The facts that establish that the petitioner has standing; and
 - (b) The date of the decision or requirement; and
 - (c) The specific issues the petitioner seeks to have reviewed stated in sufficient specificity to afford the decision makers an opportunity to respond to the issue; Note: As provided for in Subsection (1) of Section 9.5 of this Ordinance, failure of the appellants to have raised a specific issue, in person or in writing, at the final level of review by the decision making County review authority, or during the 7 day comment period of any continued final evidentiary hearing before said review authority, or failure to have provided sufficient specificity on such issue as to afford the decision makers an opportunity to respond to the issue, precludes an appeal based on that issue.
- (6) The appeal shall not be deemed complete until the required filing fee as established by the County Court has been submitted with the notice to appeal.
- (7) The County Court or Planning Commission shall hold a public hearing on the appeal within 45 days from the date the appeal is filed and deemed complete by the receiving County official. A hearing on an appeal may be recessed or continued for good cause.
- (8) The County Court or Planning Commission may review a lower decision or requirement upon its own motion as provided for in this Section after giving not less than 10 days advance notice to the parties involved in the decision or requirement, and if such review is initiated within the 15 day appeal period required by Subsection (4) of this Section.
- (9) An appeal or review proceedings shall be based upon but not limited to the record of the decision being appealed or reviewed.
- (10) All appeal or review proceedings shall require a public hearing by the reviewing

authority. Notice of such hearing shall be published at least one time not less than 10 days prior to such hearing in a newspaper of general circulation in the County. In addition, individual notice shall be mailed or otherwise delivered to all parties affected by the decision or requirement being reviewed; such notice shall be mailed or otherwise delivered not less than 10 days prior to the date of the hearing.

- (11) Following the hearing, the reviewing authority may uphold, overrule, modify, or remand any decision or requirement subject to appeal in accordance with the provisions of this Section, and shall set forth findings and conclusions for such decision.
- (12) A hearing on an appeal may be continued by the reviewing authority.
- (13) During the first 7 days of the continuance period, participants may submit new issues related to the subject matter, or may rebut evidence presented in the hearing prior to the continuance. All such submissions shall be in writing.

SECTION 9.5 PUBLIC HEARINGS AND NOTICE. The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before a local governing body, planning commission, hearings body or hearings officer on application for a land use decision and shall be incorporated into the comprehensive plan and land use regulations:

- (1) An issue which may be the basis for an appeal to the board shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the local government. Such issues shall be raised with sufficient specificity so as to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.
- (2) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:
 - (a) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;
 - (b) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
 - (c) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.
 - (d) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- (3) The notice provided by the jurisdiction shall:
 - (a) Explain the nature of the application and the proposed use or uses which could be authorized;
 - (b) List the applicable criteria from the ordinance and the plan that apply to the application at issue;
 - (c) Set forth the street address or other easily understood geographical

- reference to the subject property;
 - (d) State the date, time and location of the hearing;
 - (e) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
 - (f) Be mailed at least 20 days before the evidentiary hearing;
 - (g) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
 - (h) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 - (i) State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost; and
 - (j) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (4) All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time notice provided in Subsection (3) of this section is provided.
- (a) Any staff report used at the hearing shall be available at least 7 days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of Section 9.3 of this Ordinance.
- (5) At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:
- (a) Lists the applicable substantive criteria;
 - (b) States that testimony and evidence must be directed toward the criteria described in paragraph (5)(a) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
 - (c) States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the board based on that issue.
- (6) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least 7 days after the hearing. Such an extension shall not be subject to the limitations of ORS 215.428 or 227.178.
- (7) When a local governing body, planning commission, hearings body or hearings officer reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
- (8) The failure of the property owner to receive notice as provided in this section

shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

SECTION 9.6 PROVIDING NOTICE TO PUBLIC AGENCIES. Notice shall be given to the Wheeler County Road Department regarding any land use action on or adjacent to a county road. Notice shall be given to ODOT regarding any land use action on or adjacent to a State facility. Similarly, all actions by a city or county potentially affecting another jurisdiction's road shall require notice to that jurisdiction's public works department. In addition, notice shall be given to providers of public transit and special interest transportation groups such as truckers, railroad, bicyclists, pedestrians, and the disabled on any roadway or other transportation project.

- (1) Information that should be conveyed to reviewers includes:
 - (a) Project location.
 - (b) Proposed land use action.
 - (c) Location of project access point(s).
- (2) Additional information that shall be supplied for review upon request (provided the information is available) that includes a site plan showing the following:
 - (a) Distances to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property;
 - (b) Number and direction of lanes to be constructed on the driveway, plus striping plans;
 - (c) All planned transportation features (lanes, signals, bikeways, sidewalks, crosswalks, etc.);
 - (d) Trip generation data or appropriate traffic studies;
 - (e) Parking (motor vehicle and bicycle) and internal circulation plans for vehicles and pedestrians;
 - (f) Plat map showing property lines, right-of-way, and ownership of abutting properties; and
 - (g) A detailed description of any requested variance.

SECTION 9.7 FORM OF PETITIONS, APPLICATIONS AND APPEALS. Petitions, applications and appeals provided for in this Ordinance shall be made on forms provided for such purpose or as otherwise prescribed by the County. Where accompanying plans and specifications must be submitted, such plans shall be legibly drawn to scale showing the actual shape and dimensions of the subject lot, parcel or site and its relationship to adjacent and surrounding properties, the sizes and locations of all existing and proposed structures, public or private facilities, and such other information as is needed to sufficiently determine conformance with this Ordinance.

SECTION 9.8 REVOCATION. The County Planning Official or Planning Commission may revoke any permit granted under the provisions of this Ordinance on any one or more of the following grounds:

- (1) A permit may be revoked on the basis of fraud, concealment, or misrepresentation by the applicant to the approving authority during the application process.
- (2) A permit may be revoked on the basis that the use for which such permit was issued is not exercised within the time limits set forth by this Ordinance or by the approving authority.
- (3) A permit shall be revoked on the basis that the use for which a permit was granted has ceased to exist or has been suspended for one year or more unless otherwise provided for in this Ordinance or in the approval of such issue.
- (4) A permit may be revoked on the basis that the permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any state or local statute, code, resolution, law or regulation.
- (5) A permit may be revoked on the basis that the use for which the approval was granted is so exercised as to be detrimental to the public health, safety or general welfare, or in such a manner as to constitute a nuisance.
- (6) Any permit granted pursuant to this Ordinance shall become null and void if not exercised within the time period specified in such permit or as specified by this Ordinance; if no time period is specified in the permit or by this Ordinance, such time period shall be construed to not exceed one year from the date of approval of said permit.
- (7) Any permittee may appeal the Planning Official's decision as provided for in Section 9.4 of this Ordinance.

SECTION 9.9 MODIFICATION. The County Planning Commission or County Court may modify any permit granted under the provisions of this Ordinance on any one or more of the following grounds:

- (1) A permit may be modified on the basis that the permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any state or local statute, code, resolution, law or regulation.
- (2) A permit may be modified on the basis that the use for which the approval was granted is so exercised as to be detrimental to the public health, safety or general welfare or in such a manner as to constitute a menace.
- (3) A permit may be modified after receiving an application to modify an existing permit by a permittee.
- (4) The County Planning Commission or County Court shall hold a public hearing on any proposed modification after giving written notice to the permittee and other affected persons. The reviewing authority shall render its decision within 10 days after the conclusion of the hearing. Appeals of the decision shall be as provided for in Section 9.4 of this Ordinance or as otherwise provided by law.

SECTION 9.10 SEVERABILITY. The provisions of this Ordinance are hereby declared to be severable. If any section, sentence, clause or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 9.11 REMEDIES. In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is or is proposed to be used in violation of this Ordinance, the County Court or a person whose interest in real property in the County is or may be affected by the violation, may, in addition to other remedies provided for by law, institute injunction, mandamus, abatement, or other appropriate proceedings to temporarily or permanently prevent, enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

SECTION 9.12 PENALTIES. Any person, firm or corporation who violates or refuses to comply with any provision of this Ordinance is punishable upon conviction. A fine of not more than \$100.00 of each day of violation where the offense is a continuing offense but such fine may not exceed \$1000.00, or a fine of not more than \$500.00 where the offense is not a continuing offense, imprisonment up to the maximum period allowed by state law, or both. It shall be the responsibility of the offender to abate the violation, and each day that such violation is permitted to exist shall constitute a separate offense.

SECTION 9.13 COMPLIANCE.

Failure to comply with any order or decision as above provided will the violator to any legal remedy provided under law, including but not limited to the following:

- (1) A complaint filed with the Justice or Circuit Court, or other court of competent jurisdiction whereupon conviction the court may fine the violator up to the maximum allowed by law, or imprison the violator in jail for up to the maximum time allowed by law, or both. Each day a violation occurs may be considered a separate offense.
- (2) The County Planning Official and/or a certified Building Official may order the stoppage of work of any type which is in violation of any of the provisions of this Ordinance or a Granted permit. A copy of such Stop Work Order shall be posted at the site of construction or use, and a copy shall be served upon the property owner and/or the permittee. Upon such posting of said order, all work shall cease forthwith, and the property owner, permittee or permittee's agents or employees who thereafter continue to work shall be in violation of this Document. The Stop Work Order shall not be removed until satisfactory evidence that said violation has or will be corrected has been provided.

SECTION 9.14 VIOLATION OR ORDINANCE AS A NUISANCE.

