



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

10/27/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: Multnomah County Plan Amendment  
DLCD File Number 008-10

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

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, November 14, 2011

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

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

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

Cc: Chuck Beasley, Multnomah County  
Jon Jinings, DLCD Community Services Specialist  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA



FORM 2

DLCD

# Notice of Adoption

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

In person  electronic  mailed

**DEPT OF**

**OCT 21 2011**

**LAND CONSERVATION AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **Multnomah County**

Local file number: **PC 10-006**

Date of Adoption: **10/13/2011**

Date Mailed: **10/19/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 8/20/2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The amendment updates the EFU zone district to implement the provisions of HB 3099, adopted by the 2009 legislature.

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

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 008-10 (18476) [16805]

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

Portland Public Schools

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Local Contact: **Chuck Beasley**

Phone: (503) 988-3043 Extension: 22610

Address: 1600 SE 190th

Fax Number: 503-988-3389

City: **Portland**

Zip: 97233-

E-mail Address: [charles.beasley@multco.us](mailto:charles.beasley@multco.us)

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## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS [197.615](#) and OAR Chapter 660, Division 18**

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

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

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

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 10-006 and PC 2011-1395**

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapters 33, 34, 35 and 36 by updating the Exclusive Farm Use zoning districts to reflect changes made in State Statute and State Administrative Rules together with related amendments.

**The Planning Commission Finds:**

- a. The Planning Commission is authorized by Multnomah County Code under MCC 34.0140, 35.0140, 36.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. Under the State of Oregon Land Use Planning Program, regulation of land uses on farm land is based in State Statute and Administrative Rules, which Counties then administer. The State Legislature and the Land Conservation and Development Commission (LCDC) amended those statutes and rules to implement HB 3099(2009). LCDC further amended Administrative Rules to bring them into conformance with the federal Religious Land Use and Institutionalized Persons Act (RLUIPA).
- c. The amendments related to HB 3099 in PC 10-006 are needed to make the respective Multnomah County zoning code chapters consistent with implementing state statutes and rules by removing certain uses as allowed in EFU zones, by amending other uses, and by adding schools to the uses subject to community service use provisions. The amendments also incorporate alternative expansion authority for nonconforming uses and revise the conditional use and community service use approval criteria to more closely incorporate farm compatibility standards in state statutes.
- d. The amendments in PC 2011-1395 needed to conform the Multnomah County zoning code to the RLUIPA provisions make all nonfarm uses in the EFU district that involve assembly of persons subject to the same standards. Standards in the state rule that limit design capacity of these uses within 3 miles of the Urban Growth Boundary are incorporated into a new section of the zone district.
- d. These amendments further limit some uses that either exist or are allowable in the EFU district, therefore mailed notice to individual property owners ("Ballot Measure 56" notice) is required. A conforming notice was mailed to all property owners in the EFU district on February 15, 2011. In addition, notice of the Planning Commission hearing was published in the "Oregonian" newspaper and on the Land Use Program web site.
- e. The Planning Commission held public hearings on March 7, April 4, and June 6, 2011 where all interested persons were given an opportunity to appear and be heard.

**The Planning Commission Resolves:**

The proposed Ordinance, amending MCC Chapters 33, 34, 35 and 36 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 6th day of June, 2011.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
John Ingle, Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1186**

Amending MCC Chapters 29 and 33-38 Relating to Fire Flow and Fire Apparatus Access, Temporary Health Hardship Dwelling, and Exclusive Farm Use Requirements

(Language ~~stricken~~ is deleted; double underlined language is new.)

**The Multnomah County Board of Commissioners Finds:**

- a. Periodically there is a need to amend the County Land Use Planning Code (Zoning Code) provisions due to changing circumstances or for general housekeeping purposes. Such an update of the Zoning Code has become necessary for technical corrections, clarifications and consistency. This ordinance incorporates three groups of amendments recommended by the Planning Commission: PC 10-007, *Amendments Relating to Access and Fire Flow Standards*; PC 2011-1397, *Amending Temporary Health Hardship Dwelling Requirements*; and PC 2011-1395 and PC 10-006, *Implementation of HB 3099 (2009) and EFU Zone Amendments for Consistency with the Religious Land Use and Institutionalized Persons Act (RLUIPA)*.
- b. The Planning Commission is authorized by Multnomah County Code Chapter subsections 33.0140, 34.0140, 35.0140, 36.0140, 37.0710, and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- c. The amendments to MCC Chapter 29 (PC 10-007) are needed to make Building Regulations consistent with the Oregon Fire Code and to streamline fire code implementation by relying on fire service providers to implement the regulations. Amendments that remove Chapter 33, 35 and 36 fire access and flow requirements conform the Commercial Forest Use zoning code to the Oregon Fire Code and improve consistency between state and county regulations.
- d. The amendments to MCC Chapter 33-36 (PC 2011-1397) moving the Temporary Health Hardship Dwelling use from Conditional Use (Type III) to Review Use (Type II) will allow property owners in EFU districts to establish the use with less cost and processing time while protecting the County's farm land. Compatibility with forest use and with farm use pursuant to ORS 216.290 is maintained through a new location standard and a recorded statement recognizing the rights of nearby land owners to conduct farm and forest practices. MCC Chapter 38 amendments revise the Temporary Health Hardship Dwelling criteria in the Columbia River Gorge National Scenic Area (NSA) to be consistent where possible with the criteria used in MCC Chapters 33-36. The amendments further reorganize and clarify code requirements and expand the types of dwellings allowed in all non-NSA zones to include certain recreation vehicles and travel trailers. Park-model recreational vehicles may be permitted in NSA zones.
- e. Amendments to MCC Chapters 33-36 affecting the Exclusive Farm Use (EFU) zone (PC 2011-1395 and PC 10-006) are needed to render the zoning code chapters consistent with changes made in state statute and administrative rules to implement HB 3099 (2009) and to render the zoning code chapters consistent with changes made in administrative rules in conformance with the Religious Land Use and Institutionalized Persons Act (RLUIPA).