The construction, erection, location, enlargement or use or change in use or uses of any structure or property in violation of this Ordinance or those conditions and limitations approved pursuant to the provisions of this Ordinance shall be deemed a nuisance and may be enjoined, abated or removed.

SECTION 9.15 LIMITATIONS OF REFILEING

No reapplication for an amendment to the text of this Ordinance, a zoning map, or a variance, conditional use or temporary use by a property owner, which has been denied wholly or in part by the Planning Commission or County Court shall be considered by the Planning Commission

within a 6 month period immediately following the denial of such application. However, if in the opinion of the Planning Commission, new evidence or a change in circumstances warrants such reapplication in a lesser time, the Commission may permit a new application.

SECTION 9.16 FEES

Applications shall be accompanied by the filing fee in the amount established by the County Court.

ARTICLE 10. SUBDIVISIONS AND PARTITIONS

SECTION 10.1 PURPOSE. It is the purpose of this Article, in accordance with the provisions of ORS Chapters 92 and 215, to provide for minimum standards governing the approval of land divisions within the County, including subdivision and land partitionings, as necessary to carry out the County's needs and policies for adequate traffic movement, water supply, sewage disposal, drainage, and other facilities and services, to improve land records and boundary monumentation, and to ensure equitable processing of subdivision, partitioning and other land division activities.

SECTION 10.2 APPLICABILITY. No person may sub-divide, partition or otherwise divide land, or create a planned unit or cluster development, or create a street for the purpose of developing land except in accordance with the provisions of this Article, this Ordinance and ORS Chapters 92 and 215. (ORS 92.012)

SECTION 10.3 LAND PARTITIONINGS.

- (1) **APPLICABILITY OF REGULATIONS.** As defined in this Section and this Ordinance, all Land Partitionings within the County, except as set forth in Subsection (2) of this Section, must be approved by the County as provided for in this Section and this Article.
- (2) **EXEMPTIONS.** The following land divisions shall be exempt from the land partitioning requirements set forth by this Section and this Ordinance:
 - (a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
 - (b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance; or
 - (c) A sale or Wheeler by a person to a public agency or public body for state highway, county road, city street or other right-of-way complies with Sections 3.1(2)(f) to (i) and Section 3.1(3)(u) to (w) of this Ordinance. However, any property divided by the sale or Wheeler of property for state highway, county road, city street, or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.
 - (d) Any parcel of land created by partitioning, greater than ten (10) acres need not be surveyed.
- (3) **FILING PROCEDURES AND REQUIREMENTS.** Any person proposing a Land Partitioning, or the authorized agent or representative thereof, shall prepare

and submit 10 copies of the Tentative Plan for the proposed partitioning, together with the prescribed application form and required filing fee, to the County Planning Official.

- (a) The Tentative Plan of a proposed partitioning shall be drawn on a sheet 18 x 24 inches in size or multiples thereof at a scale of one inch equals 50 feet or multiples thereof.
- (b) The Plan shall include the following:
 - (A) A vicinity map locating the proposed partitioning in relation to adjacent subdivision, roadways, properties, and land use patterns.
 - (B) A plan of the proposed partitioning showing tract boundaries and dimensions, the area of each tract or parcel, the names, right-of-way widths and improvement standards of existing roads.
 - (C) Names and addresses of the land owner, the partitioner, the mortgagee if applicable, and the land surveyor employed (or to be employed) to make necessary surveys and prepare the final partitioning map.
 - (D) A statement regarding provisions for water supply, sewage disposal, solid waste disposal, fire protection, access, utilities, etc.
 - (E) Northpoint, scale and date of map, and the property identification by tax lot, map number, section, township and range, subdivision lot and block or other legal description.
 - (F) Statement regarding past, present and proposed use of the parcel(s) to be created, or the use for which the parcel(s) is intended or to be offered.
- (4) **PROCESSING PROCEDURES.** Except as provided for in paragraph (a) of this Subsection, an application for a Land Partitioning shall be processed as follows: within 10 working day of the receipt of an application and tentative plan for a partitioning, the County Planning Official shall take action to process the subject application and shall either approve the application as submitted, approve with modifications or conditions, or deny the application; or, in lieu thereof, the Planning Official may refer the subject application to the Planning Commission for review and action as set forth in Section 9.5 of this Ordinance.
 - (a) Any division of land resulting in a Series Partitioning shall be approved by the Planning Commission as a subdivision.
- (5) **REQUIREMENTS FOR APPROVAL - PARTITIONINGS.** No partitioning shall be approved unless the following requirements are met: (ORS 92.090)
 - (a) Proposal is in compliance with the County's Comprehensive Plan and the applicable Zoning regulations.
 - (b) Each parcel is suited for the use intended or to be offered, including but not limited to sewage disposal, water supply, guaranteed access, and utilities.
 - (c) All public services deemed necessary are reasonably available or are proposed to be provided by the partitioner and/or developer.
 - (d) Proposal will not have any identifiable adverse impacts on adjoining or

area land uses, public services and facilities, resource carrying capacities, or on any significant resources.

- (e) A statement of water rights, a water rights certificate number and a water rights division plan, as applicable.
 - (f) The streets and roads are laid out so as to conform to the plats of subdivisions and partitionings already approved for adjoining property as to width, general direction and in all other respects unless the reviewing authority determines it is in the public interest to modify the street or road pattern.
 - (g) Streets and roads held for private use and all reservations and restrictions relating to such private roads and streets are clearly indicated on the tentative plan.
- (6) **SURVEY AND IMPROVEMENT REQUIREMENTS.** In the approval of any Land Partitioning, the survey and monumentation requirements shall be in compliance with the applicable provisions of ORS Chapter 92, and the need for street and other public facility improvements shall be considered, and such may required as a condition of approval. Any survey and/or improvement requirements that may be required for a subdivision or other land development may be required for a partitioning, including bonding or other assurance of compliance.
- (7) **FINAL PLAT REQUIREMENTS.** Except as provided otherwise in paragraph (d) of this subsection, within 45 days or other time period as may be set forth by the reviewing authority of the approval of a partitioning, the partitioner shall have prepared and submitted to the County Planning Official a Final Partitioning Map prepared by a licensed surveyor and any other materials or documents required by the reviewing authority.
- (a) Said Final Map shall be in compliance with the applicable provisions of ORS Chapter 92 and shall provide a certificate for approval by the County Planning Official.
 - (b) Upon such approval, the Petitioner shall file a copy of said Final Map with the County Clerk, the County Surveyor, and the County Assessor.

SECTION 10.4 -SUBDIVISIONS

- (1) **APPLICATION.** Any person proposing a Subdivision, or their authorized agent or representative, shall submit an application for a Subdivision to the County Planning Official. Said application shall be accompanied by 10 copies of a Tentative Plan as set forth in this Section, together with improvement plans and other supplementary material as may be required, and the appropriate filing fee. The time of filing shall be construed to be the time when all of the foregoing materials are received by the County Planning Official and are certified as being complete.
- (2) **TENTATIVE PLAN REQUIRED.** Any person proposing a subdivision shall submit a Tentative Plan, together with the required application, accompanying information and supplemental data, and required filing fee, prepared and

submitted in accordance with the provisions of this Subsection.

- (a) Scale of Tentative Plan. The Tentative Plan of a proposed subdivision shall be drawn on a sheet(s) 18 x 24 inches in size at a scale of one inch equals 100 feet as approved by the County Planning Official.
- (b) Information Requirements. The following information shall be shown on the Tentative Plan or provided in accompanying materials. No Tentative Plan submittal shall be considered complete unless all such information is provided, unless approved otherwise by the Planning Official.

(A) General Information Required.

- (1) Proposed name of the subdivision.
- (2) Names, addresses and phone numbers of owner of record and subdivider, authorized agents or representatives, surveyor, and any assumed business names filed or to be filed by the owner or sub-divider in connection with the development.
- (3) Date of preparation, north point, scale and gross area of the development.
- (4) Identification of the drawing as a Tentative Plan for a subdivision.
- (5) Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.
- (6) Location of existing and proposed access point(s) on both sides of the road where applicable;
- (7) Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;
- (8) Number and direction of lanes to be constructed on the driveway plus striping plans;
- (9) All planned transportation features (such as sidewalks, bikeways, auxiliary lanes, signals, etc.);
- (10) Parking and internal circulation plans including walkways and bikeways;
- (11) A detailed description of any requested variance and the reason the variance is requested.
- (12) The location and design of bicycle parking facilities shall be indicated on the site plan. The development shall include the number and type of bicycle parking facilities required in section 4.3 (6) of this ordinance.
- (13) All site plans (industrial and commercial) shall clearly show how the site's internal pedestrian and bicycle facilities connect with external existing or planned facilities or systems.

- (14) The tentative plan shall include the location and design of all proposed pedestrian and bicycle facilities, including access ways.
- (B) Information Concerning Existing Conditions.
- (1) Location, names and widths of existing improved and unimproved streets and roads within and adjacent to the proposed development.
 - (2) Location of any existing features such as section lines, section corners, City and special district boundaries, and survey monuments.
 - (3) Location of existing structures, fences, irrigation canals and ditches, pipe lines, waterways, railroads, and natural features such as rock outcroppings, marshes, geological features and natural hazards.
 - (4) Location and direction of water courses, and the location of areas subject to erosion, high water tables, storm water runoff, and flooding.
 - (5) Location, width and use or purpose of any existing easements or right-of-ways within and adjacent to the proposed development.
 - (6) Existing and proposed sewer lines, water mains, culverts, and underground or overhead utilities within and adjacent to the proposed development, together with pipe sizes, grades and location.
 - (7) Contour lines related to some established bench mark or other acceptable datum and having minimum intervals of one foot for slopes less than 3 percent, 5 feet for slopes between 3 percent and 15 percent, 10 feet for slopes between 15 and 40 percent, and 20 feet for slopes greater than 40 percent. Requirements may be modified by the Planning Official.
- (C) Information Concerning Proposed Subdivision.
- (1) Location, names, width, typical improvements, cross sections, approximate grades, curve radii, and length of all proposed streets, and the relationship to all existing and projected streets.
 - (2) Location, width and purpose of all proposed easements or right-of-ways, and the relationship to all existing easements or right-of-ways.
 - (3) Location of at least one temporary bench mark within the proposed subdivision boundary.
 - (4) Location, approximate area and dimensions of each lot, and proposed lot and block numbers.
 - (5) Location, approximate area and dimensions of any lot or

- area proposed for public, community, or common use, the use proposed and plans for improvements or development.
- (6) Proposed use, location, area, and dimensions of any lot which is intended of nonresidential use.
 - (7) An outline of the area proposed for partial recording on a final plat if phased development and recording is contemplated or proposed.
 - (8) Source, method and preliminary plans for domestic water supply, sewage disposal, solid waste collection and disposal, and all utilities.
 - (9) Storm water and other drainage plans.
- (c) The Oregon Department of Transportation shall review any application that involves access to the State Highway System for conformance with state access management standards.
- (3) **MASTER DEVELOPMENT PLAN.** An overall Master Development Plan shall be submitted for all developments planning to utilize phase or unit development. Said plan shall include, but not be limited to the following elements:
- (a) Overall Development Plan, including phase or unit sequences.
 - (b) Schedule of improvements' initiation and completion.
 - (c) Sales program timetable projection.
 - (d) Development plans of any common elements or facilities.
 - (e) Financing plan for all improvements.
- (4) **SUPPLEMENTAL INFORMATION REQUIRED.** The following supplemental information shall be submitted with the Tentative Plan for a subdivision.
- (a) Proposed Deed Restrictions or protective covenants, if such is proposed to be utilized for the proposed development.
 - (b) Reasons and justifications for any variances or exceptions proposed or requested to the provisions of this Ordinance, this Article, the applicable Zoning designation, or any other applicable local, state or federal Document, Ordinance or Regulation.
- (5) **TENTATIVE PLAN REVIEW PROCEDURES:**
- (a) Tentative Plan Review.
 - (A) Within 10 working days of the receipt of a completed Tentative Plan filing, the County Planning Official shall provide each Planning Commission member with a copy of the subject plan for review.
 - (B) Within 5 working days of the receipt of a completed Tentative Plan filing, the County Planning Official shall notify representatives of any affected special district, utilities and school district, the County Roadmaster, and any other identifiable public or private agency persons that the Plan has been filed and provide an opportunity for each such person or party to review the Plan. Such persons or parties shall be provided not less than 10 days nor more than 20

days to prepare and submit written reviews and recommendations regarding the subject proposed Plan.

- (C) Within 45 days of receipt of notification of such filing by the Planning Official, the Planning Commission shall conduct a public hearing on the proposed development plan. Within 15 days of such hearing the Commission shall approve, approve with modifications, conditionally approve, or disapprove the subject development plan, and set forth the findings, conclusions and reasoning for the decision. The Commission may recess or continue the hearing for good cause for a period not to exceed 35 days. Upon agreement of the applicant and/or developer the 120 limitation described in Section 9.3 may be extended.
 - (D) Following Commission approval of a Tentative Plan, said Plan, together with the Commission's written decision and all accompanying information, shall be forwarded to the County Court for informational review.
 - (E) The decision of the Commission shall be final unless the Court, on its own motion, calls the decision up for formal review and action. The Commission's decision shall be set forth in a written decision, and in the case of approval, shall be noted on not less than 2 copies of the Tentative Plan, including references to any attached documents setting forth specific conditions.
- (6) **TENTATIVE PLAN APPROVAL RELATIVE TO FINAL PLAT.** Approval of the Tentative Plan shall not constitute final acceptance of the final plat of the proposed subdivision for recording. However, approval of the Tentative Plan shall be binding upon the County for preparation of the final plat, and the County may require only such changes as are necessary for compliance with the terms of its approval of the Tentative Plan.
- (7) **RESUBMISSION OF DENIED TENTATIVE PLAN.** If the Tentative Plan for a subdivision is denied, re-submittal of an application for a subdivision of the subject property thereof shall not be accepted by the County for a period of 6 months after the date of the final action denying said Plan. Re-submittal shall be considered a new filing, but shall require the applicant to consider all items for which the prior denial was based, in addition to the other filing requirements set forth by this Ordinance.
- (8) **REQUIREMENTS FOR APPROVAL.** The Commission shall not approve a Tentative Plan for a subdivision unless the Commission finds, in addition to other requirements and standards set forth by this Ordinance, and other applicable County regulations, that:
- (a) The proposed development is consistent with applicable Goals, Objectives and Policies set forth by the County's Comprehensive Plan;
 - (b) The proposal is in compliance with the applicable Zoning regulations;
 - (c) The subdivision will not create an excessive demand on public facilities and services required to serve the proposed development, or that the

- developer has proposed adequate and equitable improvements and expansions to such facilities with corresponding approved financing to bring such facilities and services up to an acceptable capacity level;
- (d) The development provides for the preservation of significant scenic, archaeological, natural, historic and unique resources;
 - (e) The proposed name of the subdivision is not the same as, similar to or pronounced the same as the name of any other subdivision in the County or within a City within a 6 mile radius, unless the land is platted as an extension to a contiguous subdivision;
 - (f) On or after January 1, 1992, any subdivision submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision bearing the same name that has previously used block numbers or letters;
 - (g) The streets and roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the County determines it is in the public interest to modify the street or road pattern;
 - (h) Streets and roads for public use are to be dedicated to the public without any reservation or restriction;
 - (i) Street and roads for private use are approved by the County as a variance to public access requirements;
 - (j) Adequate mitigation measures are provided for any identified adverse impacts on or by neighboring properties or on the natural environment;
 - (k) Provisions are made for access to abutting properties that will likely need such access in the future, including access for vehicular and pedestrian traffic, public facilities and services, and utilities;
 - (l) Provisions of the proposed development to provide for a range of housing needs, particularly those types identified as needed or being in demand; and
 - (m) Where public water and/or sewer service is not available, such services are to be provided as approved by the appropriate regulating agency.
 - (n) All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading.
 - (o) Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access.
 - (p) The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.
 - (q) An internal pedestrian system of sidewalks or paths shall provide connections to parking areas, entrances to the development, and open space, recreational, and other community facilities associated with the development. Streets shall have sidewalks on both sides. Pedestrian

linkages shall also be provided to the peripheral street system.

- (r) The access shall be consistent with the access management standards adopted in the Transportation System Plan.

(9) FINAL PLAT FOR A SUBDIVISION.

(a) Submission of Final Plat.

(A) Time Requirement. Within 2 years after the date of approval of the Tentative Plan, the sub-divider shall prepare and submit the Final Plat that is in conformance with the Tentative Plan as approved and may be conditioned. The sub-divider shall submit not less than 10 prints of the original drawing and any supplemental information or material required by this Ordinance, by the Tentative Plan approval, and by ORS Chapter 92. Said filing shall be to the County Planning Official. If the sub-divider fails to file the Final Plat before the expiration of the 2 year period, the Tentative Plan approval shall be declared null and void and a new submittal required if the sub-divider wishes to proceed with the development. A maximum of one year extension may be granted by the Planning Commission when applied for in writing at least 30 days prior to the expiration date showing the applicant has attempted in good faith to submit a final plat within the 2 year period.

(B) Form of Final Plat. The Final Plat shall be made in permanent black india type ink or silver halide permanent photocopy, upon material 18 x 24 inches in size, that is suitable for binding and copying, and that has acceptable characteristics of strength and permanency. Applicable standards set forth by State Statute shall be complied with.

(b) Requirements of Survey and Plat of Subdivision.

(A) The survey for the plat of a subdivision shall be done with reference to Federal Geodetic Control Committee guidelines for third order Class II.

(B) The survey and plat shall be made by a registered professional land surveyor.

(C) The plat shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown thereon.

(D) The locations and descriptions of all monuments shall be recorded upon all plats and the proper courses and distances of all boundary lines shown.

(E) No person shall submit a plat of a subdivision for record until all the requirements of this Ordinance and the plat requirements of the subdivision have been met.

(c) Monumentation Requirements. Monumentation of all subdivisions and

partitions shall be in compliance with the provisions of ORS Chapters 92.060 and 92.065.