- f. The amendments relating to HB 3099 remove certain uses as allowed in EFU zones, define rural schools, make new and existing schools subject to community service use provisions, and clarifies the incorporation of the state farm compatibility standard into the community service and conditional use criteria.
- g. The amendments relating to conformance with the RLUIPA are entirely consistent with and implement an amended state administrative rule pursuant to which all nonfarm uses in the EFU district that involve the assembly of persons are now subject to the same review standards. Specifically, those standards limit the design capacity of such uses within three miles of the UGB in furtherance of state policy to protect farm land and to limit such uses to rural intensity unless a goal exception is approved.
- h. The Planning Commission conducted a public hearing on PC 10-007 and for PC 2011-1397 on June 6, 2011. The Planning Commission conducted public hearings on PC 2011-1395 and PC10-006 on March 7, April 4, and June 6, 2011. For the hearings on PC 2011-1395 and PC 10-006, Ballot Measure 56 notice was mailed on February 15, 2011, to individual property owners. In addition, for each of the aforementioned hearings as well as the present hearing on these matters conducted by this Board of County Commissioners for Multnomah County (Board), notice of the hearings was published in the “Oregonian” newspaper and on the County Land Use Planning Program website. At each of the aforementioned hearings, all interested persons were given an opportunity to appear and be heard.
- i. As stated in Planning Commission Resolutions for each of these matters, the Planning Commission has found that the proposed amendments and additions to Multnomah County Code Chapters 29 and 33-38 in this Ordinance are needed and has recommended approval by the Board.

**Multnomah County Ordains as follows:**

**Section 1.** MCC 29.003 is amended as follows:

**29.003 Adoption Of State Building Code By Reference.**

(A) Those portions of the state building code constituting the structural specialty code, ~~fire and life safety code~~, mechanical specialty code, and the one- and two-family dwelling specialty code, are adopted and by this reference incorporated as part of this subchapter. The provisions of this subchapter shall take precedence over the similar provisions of the state specialty codes.

(B) Prior to land use review, the applicant shall demonstrate that the proposed development is in compliance with the most current version of the Oregon Fire Code. Documentation of compliance shall be on forms provided by the Planning Director. Depending on the location of the parcel, the following agency shall review:

(1) A property served by a structural fire service provider shall have the proposed development reviewed by the fire official serving it.

(2) For properties located outside of the boundaries of a structural fire service provider, the property owners shall provide to Land Use Planning, evidence that a request for structural fire service has been made to the appropriate fire district. If structural fire protection is not available,

alternative means of fire protection may be authorized by the applicable building official in accordance with the Oregon Fire Code.

~~Except as modified in (C) below, the optional portion of the 1997 Uniform Building Code constituting the Division II Fire Flow standards in Appendix Chapter 9 are adopted and by reference incorporated as part of this subchapter as the requirements for determining fire flow for buildings constructed under a building permit issued after October 16, 2004, or for those portions of buildings constructed under a building permit issued after October 16, 2004, that are “substantial improvements” to existing buildings. “Substantial improvements” mean the addition of more than 50 percent of the floor area to buildings that existed on October 16, 2004. For one and two family dwellings the floor area in “substantial improvements” does not include garages or attic spaces.~~

~~(1) As provided in Section 910 of Division II—Fire Flow, fire-flow requirements may be modified downward or upward only upon approval by both the building official and the fire chief. The building official shall be the official currently under contract for providing building permit issuance services. The fire chief shall be the current chief, or delegate, of the fire district or city that provides fire services to the property.~~

~~(2) As referenced in Section 913 of Division II—Fire Flow, standards for fire department access and required fire hydrants shall be the applicable fire codes in the unincorporated area of the county, except as modified by the fire apparatus means of approach standards in § 29.012 and the alternate methods of fire protection in § 29.013.~~

~~(3) For properties within fire protection service districts that have adopted more stringent fire flow standards than contained in Division II—Fire Flow, Appendix Chapter 9, of the Uniform Building Code, the more stringent standards shall be utilized. In that circumstance, the fire chief’s authority for administering the fire flow standard shall be as given in the district’s ordinances.~~

~~(4) In recognition that Section 910 allows for fire flow modifications, particularly in rural areas or small communities, section § 29.003(C) below is a less restrictive modification of those fire flow standards that is appropriate for and shall apply to the unincorporated areas of Multnomah County that are outside of any city limits where a greater fire flow standard has not been adopted by the local fire protection provider.~~

~~(C) Notwithstanding any other fire flow requirement in Division II—Fire Flow, Appendix Chapter 9, the fire flow requirement and exception in subsection 912.1 “One and Two family Dwellings” shall be modified to require a minimum 500 gallons per minute for dwellings that are less than 3,600 square feet in floor area (excluding garages and attic spaces) and accessory buildings and garages that are less than 3,000 square feet in floor area (either detached or attached to the dwelling).~~

~~The continuous fire flow standard of 500 gallons per minute at the dwelling may be met by water flow and volume available from public water lines or by other water supply sources in conformance with standards in the 1999, or most current edition, “NFPA 1142, Standard on Water Supplies for Suburban and Rural Fire Fighting” manual. If the 500 gallons per minute fire flow standard cannot be met from public water lines or other water supply sources, then the alternative provisions in (C)(1) through (C)(7) below shall be used in combination to meet a credit total that equals or exceeds 100% of the 500 gallons per minute standard.~~

<b>Summary of methods to meet 100% of the Fire Flow Requirement of 500 gal. per min.</b>	
I.	500 gallons per minute fire flow is available from public water lines or other



	sources in compliance with NFPA 1142 standards [100%]; or
H.	Utilize the tanker truck credit in (C)(1) [50%] and any two of the following alternative credits: <ul style="list-style-type: none"> <li>• Monitored alarm in (C)(2) [25%];</li> <li>• Roof materials in (C)(3) [25%];</li> <li>• Defensive space in (C)(4) [25%];</li> <li>• Special approval by the Fire Chief in (C)(5) [25%]; or</li> </ul>
III	Use all the following alternative credits: <ul style="list-style-type: none"> <li>• Monitored alarm in (C)(2) [25%];</li> <li>• Roof materials in (C)(3) [25%];</li> <li>• Defensive space in (C)(4) [25%];</li> <li>• Special approval by the Fire Chief in (C)(5) [25%]; or</li> </ul>
IV	Utilize the sprinkler system in (C)(6) [75%] and any one of the following alternative credits: <ul style="list-style-type: none"> <li>• Tanker truck credit in (C)(1) [50%];</li> <li>• Monitored alarm in (C)(2) [25%];</li> <li>• Roof materials in (C)(3) [25%];</li> <li>• Defensive space in (C)(4) [25%];</li> <li>• Special approval by the Fire Chief in (C)(5) [25%].</li> </ul>

\_\_\_\_\_ (1) \_\_\_\_\_ An alternative credit of 50% shall be given upon verification by the local fire protection service provider that a water tanker truck of at least 3,000-gallon capacity is available to serve the property;

\_\_\_\_\_ (2) \_\_\_\_\_ Where fire protection services are available, an alternative credit of 25% shall be given for the use of a central station-monitored smoke alarm system and the posting of a clearly visible rural address marker where the private driveway or private road intersects with the public road;

\_\_\_\_\_ (3) \_\_\_\_\_ An alternative credit of 25% shall be given for the installation of Class A or non-combustible roofing shingles and the boxing in of all eaves, facias, and soffits with fire-resistant materials;

\_\_\_\_\_ (4) \_\_\_\_\_ An alternative credit of 25% shall be given for the creation of “defensible space” against wildfire around the dwelling. On ground slopes of less than 20 percent, “defensible space” is an area 30 feet from the outside walls of a dwelling that is owned by or controlled by the homeowner. On ground slopes of 20 percent or greater, “defensible space” is an area 100 feet from the outside walls of a dwelling that is owned by or controlled by the homeowner. Prior to issuance of the building permit, verification shall be required that within the “defensible space”:

\_\_\_\_\_ (a) \_\_\_\_\_ Low-hanging branches of existing trees have been pruned and removed within 8 feet of the proposed dwelling; and

~~\_\_\_\_\_ (b) Low-hanging branches of existing trees have been pruned and removed within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow; and~~

~~\_\_\_\_\_ (e) Existing trees are spaced with greater than 15 feet between crowns; and~~

~~\_\_\_\_\_ (d) All other vegetation is less than 2 feet in height;~~

~~\_\_\_\_\_ (5) In conjunction with meeting the requirements of (C)(2) above, the Fire Chief of the local fire protection provider may approve an additional credit of 25% when particular circumstances warrant the credit. Such circumstances include, but are not limited to, specific fire prevention, fire containment, or fire suppression attributes of the proposed building site, building materials, or additional fire detection and/or suppression features.~~

~~\_\_\_\_\_ (6) An alternative credit of 75% shall be given with the installation of a fire sprinkler system in conformance with the standards in the 1999 Edition, or the most current version, of the NFPA 13-D, Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes (NFPA is the National Fire Protection Association, Inc.).~~

**Section 2.** MCC 29.012 and 29.013 are repealed as follows:

~~**29.012 Fire Apparatus Means of Approach – Standards For Private Streets and Private Driveways Serving New and Replacement One And Two Family Dwellings.**~~

~~\_\_\_\_\_ (A) Private streets and private driveways shall meet the standards in this section for fire apparatus access to new and replacement one and two family dwellings. The purpose of these standards is to establish minimum criteria for evaluating the adequacy of fire apparatus access during the review of building permit applications for proposed one and two family dwellings.~~

~~\_\_\_\_\_ (1) Review and determination of compliance with the standards in § 29.012, or more stringent standards adopted by the fire protection service provider, shall be made by the Fire Marshal or designated fire official of that service district. If the Fire Marshal, or designee, fails to review and make a determination of compliance, then the building official shall, after consultation with the appropriate fire official, make a determination of compliance.~~

~~\_\_\_\_\_ (2) The standards in this section implement the requirements in OAR 918-480-0100 through 918-480-0120 (2002), appropriate use of alternate methods of construction in the One and Two-Family Specialty Code.~~

~~\_\_\_\_\_ (3) An alternative to the minimum requirements of (D) below may be allowed by the building official, after consultation with the fire official, subject to the requirements of § 29.013.~~

~~\_\_\_\_\_ (B) As used in § 29.012, “private street” and “private driveway” shall have the meanings given in the land division definition parts of the applicable Zoning Code Chapter of the Multnomah County Code.~~

~~\_\_\_\_\_ (C) A building permit application for a new or replacement one or two family dwelling shall include sufficient information to determine compliance with the standards of § 29.012. A review form evaluating the proposal and signed by the applicable fire official shall also be submitted with the permit application.~~

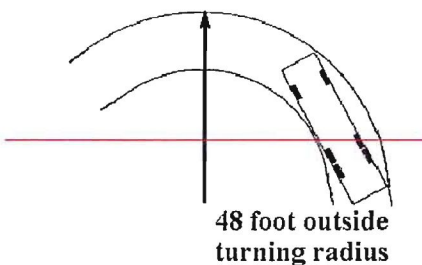
~~\_\_\_\_\_ (1) For those fire protection service districts that have adopted more stringent standards than given in (D) below, the more stringent standards shall prevail. The signed review by a fire district official shall state if the proposal is in compliance with the most stringent standards, either the district or those in (D) below.~~

~~\_\_\_\_\_ (2) Where there may be a conflict between the standards of this section and development standards in the county Zoning Code, the more stringent standard shall be utilized. The Planning Director shall provide this information to the building official with copies of any land use decision.~~

~~\_\_\_\_\_ (D) Fire apparatus access requirements. The following standards shall apply to private streets and private driveways:~~

~~\_\_\_\_\_ (1) Vehicle weight: Be built and maintained with an all weather driving surface that supports a gross vehicle weight of 50,000 pounds or the weight of the heaviest commonly used apparatus used by the fire protection service provider serving the subject property, whichever is greater. Bridges, culverts and other structures shall also be required to meet this requirement. Written verification of compliance with the Gross Vehicle Weight standard may be required from an Oregon Professional Engineer.~~