- (d) Information Required on Final Plat. In addition to that required by the Tentative Plan approval or by this Ordinance, all of that information required by law (ORS Chapter 92) shall be shown on the Final Plat.
- (e) Certificates Required on Final Plat. In addition to those certificates required by ORS 92.070 and 92.120, the following certificates are required on the Final Plat:
 - (A) Certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.
 - (B) Certificate signed and acknowledged as above dedicating all land intended for public use.
 - (C) Certificate for execution by the Chairman of the County Planning Commission.
 - (D) Certificate for approval for execution by the County Court.
- (f) Supplemental Information with Final Plat. The following data, in addition to any other data required as a part of the Tentative Plan approval, shall be submitted with the Final Plat:
 - (A) Title Report: A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary, and evidence of a clear and marketable title.
 - (B) A copy of any deed restrictions or protective covenants applicable to the subdivision.
 - (C) A copy of any dedication requiring separate documents such as for parks, playgrounds, etc.
 - (D) A copy of any homeowner's association agreements proposed or required for the development
 - (E) Improvements: For any and all improvements such as streets, sewer, water, utilities, etc., that are required or proposed as a part of the Tentative Plan approval, the following shall be required to be submitted with the Final Plat, prepared by a licensed surveyor or engineer:
 - (1) Cross sections of proposed streets, widths of roadways, types of surfacing, curb locations and specifications, width and location of sidewalks, other pedestrian ways and/or bikeways.
 - (2) Plans and profiles of proposed sanitary sewers, location of manholes, and proposed drainage facilities.
 - (3) Plans and profiles of proposed water distribution systems showing pipe sizes, location of valves and fire hydrants as applicable.

- (4) Proof of guaranteed access to the primary serving street or highway; State, County or City street or highway.
- (g) Technical Review of Final Plat. Within 10 working days of receipt of the Final Plat submittal, the County Planning Official shall initiate a Technical Review of the submittal.
 - (A) Notification of the receipt of and opportunity for review shall be given to the County Roadmaster, County Surveyor and District Attorney or County Counsel, representatives of any special districts, utility companies and any other affected local, state or federal agencies.
 - (B) Said parties shall complete such Technical Plat Review within 10 working days of such notice and shall submit findings to the County Planning Official.
 - (C) Based on such review, should the Planning Official determine that full conformity has not been made, the sub-divider shall be advised of the needed changes or additions and shall be afforded a reasonable opportunity (not to exceed 30 days) to make such changes or additions.
- (h) Commission Review and Approval of Final Plat. Within 30 days following the receipt of the Final Plat with the results of the Technical Plat Review, the Commission shall determine whether or not the submittal complies with this Ordinance, the Tentative Plan approval and applicable provisions of ORS 92. If the Commission does not approve the final plat, it shall advise the sub-divider of the reasons it was not approved, and shall provide an opportunity to make corrections. If the Commission approves the final plat, approval shall be indicated by the signature of the Chairman of the Commission on said plat.
- (i) County Court Approval of Final Plat. Within 10 working days of Commission approval of the Plat, it shall be submitted to the County Court for final action. The County Court shall take action on the subject Plat at its first regular meeting following receipt of the same.
- (j) Final Plat Approval Requirements. No Final Plat for a proposed subdivision shall be approved unless it is found to comply with the following minimum standards:
 - (A) The Final Plat is found to be in strict compliance with the Tentative Plan approval and all its conditions.
 - (B) Streets and roads for public use are dedicated without any reservation or restriction.
 - (C) Streets and roads held for private use are clearly indicated.
 - (D) The Plat contains a donation to the public of all common improvements and public uses proposed or required as a condition of approval of the Tentative Plan.
 - (E) All proposed or required improvements have either been completed

and approved by the County, or that a surety bond, contract or other assurance has been provided for and approved by the County Court.

- (F) Survey and monumentation requirements set forth by ORS 92 have been complied with.
- (G) Approval requirements of ORS 92 have been complied with.
- (k) Recording of Final Plat. The sub-divider shall, without delay, submit the final plat for the approval and signatures of other public officials required by law. Approval of the Final Plat shall be null and void if the Plat is not recorded within 45 days after the date of approval of the County Court. After obtaining all required approvals and signatures, the sub-divider shall file the plat and an exact copy of the same in the County Clerk's office. Not less than 5 copies of the recorded plat shall be provided to the County Planning Official at the developer's expense.
 - (A) No plat shall be recorded unless all ad valorem taxes and special assessments, fees or other charges required by law to be placed upon the tax rolls, which have become a lien or which will become a lien during the calendar year on the subdivision, have been paid.
 - (B) No plat shall be recorded without a statement of water rights noted on the plat together with the water rights certificate number, if applicable, as required by ORS 92.120.

SECTION 10.5 APPEALS.

All appeals of actions under Articles 10 & 11 shall be subject to the procedures set forth in Section 9.4 of this ordinance.

ARTICLE 11. DESIGN AND IMPROVEMENT STANDARDS AND REQUIREMENTS

SECTION 11.1 COMPLIANCE REQUIRED. Any land division or development and the improvements required, whether by subdivision, partitioning, creation of a street or other right-of-way, zoning approval, or other land development requiring approval pursuant to the provisions of this Ordinance, shall be in compliance with the design and improvement standards and requirements set forth in this Article, in any other applicable provisions of this Ordinance, in any other provisions of any other applicable County or affected City ordinance, and in any applicable provisions of State statutes or administrative rules.

SECTION 11.2 ZONING OR OTHER LAND DEVELOPMENT PERMIT OR APPROVAL. Prior to the construction, alteration, reconstruction, expansion or change of use of any structure, lot or parcel for which a permit or other land development approval is required by this Ordinance, a permit or approval shall be obtained from the County or the designated official.

SECTION 11.3 CONSOLIDATED PERMIT PROCEDURE. All applications or permit processes required by this and other County Planning Ordinances may be consolidated into a single permit processing procedure, including the public hearings, public notices and all required County action requirements.

SECTION 11.4 APPLICATION OF CURRENT REGULATION. An application shall be processed and reviewed in accordance with the standards and criteria effective at the time the application was submitted, providing that the initial application was complete or completion was accomplished in a timely manner.

SECTION 11.5 LOTS AND BLOCKS.

- (1) The resulting or proposed length, width and shape of blocks shall take into account the requirements of adequate building lot sizes, street widths, access needs for vehicular, pedestrian and bicycle traffic, and topographical limitations. A standard block should not be more than 600 feet in length.
- (2) The resulting or proposed size, width, shape and orientation of building lots shall be appropriate for the type of development, and consistent with the applicable Zoning and topographical conditions.
- (3) Each resulting or proposed lot or parcel shall abut upon a public street, other than an alley, for a width of at least 25 feet except as otherwise approved by the County or affected City.
- (4) The lines of lots and parcels, as far as practicable, shall run at right angles to the street upon which they front; except that on curved streets they shall be radial to the curve.
- (5) No lot or parcel shall be divided by the boundary line of the City, County or other taxing or service district, or by the right-of-way of a street, utility line or drainage

way, or by an easement for utilities or other services, except as approved otherwise by the County.

- (6) Grading of building lots or sites shall conform to the following standards unless physical conditions warrant other standards as demonstrated by a licensed engineer:
 - (a) Cut slopes shall not exceed one foot vertically to one and one half feet horizontally.
 - (b) Fill slopes shall not exceed one foot vertically to 2 feet horizontally.

SECTION 11.6 EASEMENTS

- (1) Utility Lines: Easements for sewer lines, water mains, electric lines or other public utilities shall be as required by the serving entity, but in no case be less than 12 feet wide and centered on a rear and/or side lot line. Utility pole tieback easements may be reduced to 6 feet in width.
- (2) Water Courses: If a tract is traversed by a water course, such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further widths as deemed necessary.
- (3) Pedestrian and Bicycle Ways: When desirable for public convenience, a pedestrian and/or bicycle way up to 10 feet in width, but not less than 4 feet, may be required.

SECTION 11.7 LAND FOR PUBLIC PURPOSES. If the County has an interest in acquiring a portion of a proposed development for a public purpose, or if the County as been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire such land, then the County may require that portion of the development be reserved for public acquisition for a period not to exceed one year.

SECTION 11.8 STREETS AND OTHER PUBLIC FACILITIES.

- (1) It shall be the responsibility of the developer to construct all streets, curbs, sidewalks, sanitary sewers, storm sewers, water mains, and electric and telephone lines necessary to serve the use or development in accordance with the specifications of the County and/or the serving entity.
- (2) Electric lines and telephone lines shall be encouraged to be underground. Other utility lines shall be underground, unless otherwise approved by the County.
- (3) The location, width, and grade of streets shall be considered in their relationship to existing and planned streets, to topographical conditions, to public the and safety, and to the proposed use or development to be served.
- (4) All streets, as far as is practicable, shall be in alignment with existing streets by continuations of the centerlines. Necessary staggered street alignment resulting in "T" intersections shall, whenever possible, leave a minimum distance of 200 feet between the center lines of streets of approximately the same direction, and in no case shall such offset be less than 100 feet.

- (5) Where necessary to give access to or permit future subdivision or development of adjoining land, streets shall be extended to the boundary of the proposed development or subdivision.
- (6) Streets shall be laid out to intersect at angles as near to right angles as practicable, and in no case shall an acute angle be less than 80 degrees unless there is a special intersection design approved by the County Roadmaster and there Superintendent of Public Works and/or the City Engineer of an affected City.
- (7) Whenever existing streets, adjacent to or within a tract, are of adequate width and/or improvement standards additional right-of-way shall be provided and additional improvements may be required.
- (8) A cul-de-sac shall terminate with a circular turn-a-round with a minimum radius of 40 feet of paved driving surface and a 50 feet right-of-way unless approved otherwise by the County. Cul-de-sacs or permanent dead-end streets may be used as part of a development plan; however, through streets are encouraged except where topographical, environmental, or existing adjacent land use constraints make connecting streets infeasible. Where cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other streets, or to neighborhood activity centers.
- (9) Streets shall meet the following standards:
 - (a) Rural Local Streets (see Table 1). Local roadways provide access to adjoining lands and are for short travel distances. The standard for a rural local roadway specifies a 24- to 28-foot roadway within a 60-foot right-of-way (see Table 1). Rural Local roads consist of one 10-foot travel lane in each direction and two to four-foot directional shoulders. The travel lanes and shoulders may be paved or gravel. The street may include shoulders (see Table 2); however, bikeways typically are not needed on rural local streets, since motor vehicle speeds shall be slow and population densities are low. If rural subdivision densities are greater than one dwelling per acre, or if a school or other neighborhood attraction is located within walking ($\frac{1}{2}$ mile) or bicycling distance (2 miles) of a rural subdivision, then sidewalks, pathways, or 6-foot shoulders on both sides of the roadway may be provided.
 - (b) Rural Minor Collectors (see Table 1). Minor collector roadways are primarily intended to serve abutting lands and local access needs of neighborhoods. Minor collectors shall have a 60-foot right-of-way and a 24- to 32-foot paved or gravel roadway surface. This road standard consists of one ten- to 12-foot travel lane in each direction and two to four-foot directional shoulders. Roadway shoulder widths vary depending upon the level of roadway and existing or forecast traffic volumes (see Table 2). On-street parking is not permitted.
 - (c) Rural Major Collectors (see Table 1). Major collector roadways link traffic to the arterials (highways) to provide intra-county service to towns or large traffic generators not served directly by an arterial. Major collector roadways are intended to provide higher capacity resulting in

service of greater traffic volumes. Major collectors shall have a 60-foot right-of-way and a 32- to 40-foot paved width consisting of one 12-foot travel lane in each direction and four to eight-foot directional shoulders (see Table 2). The overall roadway and right of way widths are determined in part by shoulder requirements (see Table 2). The roadway surface for major collector roadways will be paved. On-street parking is not permitted.

- (c) Rural Arterials (see Table 1). Refer to the ODOT standards for rural arterials in Wheeler County.

**Table 1
Rural Street Standards**

Classification	Right-of-Way (ft.)	Pavement Width (ft) ¹	Roadway Surface	Shoulder Width (ft)
Arterial	Refer to ODOT standards for State Highways in Wheeler County		Paved	See Table 2
Major Collector	80-120 ft	32-40 ft.	Paved	See Table 2
Minor Collector	60-80 ft	24-32 ft.	Paved/gravel	See Table 2
Local Road	60 ft	24-28 ft.	Paved/gravel	See Table 2
Radius for cul-de-sac turn-around	50 ft	40 ft.		

¹ Range reflects shoulder width (see Table 2).

**Table 2
Shoulder Widths**

Classification	ADT under 400	ADT over 400, DHV* under 100	DHV 100-200	DHV 200-400	DHV over 400
Rural Arterials	4 feet	6 feet	6 feet	8 feet	8 feet
Rural Collectors	2 feet	4 feet	6 feet	8 feet	8 feet
Rural Local	2 feet	4 feet	6 feet	6 feet	8 feet

* DHV (Design Hour Volume) is the expected traffic volume in the peak design hour (usually at commuter times), usually 13 to 25% of ADT.

- (d) Corner Clearance
 - (A) Corner clearance for connections shall meet or exceed the minimum connection spacing requirements for that roadway.
 - (B) New connections shall not be permitted within the functional area of an intersection or interchange as defined by the connection spacing standards of this ordinance, unless no other reasonable access to the property is available.
 - (C) Where no other alternatives exist, the Wheeler County Planning Department may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (i.e. right in/out, right in only, or right out only) may be required.
- (e) Joint and Cross Access
 - (A) Adjacent commercial or office properties classified as major traffic generators (i.e. shopping plazas, office parks), shall provide a cross access drive and pedestrian access to allow circulation between sites.
 - (B) A system of joint use driveways and cross access easements shall be established wherever feasible and shall incorporate the following:
 - (1) A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards.
 - (2) A design speed of 10 mph and a maximum width of 20 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;
 - (3) Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive;
 - (4) A unified access and circulation system plan for coordinated or shared parking areas is encouraged.
 - (C) Shared parking areas shall be permitted for a reduction in required parking spaces if peak demands do not occur at the same time periods.
 - (D) Pursuant to this section, property owners shall:
 - (1) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;
 - (2) Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the county or city and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

- (3) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.
- (E) The county may reduce required separation distance of access points where they prove impractical, provided all of the following requirements are met:
 - (1) Access driveways and cross access easements are provided in accordance with this section.
 - (2) The site plan incorporates a unified access and circulation system in accordance with this section.
 - (3) The property owner enters into a written agreement with the county or city, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.
- (F) The Wheeler County Planning Department may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical.
- (f) Access Connection and Driveway Design
 - (A) Driveways shall meet the following standards:
 - (1) If the driveway is a one way in or one way out drive, then the driveway shall be a minimum width of 10 feet and shall have appropriate signage designating the driveway as a one way connection.
 - (2) For two-way access, each lane shall have a minimum width of 10 feet.
 - (B) Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers shall be avoided due to the potential for vehicular weaving conflicts.
 - (C) The length of driveways shall be designed in accordance with the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.
- (g) Requirements for Phased Development Plans
 - (A) In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as single properties in relation to the access standards of this ordinance. The number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected

area are responsible for compliance with the requirements of this ordinance and both shall be cited for any violation.

- (B) All access must be internalized using the shared circulation system of the principal development or retail center. Driveways shall be designed to avoid queuing across surrounding parking and driving aisles.
- (h) Nonconforming Access Features
 - (A) Legal access connections in place as of October 3, 2001 that do not conform with the standards herein are considered nonconforming features and shall be brought into compliance with applicable standards under the following conditions:
 - (1) When new access connection permits are requested;
 - (2) Change in use or enlargements or improvements that will increase trip generation.
- (i) Reverse Frontage
 - (A) Lots that front on more than one street shall be required to locate motor vehicle accesses on the street with the lower functional classification.
 - (B) When a residential subdivision is proposed that would abut an arterial, it shall be designed to provide through lots along the arterial with access from a frontage road or interior local road. Access rights of these lots to the arterial shall be dedicated to the county or city and recorded with the deed. A berm or buffer yard may be required at the rear of through lots to buffer residences from traffic on the arterial. The berm or buffer yard shall not be located with the public right-of-way.
- (j) Flag Lot Standards
 - (A) Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials.
 - (B) Flag lots may be permitted for residential development when necessary to achieve planning objectives, such as reducing direct access to roadways, providing internal platted lots with access to a residential street, or preserving natural or historic resources, under the following conditions:
 - (1) Flag lot driveways shall be separated by at least twice the minimum frontage requirement of that zoning district.
 - (2) The flag driveway shall have a minimum width of 10 feet and maximum width of 20 feet.
 - (3) In no instance shall flag lots constitute more than 10 percent of the total number of building sites in a recorded or unrecorded plat, or three lots or more, whichever is greater.
 - (4) The lot area occupied by the flag driveway shall not be

counted as part of the required minimum lot area of that zoning district.

(5) No more than one flag lot shall be permitted per private right-of-way or access easement.

(k) Lot Width-to-Depth Ratios

(A) To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed 3 times its width (or 4 times its width in rural areas) unless there is a topographical or environmental constraint or an existing man-made feature such as a railroad line.

(l) Cul-de-Sacs and Accessways

(A) Accessways for pedestrians and bicyclists shall be 10 feet wide and located within a 20-foot-wide right-of-way or easement. If the streets within the subdivision are lighted, the accessways shall also be lighted. Stairs or switchback paths may be used where grades are steep.

(B) Accessways for pedestrians and bicyclists shall be provided at mid-block where the block is longer than 600 feet.

(C) The Hearings Body or Planning Director may determine, based upon evidence in the record, that an accessway is impracticable. Such evidence may include but is not limited to:

(1) Physical or topographic conditions make an accessway connection impractical. Such conditions include but are not limited to freeways, railroads, extremely steep slopes, wetlands, or other bodies of water where a connection cannot reasonable be provided.

(2) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future, considering potential for redevelopment.

(3) Where accessways would violate provisions of leases, easements, covenants, restrictions, or other agreements existing as of May 1, 1995 that preclude a required accessway connection.

(m) Shared Access

(A) Subdivisions with frontage on the state highway system shall be designed into shared access points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served. If access off of a secondary street is possible, then access should not be allowed onto the state highway. If access off of a secondary street becomes available, then conversion to that access is encouraged, along with closing the state highway access.

(B) New direct accesses to individual one and two family dwellings shall be prohibited on all but District-level State Highways.

- (n) Connectivity
 - (A) Street system of proposed subdivisions shall be designed to connect with existing, proposed, and planned streets outside of the subdivision as provided in this Section.
 - (B) Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided to provide access to abutting properties or to logically extend the street system into the surrounding area. All street stubs shall be provided with a temporary turn-around unless specifically exempted by the Public Works Director, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.
 - (C) Minor collector and local residential access streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation. Connections shall be designed to avoid or minimize through traffic on local streets. Appropriate design and traffic control such as four-way stops and traffic calming measures are the preferred means of discouraging through traffic.
- (o) Subdivisions
 - (A) A subdivision shall conform to the following standards:
 - (1) Each proposed lot must be buildable in conformance with the requirements of this ordinance and all other applicable regulations.
 - (2) Each lot shall abut a public or private street for the required minimum lot frontage for the zoning district where the lots are located (see footnote 1).
 - (3) If any lot abuts a street right-of-way that does not conform to the design specifications of this ordinance, the owner may be required to dedicate up to one-half of the total right-of-way width required by this ordinance.
 - (B) Further subdivision of the property shall be prohibited unless the applicant submits a plat or development plan in accordance with requirements in this ordinance.
- (p) Pedestrian Access and Circulation.
 - (A) Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of hard surface walkways, landscaping, accessways, or similar techniques.
- (q) Commercial Development Standards.