~~\_\_\_\_\_ (2) Curve radius: Have an outside radius that is no less than 48 feet on all curves along the driveway or private street.~~



~~\_\_\_\_\_ (3) Vertical clearance: Have a vertical clearance of no less than 13 feet 6 inches.~~

~~\_\_\_\_\_ (4) Width: Be built and maintained from the public road to the end turnaround near the dwelling to a minimum unobstructed width, (including gate opening widths), of:~~

~~\_\_\_\_\_ (a) 12 feet for a private driveway to a single dwelling;~~

~~\_\_\_\_\_ (b) 12 feet for a private street to two dwellings;~~

~~\_\_\_\_\_ (c) 20 feet for a private street to three or more dwellings; and~~

~~\_\_\_\_\_ (d) 20 feet for all "accessways," regardless of the number of dwellings served. An "accessway" is a private street that is a separate tract of land that is owned in common by the abutting property owners for access and was approved under the provisions of the land division code after October 19, 1978.~~

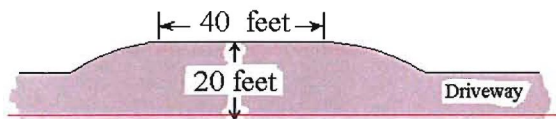
~~\_\_\_\_\_ (e) The Fire Marshal, or designee, may approve an off-site built and maintained width of less than 20 feet, but not less than 12 feet in width, for a private street as given in (c)~~

above. That approval, however, may not be applied to a required improvement width that is part of a Multnomah County land use decision.

(5) Turnaround: Private streets and private driveways with lengths greater than 150 feet shall be built and maintained with a turn-around at or near the end of not less than 48-foot outside turning radius. Turnarounds may be circular or one of the variations of the hammerhead design (such as “T,” one-sided, or “Y”).

(6) Turnouts: No turnouts are required on private streets and private driveways that are improved to 20 feet or more in width as required by (D)(1) above. On private streets and private driveways that are improved to less than 20 feet in width, that are also greater than 200 feet in length, turnouts shall be built and maintained to:

(a) Measure 20 feet in width for a length of 40 feet with adequate transitional curve radii at each end;



Turnout dimensions on private driveway of less than 20 feet in width.

(b) Have a maximum spacing of one-half the driveway length or 400 feet, whichever is less; and

(c) Where visibility is limited, the maximum spacing between turnouts shall be reduced appropriately.

(7) Grades: Shall not exceed an overall average grade of 12 percent with a maximum grade of 15 percent for lengths of no more than 200 feet.

(8) Distance to House: Shall reach to within 150 feet of all portions of the exterior wall of the first story of the dwelling as measured by an approved route around the exterior.

### **29.013 Alternate Method of Fire Protection – One And Two Family Dwellings:**

Pursuant to OAR 918-480-0100 through 918-480-0120 (2002), the building official may allow an alternate to the minimum requirements of the One and Two Family Dwelling Specialty Code as authorized by ORS 455.610, which may include, but is not limited to, installation of an automatic fire sprinkler system. That decision may be made where it is determined the fire apparatus means of approach to a property or the fire fighting water supply serving a property, does not meet the local standards adopted in accordance with the applicable fire code and state building code requirements. Before allowing the use of an alternative method of fire protection, the building official shall ensure the following criteria have been met:

(A) The alternate, such as an automatic fire sprinkler system, shall be at the request of the applicant;

~~———— (B) ——— For lots of record created before January 1, 2002, the building official shall, prior to authorizing an alternate allowing the development of a parcel that could not otherwise be developed because it cannot meet adopted fire apparatus access standards or fire fighting water supply standards pursuant to § 29.012 and § 29.003(B), consult with the fire official having authority to approve an alternate;~~

~~———— (C) ——— For lots of record created on or after January 1, 2002, the building official shall confirm the fire official having authority has:~~

~~———— (1) ——— Approved the alternate to adopted fire apparatus access standards for shared private roads, private driveways or fire fighting water supply standards pursuant to § 29.012 and § 29.003(B), during the land use approval process; and~~

~~———— (2) ——— The approved alternate has been recorded on the property deed or on a recorded deed restriction as a requirement for future construction.~~

~~———— (D) ——— Providing the requirements of this rule are met, the local building official is authorized to enforce the conditions of an approved alternate method of construction when it is part of the building construction; and~~

~~———— (E) ——— When the approved alternate is a fire sprinkler system, the minimum standard for installation within one- and two- family dwellings shall be the 1999 Edition, or the most current version, of NFPA 13-D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes (NFPA is the National Fire Protection Association, Inc).~~

**Section 3.** MCC 33.0005, 34.0005, 35.0005, 36.0005 and 38.0015 are amended to add the following definitions:

**Daily Care** – Daily care includes but is not limited to bathing, grooming, eating, medication management, walking and transportation. Daily care does not include financial management or the improvement or maintenance of property.

**Health Hardship** – A specific person’s need for daily supervision due to cognitive impairment and/or a specific person’s need for assistance with daily care as a result of age, physical impairment and/or poor health.

**Park-Model Recreational Vehicle** – A recreational vehicle built on a single chassis, mounted on wheels, and designed to facilitate movement from time to time but not intended to be towed on a regular basis and that does not exceed 400 square feet when in the set-up mode and designed to provide recreational seasonal or temporary living quarters which may be connected to utilities necessary for the operation of installed fixtures and appliances.

**Recreational Vehicle** – A vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

(a) Holding tank(s);

(b) Liquid petroleum gas; or

(c) A 110 to 240 volt electrical systems.

Temporary Dwelling – A detached dwelling allowed to be placed on a lot or parcel for a limited amount of time in addition to the permanent, existing dwelling. A temporary dwelling shall be removed upon the expiration of the land use permit authorizing it.

Travel Trailer – A non-motorized, towable recreational trailer which contains an Oregon Insignia of Compliance as a recreational vehicle. Motor homes, converted buses, van conversions, slide-in truck campers and folding camper trailers (“pop-up” campers) are not considered a travel trailer.

**Section 4.** MCC 33.0515, 34.0515, 35.0515, 36.0515, and 38.7320 are amended as follows:

**33.0515 Temporary Health Hardship Permit.**

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and/or assistance with daily health care needs to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling a mobile home on a lot with an existing single-family dwelling on a renewable term residence. This use permit is temporary in nature and shall not intended to encourage an increase in the residential density in the rural plan area beyond that envisioned by the Comprehensive Plan and its implementing ordinances.

(AB) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a mobile home temporary dwelling on a lot in conjunction with an existing single-family residence dwelling allowed in the zone subject to based on the following findings:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

(a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.

(b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.

(c) For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship.

(2) The person with the health hardship is unable to adequately provide daily self-care needs because of a physical and/or medical impairment based upon a statement from a licensed physician describing the nature of the impairment and its resultant limitations. The physician shall indicate that those limitations are severe enough to warrant daily assistance, and that at least one of the residents of the property is capable of providing that assistance. For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:

(a) The person identified in the application has a health hardship as defined in MCC 33.0005;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 33.0005; and

(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.

~~(3) There is a demonstrated lack of appropriate alternative accommodations within the area entitled to notice, including, but not limited to, rental housing or space within the existing residence. Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.~~

(4) The following ~~locational~~ criteria are satisfied:

~~(a) The proposed siting of the mobile home will satisfy the applicable setback standards of the zoning district without requiring a variance. An adjustment of the setback requirement may be approved. The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.~~

~~(b) The mobile home shall be located in a manner which satisfies the locational requirements of a second residence on properties capable of being divided under the existing zoning within those areas designated as urban by the Comprehensive Framework Plan. The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject lot, unless an adjustment or variance pursuant to MCC 33.7601 through 33.7616 is approved. This distance shall be measured from the closest portion of each building.~~

~~(c) The mobile home will not require any new main connections to public facilities or services (e.g., sewer, water or power mains, curb cuts, etc.) unless sited in the manner allowed in subsection (b) above, in which case those services may be extended to the area on the property which satisfies the locational requirements of a second residence. The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.~~

~~(d) The ~~mobile home~~temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps to accommodate the health care needs of the proposed occupant.~~

~~(5) A penal bond in the amount of \$1,000 is posted to insure removal of the mobile home within six months after the health hardship ceases to exist.~~

~~(6) As a condition of approval, every two years from the approval date the applicant shall submit:~~

~~(a) A recent (within 6 months prior to the two year deadline) physician's statement verifying that the situation described in (2) above still exists; and~~

~~(b) A letter from the care provider describing the continuing assistance being given.~~

~~(B) Temporary health hardship permits approved prior to January 11, 1994 shall not be subject to the original expiration date and shall be permitted to be renewed by the Planning Director every two years from the original approval date based upon a Finding that the hardship still exists and that the conditions imposed are being satisfied.~~

~~(C) Prior to installation of the temporary dwelling on the site, the property owner shall:~~

~~(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.~~

~~(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.~~

~~(3) In the EFU & CFU zones, the property owner shall record a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules and to conduct accepted farming practices.~~

~~(D) Expiration of the Temporary Health Hardship Permit. The Temporary Health Hardship Permit expires automatically two years after the date of final approval of the permit unless an extension is approved as set forth in (E) below.~~

~~(E) Extension of the Temporary Health Hardship Permit. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a period of two years from the date the permit be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.~~

~~(F) Occupancy of the Temporary Dwelling. Occupancy of the temporary dwelling may occur only while the person for which the Temporary Health Hardship Permit was granted lives on the property.~~

~~(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit, end of the health hardship or the provision of supervision or assistance with daily care.~~

### **34.0515 Temporary Health Hardship Permit**

~~(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and or assistance with daily health care needs to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling a mobile home on a lot with an existing single-family dwelling on a renewable term residence. This use permit is temporary in nature and shall not intended to encourage an increase in the residential density in the rural plan area beyond that envisioned by the Comprehensive Plan and its implementing ordinances.~~

~~(AB) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a mobile home temporary dwelling on a lot in conjunction with an existing single-family residence dwelling allowed in the zone subject to based on the following findings:~~



(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

(a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.

(b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.

(c) For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship.

~~(2) The person with the health hardship is unable to adequately provide daily self-care needs because of a physical and/or medical impairment based upon a statement from a licensed physician describing the nature of the impairment and its resultant limitations. The physician shall indicate that those limitations are severe enough to warrant daily assistance, and that at least one of the residents of the property is capable of providing that assistance. For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:~~

~~(a) The person identified in the application has a health hardship as defined in MCC 34.0005;~~

~~(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 34.0005; and~~

~~(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.~~

~~(3) There is a demonstrated lack of appropriate alternative accommodations within the area entitled to notice, including, but not limited to, rental housing or space within the existing residence. Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.~~

(4) The following ~~locational~~ criteria are satisfied:

~~(a) The proposed siting of the mobile home will satisfy the applicable setback standards of the zoning district without requiring a variance. An adjustment of the setback requirement may be approved. The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.~~

~~(b) The mobile home shall be located in a manner which satisfies the locational requirements of a second residence on properties capable of being divided under the existing zoning within those areas designated as urban by the Comprehensive Framework Plan. The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject lot, unless an adjustment or variance pursuant to MCC 34.7601 through 34.7616 is approved. This distance shall be measured from the closest portion of each building.~~

~~(c) The mobile home will not require any new main connections to public facilities or services (e.g., sewer, water or power mains, curb cuts, etc.) unless sited in the manner allowed in subsection (b) above, in which case those services may be extended to the area on the property which satisfies the locational requirements of a second residence. The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.~~

~~(d) The ~~mobile home~~temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps to accommodate the health care needs of the proposed occupant.~~

~~(5) A penal bond in the amount of \$1,000 is posted to insure removal of the mobile home within six months after the health hardship ceases to exist.~~