¹ Communities are encouraged to consider reducing lot widths and front yard setbacks to create a more pedestrian friendly street environment. These steps expand development options and can help to slow traffic on residential streets.

- (A) Commercial buildings, particularly retail shopping and offices, shall be oriented to the street, near or at the setback line. A main entrance shall be oriented to the street. For lots with more than two front yards, the building(s) shall be oriented to the two busiest streets.
- (B) Off-street motor vehicle parking for new commercial developments shall be located at the side or behind the building(s).
- (10) Except for the extension of existing streets, no street names shall be used which will duplicate or be confused with the name of an existing street in the County or within a City within a radius of 6 miles or within the boundaries of a special district such as school or fire.
- (11) Street grades shall not exceed 8 percent on arterials, 10 percent on collectors, and 12 percent on all other streets including private driveways entering upon a public street or highway.
- (12) Center line radii of curves shall not be less than 500 feet on arterials, 250 feet on collectors, or 100 feet on all others. Lesser or greater standards may be permitted or required by the County.
- (13) Curbs, sidewalks, and/or Bikeways may be required in all developments, and if so required, shall be installed by the developer in accordance with standards set forth by the County or affected City.
- (14) Street lights may be required and, if so required, shall be installed by the developer.
- (15) Utilities: The developer shall make necessary arrangements with the serving utility companies for the installation of all proposed or required utilities.
- (16) Drainage facilities shall be provided as required by the County.

SECTION 11.9 PEDESTRIAN AND BICYCLE CIRCULATION. Safe and convenient pedestrian and bicycle access shall be provided within new subdivisions, multi-family developments, planned developments, shopping centers, and commercial districts. Bicycle access shall provide safe and convenient connections to adjacent streets, as well as residential areas and neighborhood activity centers within one-half mile of the development. Residential developments shall include streets with walkways and accessways.

- (1) Bikeways and sidewalks shall be required along arterials and collectors.
- (2) On-site facilities shall be provided that accommodate safe and convenient pedestrian and bicycle access within new subdivisions, multi-family developments, planned development, shopping centers, and commercial districts, and connecting to adjacent residential areas and neighborhood activity centers within one-half mile of the development. Residential developments shall include streets with sidewalks and accessways. Pedestrian circulation through parking lots shall be provided in the form of accessways.
- (3) Bikeways shall be required along arterials and collectors with ADTs greater than 3,000. Sidewalks shall be required along arterials, collectors, and most local streets, except that sidewalks are not required along controlled access roadways (freeways).

SECTION 11.10 IMPROVEMENT PROCEDURES. Improvements to be installed by the subdivider or developer, either as a requirement of this Ordinance, conditions of approval, or at the developer's option as proposed as a part of the subject development proposal, shall conform to the following requirements:

- (1) Improvement work shall not be commenced until plans have been reviewed and approved by the County or its designated representative. Such review and approval shall be at the expense of the developer.
- (2) Improvement work shall be constructed under the inspection and approval of an inspector designated by the County, and the expenses incurred shall be borne by the developer.
- (3) As Built Plans for all public improvements shall be prepared and completed by a licensed engineer, and filed with the County upon the completion of all such improvements. A copy of said As Built Plans shall be filed with the Final Plat of a subdivision by the developer. Such Plans shall be completed and duly filed within 30 days of the completion of such improvements.
- (4) A certificate shall be set forth on the Final Plat of subdivisions and PUD's by the developer's Engineer certifying that all improvements design standards have been met as approved by the County.

SECTION 11.11 COMPLETION OR ASSURANCE OF IMPROVEMENTS. Prior to Final Plat approval for a subdivision, partitioning or PUD, or the final approval of a land use or development pursuant to applicable zoning provisions, the owner and/or developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or shall execute and file with the County an agreement between him or herself and the County specifying the period in which improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, that the County may complete the work and recover the full costs, together with court costs and attorney costs necessary to collect said amounts from the developer. The agreement shall also provide for payment to the County for the cost of inspection and other engineer and/or consultant services directly attributed to the project. The developer shall file with the agreement, to assure his full and faithful performance, one of the following, pursuant to approval and acceptance by the County Court:

- (1) A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the District Attorney or County Legal Counsel .
- (2) A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability to proceed in accordance with the agreement.
- (3) Cash deposit.
- (4) Such other security as may be deemed necessary by the County Court to adequately assure completion of the required improvements.
- (5) Amount of Security Required. Such assurance of full and faithful performance

shall be for a sum approved by the County as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 15 percent for contingencies.

SECTION 11.12 BUILDING AND OCCUPANCY PERMITS. No building permits shall be issued upon lots to receive and be served by sewer and water service and streets as improvements required pursuant to the provisions of this Ordinance unless such improvements are in place, serviceable and approved by the County, or are bonded for or otherwise assured as set forth by Section 11.7 above and accepted by the County Court. All improvements required pursuant to this Ordinance and other applicable regulations or approval conditions shall be completed, in service and approved by the County prior to sale or occupancy of any lot, parcel or building unit erected upon a lot within the subdivision, partitioning, PUD, or other development. Prior to sale and occupancy, and as a condition of acceptance of improvements, the County Court may require a one-year Maintenance Surety Bond in an amount not less than 10 percent nor more than 25 percent of the value of all improvements to guarantee maintenance and performance for a period of not less than one year from the date of acceptance.

APPROVED AND ENACTED BY THE WHEELER COUNTY COURT ON THIS _____
DAY OF _____, 1997.

WHEELER COUNTY COURT

By: _____
JUDGE

By: _____
COMMISSIONER

By: _____
COMMISSIONER

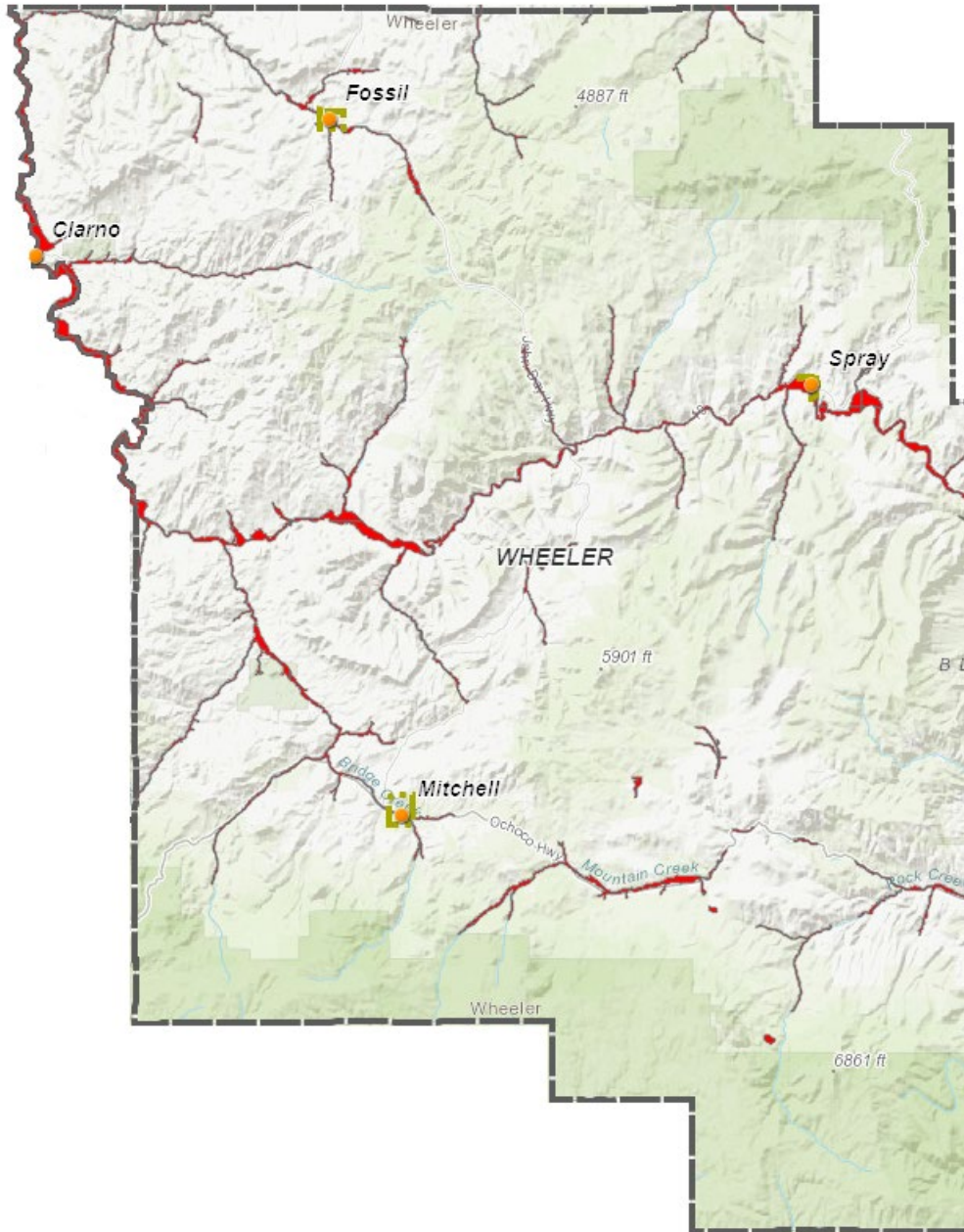
ATTEST:

COUNTY CLERK

Article 12 – FLOOD HAZARD MANAGEMENT

Incorporated by Ordinance NO. 2020-03

Effective May 19th, 2020



1.0 STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

1.1 STATUTORY AUTHORIZATION

The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Wheeler County does ordain as follows:

1.2 FINDINGS OF FACT

- A. The flood hazard areas of Wheeler County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;

- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- G. Notify potential buyers that the property is in a special flood hazard area
- H. Notify those who occupy special flood hazard areas that they assume responsibility for their actions
- I. Participate in and maintain eligibility for flood insurance and disaster relief.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

Appeal: A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding: A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Below-grade crawl space: Means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

Building: See "Structure."