~~(6) As a condition of approval, every two years from the approval date the applicant shall submit:~~

~~(a) A recent (within 6 months prior to the two year deadline) physician's statement verifying that the situation described in (2) above still exists; and~~

~~(b) A letter from the care provider describing the continuing assistance being given.~~

~~(B) Temporary health hardship permits approved prior to January 11, 1994 shall not be subject to the original expiration date and shall be permitted to be renewed by the Planning Director every two years from the original approval date based upon a Finding that the hardship still exists and that the conditions imposed are being satisfied.~~

~~(C) Prior to installation of the temporary dwelling on the site, the property owner shall:~~

~~(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.~~

~~(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.~~

~~(3) In the EFU & CFU zones, the property owner shall record a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules and to conduct accepted farming practices.~~

~~(D) Expiration of the Temporary Health Hardship Permit. The Temporary Health Hardship Permit expires automatically two years after the date of final approval of the permit unless an extension is approved as set forth in (E) below.~~

~~(E) Extension of the Temporary Health Hardship Permit. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a period of two years from the date the permit be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms~~

provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.

(F) Occupancy of the Temporary Dwelling. Occupancy of the temporary dwelling may occur only while the person for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit, end of the health hardship or the provision of supervision or assistance with daily care.

### **35.0515 Temporary Health Hardship Permit**

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and or assistance with daily health-care needs to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwellinga mobile home on a lot with an existing single-family dwelling on a renewable termresidence. This usepermit is temporary in nature and shall not intended to encourage an increase in the residential density in the rural plan areabeyond that envisioned by the Comprehensive Plan and its implementing ordinances.

(AB) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a mobile hometemporary dwelling on a lot in conjunction with an existing single-family residence dwelling allowed in the zone subject tobased on the following findings:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

(a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.

(b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.

(c) For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship.

(2) The person with the health hardship is unable to adequately provide daily self-care needs because of a physical and/or medical impairment based upon a statement from a licensed physician describing the nature of the impairment and its resultant limitations. The physician shall indicate that those limitations are severe enough to warrant daily assistance, and that at least one of the residents of the property is capable of providing that assistance. For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:

(a) The person identified in the application has a health hardship as defined in MCC 35.0005;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 35.0005; and

(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.

(3) There is a demonstrated lack of appropriate alternative accommodations within the area entitled to notice, including, but not limited to, rental housing or space within the existing residence. Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.

(4) The following ~~locational~~ criteria are satisfied:

(a) The proposed siting of the mobile home will satisfy the applicable setback standards of the zoning district without requiring a variance. An adjustment of the setback requirement may be approved. The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.

(b) The mobile home shall be located in a manner which satisfies the locational requirements of a second residence on properties capable of being divided under the existing zoning within those areas designated as urban by the Comprehensive Framework Plan. The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject lot, unless an adjustment or variance pursuant to MCC 35.7601 through 35.7616 is approved. This distance shall be measured from the closest portion of each building.

(c) The mobile home will not require any new main connections to public facilities or services (e.g., sewer, water or power mains, curb cuts, etc.) unless sited in the manner allowed in subsection (b) above, in which case those services may be extended to the area on the property which satisfies the locational requirements of a second residence. The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The ~~mobile home~~ temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps ~~to accommodate the health care needs of the proposed occupant.~~

(5) A penal bond in the amount of \$1,000 is posted to insure removal of the mobile home within six months after the health hardship ceases to exist.

(6) As a condition of approval, every two years from the approval date the applicant shall submit:

(a) A recent (within 6 months prior to the two year deadline) physician's statement verifying that the situation described in (2) above still exists; and

(b) A letter from the care provider describing the continuing assistance being given.

(B) Temporary health hardship permits approved prior to January 11, 1994 shall not be subject to the original expiration date and shall be permitted to be renewed by the Planning Director every two

~~years from the original approval date based upon a Finding that the hardship still exists and that the conditions imposed are being satisfied.~~

(C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.

(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

(3) In the EFU & CFU zones, the property owner shall record a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules and to conduct accepted farming practices.

(D) Expiration of the Temporary Health Hardship Permit. The Temporary Health Hardship Permit expires automatically two years after the date of final approval of the permit unless an extension is approved as set forth in (E) below.

(E) Extension of the Temporary Health Hardship Permit. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a period of two years from the date the permit be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.

(F) Occupancy of the Temporary Dwelling. Occupancy of the temporary dwelling may occur only while the person for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit, end of the health hardship or the provision of supervision or assistance with daily care.

### **36.0515 Temporary Health Hardship Permit.**

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of ~~supervision and or assistance with~~ daily health-care ~~needs~~ to a person ~~or persons~~ with a demonstrated health hardship by allowing the placement of ~~one temporary dwelling~~ ~~a mobile home~~ on a lot with ~~an existing single-family dwelling on a renewable term~~ residence. This ~~use permit~~ is temporary in nature and ~~shall not intended to encourage an increase in~~ the residential density ~~in the rural plan area~~ ~~beyond that envisioned by the Comprehensive Plan and its implementing ordinances.~~

(AB) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a ~~mobile home~~ ~~temporary dwelling~~ on a lot ~~in conjunction~~ with ~~an existing~~ single-family ~~residence~~ ~~dwelling allowed in the zone subject to~~ ~~based on~~ the following ~~findings~~:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

(a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.

(b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.

(c) For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship.

~~(2) The person with the health hardship is unable to adequately provide daily self-care needs because of a physical and/or medical impairment based upon a statement from a licensed physician describing the nature of the impairment and its resultant limitations. The physician shall indicate that those limitations are severe enough to warrant daily assistance, and that at least one of the residents of the property is capable of providing that assistance. For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:~~

~~(a) The person identified in the application has a health hardship as defined in MCC 36.0005;~~

~~(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 36.0005; and~~

~~(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.~~

~~(3) There is a demonstrated lack of appropriate alternative accommodations within the area entitled to notice, including, but not limited to, rental housing or space within the existing residence. Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.~~

(4) The following ~~locational~~ criteria are satisfied:

~~(a) The proposed siting of the mobile home will satisfy the applicable setback standards of the zoning district without requiring a variance. An adjustment of the setback requirement may be approved. The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.~~

~~(b) The mobile home shall be located in a manner which satisfies the locational requirements of a second residence on properties capable of being divided under the existing zoning within those areas designated as urban by the Comprehensive Framework Plan. The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject lot, unless an adjustment or variance pursuant to MCC 36.7601 through 36.7616 is approved. This distance shall be measured from the closest portion of each building.~~

~~(c) The mobile home will not require any new main connections to public facilities or services (e.g., sewer, water or power mains, curb cuts, etc.) unless sited in the manner allowed in subsection (b) above, in which case those services may be extended to the area on the property which satisfies the locational requirements of a second residence. The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.~~

~~(d) The mobile home temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps to accommodate the health care needs of the proposed occupant.~~

~~(5) A penal bond in the amount of \$1,000 is posted to insure removal of the mobile home within six months after the health hardship ceases to exist.~~

~~(6) As a condition of approval, every two years from the approval date the applicant shall submit:~~

~~(a) A recent (within 6 months prior to the two year deadline) physician's statement verifying that the situation described in (2) above still exists; and~~

~~(b) A letter from the care provider describing the continuing assistance being given.~~

~~(B) Temporary health hardship permits approved prior to January 11, 1994 shall not be subject to the original expiration date and shall be permitted to be renewed by the Planning Director every two years from the original approval date based upon a Finding that the hardship still exists and that the conditions imposed are being satisfied.~~

~~(C) Prior to installation of the temporary dwelling on the site, the property owner shall:~~

~~(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.~~

~~(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.~~

~~(3) In the EFU & CFU zones, the property owner shall record a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules and to conduct accepted farming practices.~~

~~(D) Expiration of the Temporary Health Hardship Permit. The Temporary Health Hardship Permit expires automatically two years after the date of final approval of the permit unless an extension is approved as set forth in (E) below.~~

~~(E) Extension of the Temporary Health Hardship Permit. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a period of two years from the date the permit be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration~~

of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.

(F) Occupancy of the Temporary Dwelling. Occupancy of the temporary dwelling may occur only while the person for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit, end of the health hardship or the provision of supervision or assistance with daily care.

### **38.7320 Temporary Health Hardship Dwelling**

Temporary Health Hardship Dwelling—the temporary placement of a mobile home may be granted when:

(A) A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.

(B) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.

(C) The hardship dwelling is found to be consistent with the standards for protection of scenic, cultural, natural and recreation resources of MCC 38.7000 through 38.7085.

(D) A permit may be issued for a 2 year period, subject to annual review for compliance with the provisions of this section and any other conditions of approval.

(E) Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.

(F) A new permit may be granted upon a finding that a family hardship continues to exist.

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and/or assistance with daily care to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling on a parcel with a single-family dwelling on a renewable term. This use is temporary in nature and shall not increase the residential density on the subject property.

(B) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a temporary dwelling on a parcel in conjunction with a single-family dwelling allowed in the base zone based on the following findings:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners occupying the principal dwelling. For the purposes of this section a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, stepparent, stepchild, step-grandparent, or step-grandchild either by blood or legal relationship.



(2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:

(a) The person identified in the application has a health hardship as defined in MCC 38.0005;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 38.0005; and

(c) The proposed care provider is capable of providing the necessary supervision and/or assistance with daily care needed by the person with the health hardship.

(3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.

(4) The following criteria are satisfied:

(a) The temporary dwelling shall be either a mobile home or park-model recreational vehicle.

(b) The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject parcel, unless a variance pursuant to MCC 38.7600 through 38.7605 is approved. This distance shall be measured from the closest portion of each building.

(c) The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps to accommodate the care needs of the proposed occupant.

(C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.

(2) The property owner shall record a covenant that states the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

(D) Expiration of the Temporary Health Hardship Permit. The Temporary Health Hardship Permit expires automatically one year after the date of final approval unless an extension is approved as set forth in (E) below.

(E) Extension of the Temporary Health Hardship Permit. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a one-year period from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject parcel.

(F) Occupancy of the Temporary Dwelling. Occupancy of the temporary dwelling may occur only while the person or persons for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit of end of the health hardship or the provision of supervision or assistance with daily care.

**Section 5.** MCC 37.0530 and 38.0530 are amended as follows:

**37.0530 Summary Of Decision Making Processes.**

The following decision making processes chart shall control the County's review of the indicated permits:

APPROVAL PROCESS					
Permit Type	I	II	III	IV	PC
Initial Approval Body	(Not a "land use decision")	(Planning Director)	(Hearings Officer)	(Planning Commission)	(Legislative)
*****					
Temporary Permits		X			
Temporary Health Hardship		X	X If CU		
<u>Temporary Health Hardship Renewal</u>	X				
Bus Shelter		X			

\*\*\*\*\*

**38.0530 Summary of decision making processes.**

The following decision making processes chart shall control the County's review of the indicated permits:

APPROVAL PROCESS					
Permit Type	I	II	II Expedited	III	PC
Initial Approval Body:	(Not a "land use decision")	(Planning Director)	(Planning Director)	(Hearings Officer)	(Legislative)
*****					
Zoning Code Interpretations		X			
<u>Temporary Health Hardship Permit Extension</u>	X				

APPROVAL PROCESS					
Permit Type	I	II	II Expedited	III	PC
Initial Approval Body:	(Not a "land use decision")	(Planning Director)	(Planning Director)	(Hearings Officer)	(Legislative)
* * * * *					
Hillside Development Permit		X			

\* \* \* \* \*

**Section 6.** MCC 33.2025(C), 33.2225(C), 33.2425(C), 35.2025(B), 35.2225(C), 36.2025(C), 38.2025, 38.2225, 38.2425(D) and 38.3025 are amended as follows:

**33.2025 Review Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

- (A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.
  - (1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.
  - (2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.
- (B) A *Large Acreage Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 33.2035.
- (C) A ~~temporary dwelling for health hardship mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit~~ pursuant to all applicable approval criteria, including but not limited to MCC 33.0515, ~~33.2045~~ and 33.2056.