Critical facility: Means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building: Means for insurance purposes, a building with no basement which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Flood or Flooding:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): See "Flood elevation study".

Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodplain or flood prone area: Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

Floodplain administrator: The community official designated by title to administer and enforce the floodplain management regulations.

Floodplain management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Hazardous material: The Oregon Department of Environmental Quality defines hazardous materials to include any of the following:

- (a) Hazardous waste as defined in ORS 466.005;
- (b) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under ORS 469.605 and radioactive substances defined in ORS 453.005
- (c) Communicable disease agents as regulated by the Health Division under ORS Chapter 431 and 433.010 to 433.045 and 433.106 to 433.990;
- (d) Hazardous substances designated by the United States Environmental Protection Agency (EPA) under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;
- (e) Substances listed by the United States EPA in section 40 of the Code of Federal Regulations, Part 302 – Table 302.4 (list of Hazardous Substances and Reportable Quantities) and amendments;
- (f) Material regulated as a Chemical Agent under ORS 465.550;
- (g) Material used as a weapon of mass destruction, or biological weapon;
- (h) Pesticide residue;
- (i) Dry cleaning solvent as defined by ORS 465.200(9).

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC): Means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:

- (a) **Conditional Letter of Map Amendment (CLOMA):** A CLOMA is FEMA’s comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.
- (b) **Conditional Letter of Map Revision (CLOMR):** A CLOMR is FEMA’s comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
- (c) **Conditional Letter of Map Revision based on Fill (CLOMR-F):** A CLOMR-F is FEMA’s comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.
- (d) **Letter of Map Amendment (LOMA):** An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e.,

has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.

- (e) **Letter of Map Revision (LOMR):** A LOMR is FEMA’s modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
- (f) **Letter of Map Revision based on Fill (LOMR-F):** A LOMR-F is FEMA’s modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
- (g) **PMR:** A PMR is FEMA’s physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with “manufactured home”.

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by Wheeler County and includes any subsequent improvements to such structures.

Recreational vehicle: A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway: See “Floodway”.

Special flood hazard area: See “Area of special flood hazard” for this definition.

Sheet flow area: See "Area of shallow flooding".

Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance: A grant of relief by Wheeler County from the terms of a flood plain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Water dependent: Means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of intrinsic nature of its operations.

Water surface elevation: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of Wheeler County.

3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled “**The Flood Insurance Study (FIS) for Wheeler County, dated July 17, 1989**”, with accompanying Flood Insurance Rate Maps (FIRMs) 4102450025B; 4102450050B; 4102450075B; 4102450100B; 4102450125B; 4102450150B; 4102450175B; 4102450200B; 4102450225B; 4102450250B; 4102450275B; 4102450294B; 4102450300B; 4102450325B; 4102450350B; 4102450375B; 4102450400B; and 4102450425B; are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the office of the Wheeler County Planning Department located in the Wheeler County Courthouse.

3.3 COORDINATION WITH STATE OF OREGON SPECIALTY CODES

Pursuant to the requirement established in ORS 455 that Wheeler County administer and enforce the State of Oregon Specialty Codes, the Wheeler County does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

3.4 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

3.4.1 COMPLIANCE

All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.

3.4.2 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. A violation of the provisions of this Ordinance is punishable upon conviction by:

(1) A fine of not more than \$100 for each day of violation where the offense is a continuing offense but such fine may not exceed \$10,000.

(2) A fine of not more than \$500 where the offense is not a continuing offense.

Nothing contained herein shall prevent Wheeler County from taking such other lawful action as is necessary to prevent or remedy any violation.

3.5 ABROGATION AND SEVERABILITY

3.5.1 ABROGATION

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5.2 SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

3.6 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

3.7 WARNING AND DISCLAIMER OF LIABILITY

3.7.1 WARNING

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

3.7.2 DISCLAIMER OF LIABILITY

This ordinance shall not create liability on the part of Wheeler County, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages

that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

4.0 ADMINISTRATION

4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Wheeler County Planning Director is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

4.2 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

4.2.1 PERMIT REVIEW

Review all development permits to determine that:

- A. The permit requirements of this ordinance have been satisfied;
- B. All other required local, state, and federal permits have been obtained and approved.
- C. Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in section **5.2.4** are met; and
- D. Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of sections **5.1.7**; and
- E. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.
- F. Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section **2.0**.
- G. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section **5.1.1**.
- H. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.

4.2.2 INFORMATION TO BE OBTAINED AND MAINTAINED

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- A. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with section **5.1.7**.
- B. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections **5.2.4**, **4.2.1(B)** are adhered to.
- C. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
- D. Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
- E. Maintain all Elevation Certificates (EC) submitted to Wheeler County;
- F. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section **5.1.7**.
- G. Maintain all floodproofing certificates required under this ordinance;
- H. Record and maintain all variance actions, including justification for their issuance;
- I. Obtain and maintain all hydrologic and hydraulic analyses performed as required under section **5.2.4**.
- J. Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section **4.2.4**.
- K. Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.2.3 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

4.2.3.1 COMMUNITY BOUNDARY ALTERATIONS

The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

4.2.3.2 WATERCOURSE ALTERATIONS

Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

- A. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
- B. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section 4.2.3.3. Ensure compliance with all applicable requirements in sections **4.2.3.3** and **5.1.1**.

4.2.3.3 REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-Section 65.3. The community may require the applicant to

submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- A. Proposed floodway encroachments that increase the base flood elevation; and
- B. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall Notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

The applicant shall be responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.

The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal laws.

4.2.4 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

Conduct Substantial Improvement (SI) (as defined in section 2.0) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 4.2.2. Conduct Substantial Damage (SD) (as defined in section 2.0) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section 3.2) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

4.2.5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be

granted consistent with the standards of section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76)

4.3 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.3.1 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section **3.2**. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section **2.0**, including fill and other development activities.

4.3.2 APPLICATION FOR DEVELOPMENT PERMIT

Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- A. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section **4.2.2**.
- B. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
- C. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in section **5.2.3.3**.
- D. Description of the extent to which any watercourse will be altered or relocated.
- E. Base Flood Elevation data for subdivision proposals or other development when required per sections **4.2.1 and 5.1.6**.
- F. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
- G. The amount and location of any fill or excavation activities proposed.

4.4 VARIANCE PROCEDURE

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

4.4.1 CONDITIONS FOR VARIANCES

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections **4.4.1 (C) and (E), and 4.4.2.** As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- B. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- E. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section **4.4.1 (B) – (E)** are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

4.4.2 VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification

and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section **4.2.2**.

5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all special flood hazard areas, the following standards shall be adhered to:

5.1.1 ALTERATION OF WATERCOURSES

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections **4.2.3.2 and 4.2.3.3**.

5.1.2 ANCHORING

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. All manufactured dwellings shall be anchored per section **5.2.3.4**.

5.1.3 CONSTRUCTION MATERIALS AND METHODS

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1.4 UTILITIES AND EQUIPMENT

5.1.4.1 WATER SUPPLY, SANITARY SEWER, AND ON-SITE WASTE DISPOSAL SYSTEMS

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

- C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

5.1.4.2 ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER EQUIPMENT

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, if replaced as part of a substantial improvement, electrical, heating, ventilating, air- conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this section.

5.1.5 TANKS

- A. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
- B. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

5.1.6 SUBDIVISION PROPOSALS & OTHER PROPOSED DEVELOPMENTS

- A. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.
- B. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:
 - 1. Be consistent with the need to minimize flood damage.
 - 2. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
 - 3. Have adequate drainage provided to reduce exposure to flood hazards.

5.1.7 USE OF OTHER BASE FLOOD DATA

When Base Flood Elevation data has not been provided in accordance with section **3.2** the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section **5.0**. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section **5.1.6**.

Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc. where available.

At a minimum, structures not eligible for a wet floodproofing variance must be elevated or dry floodproofed to at least two feet above the highest adjacent grade. Failure to elevate or dry floodproof at least two feet above grade in these zones may result in higher insurance rates.

5.1.8 STRUCTURES LOCATED IN MULTIPLE OR PARTIAL FLOOD ZONES

In coordination with the State of Oregon Specialty Codes:

- A. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
- B. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

5.1.9 CRITICAL FACILITIES

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the Base Flood Elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

5.2 SPECIFIC STANDARDS FOR RIVERINE (INCLUDING ALL NON-COASTAL) FLOOD ZONES

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section 5.1 of this ordinance.

5.2.1 FLOOD OPENINGS

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements.

Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- A. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- B. Be used solely for parking, storage, building access, and certain agricultural uses;
- C. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - 1. A minimum of two openings,
 - 2. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,
 - 3. The bottom of all openings shall be no higher than one foot above grade.
 - 4. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
 - 5. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

5.2.2 GARAGES

- A. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
 - 1. If located within a floodway the proposed garage must comply with the requirements of section **5.2.4**.
 - 2. The floors are at or above grade on not less than one side;
 - 3. The garage is used solely for parking, building access, and/or storage;

4. The garage is constructed with flood openings in compliance with section **5.2.1** to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 5. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 6. The garage is constructed in compliance with the standards in section **5.1**; and
 7. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the baseflood.
- B. Detached garages must be constructed in compliance with the standards for appurtenant structures in section **5.2.3.6** or non-residential structures in section **5.2.3.3** depending on the square footage of the garage.

5.2.3 FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS

In addition to the general standards listed in section **5.1** the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

5.2.3.1 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5.2.3.2 RESIDENTIAL CONSTRUCTION

- A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE)
- B. Enclosed areas below the lowest floor shall comply with the flood opening requirements in section **5.2.1**.
- C. Applicants shall be notified that floodproofing beyond minimum requirements may result in lower flood insurance premiums.

5.2.3.3 NON-RESIDENTIAL CONSTRUCTION

- A. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall:
 - 1. Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE);
Or, together with attendant utility and sanitary facilities,
 - 2. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - 3. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - 4. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth section **4.2.2.**
- B. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in section **5.2.1.**
- C. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below.)

5.2.3.4 MANUFACTURED DWELLINGS

- A. New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with section **5.2.1**;
- B. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;
- C. New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for additional techniques), and;
- D. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

5.2.3.5 RECREATIONAL VEHICLES

Recreational vehicles placed on sites are required to:

- A. Be on the site for fewer than 180 consecutive days and,
- B. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- C. Meet the requirements of section **5.2.3.4**, including the anchoring and elevation requirements for manufactured dwellings.

5.2.3.6 APPURTENANT (ACCESSORY) STRUCTURES

Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures that meet the following requirements:

- A. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in section **5.2.4**.
- B. Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;
- C. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet.
- D. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
- E. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- F. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section **5.2.1**;
- G. Appurtenant structures shall be located and constructed to have low damage potential;
- H. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon

Department of Environmental Quality unless confined in a tank installed in compliance with section **5.1.5**.

- I. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

5.2.3.7 BELOW-GRADE CRAWL SPACES

A. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required flood openings stated in section **5.2.1**. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

B. The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

C. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

D. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

E. The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

F. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall

must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

G. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

H. The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

5.24 FLOODWAYS

Located within the special flood hazard areas established in section **3.2** are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
 - 1. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge;
 - Or,
 - 2. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

If an encroachment proposal resulting in an increase in Base Flood Elevation meets the following criteria:

- i. Is for the purpose of fish enhancement,
- ii. Does not involve the placement of any structures (as defined in section 2.0) within the floodway,
- iii. Has a feasibility analysis completed documenting that fish enhancement will be achieved through the proposed project,
- iv. Has a maintenance plan in place to ensure that the stream carrying capacity is not impacted by the fish enhancement project,
- v. Has approval by the National Marine Fisheries Service, the State of Oregon Department of Fish and Wildlife, or the equivalent federal or state agency, and
- vi. Has evidence to support that no existing structures will be negatively impacted by the proposed activity;

Then an approved CLOMR may be required prior to approval of a floodplain permit.

- B. If the requirements of section 5.2.4 (A) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of section 5.0.

5.2.5 STANDARDS FOR SHALLOW FLOODING AREAS

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow.

For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

5.2.5.1 STANDARDS FOR AH ZONES

Development within AH Zones must comply with the standards in sections 5.1, 5.2, and 5.2.5(A).

5.2.5.2 STANDARDS FOR AO ZONES

In AO zones, the following provisions apply in addition to the requirements in sections 5.1 and 5.2.5 (A):

- A. New construction and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.
- B. New construction and substantial improvements of non-residential structures within AO zones shall either:
 - 1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least two (2) feet if no depth number is specified); or
 - 2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section **5.2.3.3(A)(4)**.
- C. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:
 - 1. Be on the site for fewer than 180 consecutive days, and
 - 2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - 3. Meet the elevation requirements of section **5.2.5.2(A)**, and the anchoring and other requirements for manufactured dwellings of section **5.2.3.4**.
- D. In AO zones, new and substantially improved appurtenant structures must comply with the standards in section **5.2.3.6**.
- E. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section **5.2.1**.

Section	Code of Federal Regulations (CFR) and Technical Bulletin Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, ORS)
1.1 Statutory Authorization	59.22(a)(2)	Goal 7; ORS 203.035 (Counties), ORS 197.175 (Cities)
1.2 Findings of Fact	59.22(a)(1)	Goal 7
1.3 Statement of Purpose	59.2; 59.22(a)(1) and (8); 60.22	Goal 7
1.4 Methods of Reducing Flood Losses	60.22	Goal 7
2.0 Definitions	59.1	Goal 7
3.1 Lands to Which this Ordinance Applies	59.22(a)	Goal 7
3.2 Basis for Establishing the Special Flood Hazard Areas	59.22(a)(6); 60.2(h)	Goal 7
3.3 Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division		ORS 455
3.4.1 Compliance	60.1(b) – (d)	Goal 7
3.4.2 Penalties for Noncompliance	60.1(b) – (d)	Goal 7
3.5.1 Abrogation	60.1(b) – (d)	Goal 7
3.5.2 Severability		
3.6 Interpretation	60.1(b) – (d)	Goal 7
3.7.1 Warning		
3.7.2 Disclaimer of Liability		
4.1 Designation of the Floodplain Administrator	59.22(b)(1)	Goal 7
4.2.1 Permit Review	60.3(a)(1) – (3); 60.3(c)(10)	Goal 7
4.2.2 Information to be Obtained and Maintained	59.22(a)(9)(iii); 60.3(b)(5)(i) and (iii); 60.3(c)(4); 60.3(b)(3); 60.6(a)(6)	Goal 7; 105.9; 110.33; R106.1.4; R109.1.3; R109.1.6.1; R322.1.10; R322.3.6
4.2.3.1 Community Boundary Alterations	59.22(a)(9)(v)	Goal 7
4.2.3.2 Watercourse Alterations	60.3(b)(6) – (7), 65.6(12 - 13)	Goal 7
4.2.3.3 Requirement to Submit New Technical Data	65.3, 65.6, 65.7, 65.12	Goal 7

4.2.4 Substantial Improvement and Substantial Damage Assessments and Determinations	59.1;60.3(a)(3); 60.3(b)(2); 60.3(b)(5)(i); 60.3(c)(1),(2),(3),(5) – (8),(10), (12); 60.3(d)(3); 60.3(e)(4),(5),(8)	Goal 7
4.3.1 Floodplain Development Permit Required	60.3(a)(1)	Goal 7
4.3.2 Application for Development Permit	60.3(a)(1); 60.3(b)(3); 60.3(c)(4)	Goal 7; R106.1.4; R322.3.6
4.4 Variance Procedure	60.6(a)	Goal 7
4.4.1 Conditions for Variances	60.6(a)	Goal 7
4.4.2 Variance Notification	60.6(a)(5)	Goal 7
5.1.1 Alteration of Watercourses	60.3(b)(6) and (7)	Goal 7
5.1.2 Anchoring	60.3(a)(3); 60.3(b)(1),(2), and (8)	Goal 7; R322.1.2
5.1.3 Construction Materials and Methods	60.3(a)(3), TB 2; TB 11	Goal 7; R322.1.3; R322.1.3
5.1.4.1 Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems	60.3(a)(5) and (6)	Goal 7; R322.1.7
5.1.4.2 Electrical, Mechanical, Plumbing, and Other Equipment	60.3(a)(3)	Goal 7; R322.1.6;
5.1.5 Tanks		R322.2.4; R322.3.7
5.1.6 Subdivision Proposals	60.3(a)(4)(i) – (iii); 60.3(b)(3)	Goal 7
5.1.7 Use of Other Base Flood Data	60.3(a)(3); 60.3(b)(4); 60.3(b)(3); TB 10-01	Goal 7; R322.3.2
5.1.8 Structures Located in Multiple or Partial Flood Zones		R322.1
5.2.1 Flood Openings	60.3(c)(5); TB 1; TB 11; TB 7-93	Goal 7; R322.2.2; R322.2.2.1
5.2.2 Garages	TB 7-93	R309
5.2.3.1 Before Regulatory Floodway	60.3(c)(10)	Goal 7
5.2.3.2 Residential Construction	60.3(c)(2)	Goal 7
5.2.3.3 Non-residential Construction	60.3(c)(3) – (5); TB 3	Goal 7; R322.2.2; R322.2.2.1
5.2.3.4 Manufactured Dwellings	60.3(b)(8); 60.3(c)(6)(iv); 60.3(c)(12)(ii)	Goal 7; State of OR Manufactured Dwelling Installation Specialty Code (MDISC) and associated statewide Code Interpretation dated 1/1/2011
5.2.3.5 Recreational Vehicles	60.3(c)(14)(i) – (iii)	Goal 7
5.2.3.6 Appurtenant (Accessory) Structures	60.3(c)(5); TB 1; TB 7-93	S105.2; R105.2

5.2.4 Floodways	60.3(d); FEMA Region X Fish Enhancement Memo (Mark Riebau)	Goal 7
5.2.5 Standards for Shallow Flooding Areas	60.3(c)(7),(8),(11), and (14)	Goal 7

REGULATORY CROSSWALK