\* \* \* \* \*

**33.2225 Review Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

- (A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(B) The following dwellings:

(1) A *Large Acreage Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 33.2235;

(2) A *Template Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 33.2240(A);

(3) A *Heritage Tract Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 33.2240(B).

(C) A ~~temporary dwelling for health hardship mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit~~ pursuant to all applicable approval criteria, including but not limited to MCC 33.0515, ~~33.2245~~ and 33.2256.

\* \* \* \* \*

### 33.2425 Review Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(B) A *Template Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 33.2440.

(C) A ~~temporary dwelling for health hardship mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit~~ pursuant to all applicable approval criteria, including but not limited to MCC 33.0515, ~~33.2445~~ and 33.2456.

\* \* \* \* \*

### 35.2025 Review Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(B) A ~~temporary dwelling for health hardship mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit~~ pursuant to all applicable approval criteria, including but not limited to MCC 35.0515, ~~35.2045~~ and 35.2056.

\* \* \* \* \*

### 35.2225 Review Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(B) The following dwellings:

(1) A *Large Acreage Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 35.2235;

(2) A *Template Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 35.2240(A);

(3) A *Heritage Tract Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 35.2240(B).

(C) A ~~temporary dwelling for health hardship mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit~~ pursuant to all applicable approval criteria, including but not limited to MCC 35.0515, ~~35.2245~~ and 35.2256.

\* \* \* \* \*

### 36.2025 Review Uses.

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(B) The following dwellings:

(1) A *Large Acreage Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 36.2035;

(2) A *Template Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 36.2040(A);

(3) A *Heritage Tract Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 36.2040(B).

(C) A ~~temporary dwelling for health hardship mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit~~ pursuant to all applicable approval criteria, including but not limited to MCC 36.0515, ~~36.2045~~ and 36.2056.

\* \* \* \* \*

### 38.2025 Review Uses

(A) The following uses may be allowed on lands designated GGF, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

\* \* \* \* \*

(7) ~~The A~~ temporary ~~dwelling for health~~ ~~use of a mobile home in the case of a family~~ hardship, ~~subject pursuant~~ to MCC 38.7320, MCC 38.7305 and MCC 38.7315.

\* \* \* \* \*

(B) The following uses may be allowed on lands designated GSF pursuant to MCC 38.0530 (B) when the use or development will be sited to minimize the loss of land suitable for the production of forest products and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

\* \* \* \* \*

(10) On a parcel of 40 acres or greater with an existing dwelling, ~~the a~~ temporary dwelling for health use of a mobile home in the case of a family hardship, subject pursuant to the guidelines for hardship dwellings in MCC 38.7320, MCC 38.7305 and MCC 38.7315.

\* \* \* \* \*

### 38.2225 Review Uses

(A) The following uses may be allowed on lands designated GGA pursuant to the provisions of MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(1) New cultivation, including actions implementing a Wildlife Habitat Conservation and Management Plan involving ground disturbing activity, subject to compliance with MCC 38.7045, 38.7055, 38.7060, 38.7065, and 38.7070.

(2) Agricultural structures, except buildings in conjunction with agricultural use.

(3) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

(4) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in MCC 38.2225 (A)(5) or MCC 38.2225 (A)(6).

(5) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(6) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(c) The height of any individual accessory building shall not exceed 24 feet.

(7) ~~The A~~ temporary dwelling for health use of a mobile home in the case of a family hardship, subject pursuant to MCC 38.7320 and MCC 38.0060.

\* \* \* \* \*

(B) The following uses may be allowed on lands designated GSA- 40 pursuant to MCC 38.0530 (B), provided that the use or development will be sited to minimize the loss of land suitable for the production of agricultural crops or livestock and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

\* \* \* \* \*

(16) On a parcel of 40 acres or greater with an existing dwelling, ~~the a~~ temporary dwelling for health use of a mobile home in the case of a family hardship, subject pursuant to MCC 38.7320.

\* \* \* \* \*

### 38.2425 Review Uses

The following uses may be allowed on lands designated GGRC, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(A) A single-family dwelling on a legally created parcel.

(B) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (C) below.

(C) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

(D) ~~The A~~ temporary dwelling for health use of a mobile home in the case of a family hardship, pursuant to MCC 38.7320.

\* \* \* \* \*

### 38.3025 Review Uses

(A) The following uses may be allowed on lands designated GGR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:



- (1) One single-family dwelling per legally created parcel.
  - (a) If the subject parcel is located adjacent to lands designated GGA or GGF, the use shall comply with the buffer requirements of MCC 38.0060; and
  - (b) If the subject parcel is located is adjacent to lands designated GGF, the placement of a dwelling shall also comply with the fire protection standards of MCC 38.7305.
- (2) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (3) below.
- (3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:
  - (a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
  - (b) The height of any individual accessory building shall not exceed 24 feet.
- (4) ~~The A~~ temporary dwelling for health use of a mobile home in the case of a family hardship, subject pursuant to MCC 38.7320.

\* \* \* \* \*

(B) The following uses may be allowed on lands designated GSR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

\* \* \* \* \*

- (8) On a parcel of 40 acres or greater with an existing dwelling, ~~the a~~ temporary dwelling for health use of a mobile home in the case of a family hardship, subject pursuant to MCC 38.7320.

\* \* \* \* \*

**Section 7.** MCC 33.2045, 33.2245, 35.2045, ~~35.2245~~ and 36.2045 are amended as follows:

**33.2045 Use Compatibility Standards**

Specified uses of MCC 33.2025 ~~(C)~~, (D) and (E) and MCC 33.2030 (A), (B) and (C) may be allowed upon a finding that:

- (A) The use will:
  - (1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;
  - (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(B) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

### **33.2245 Use Compatibility Standards**

Specified uses of MCC 33.2225 ~~(C)~~, (D) and (E) and MCC 33.2230 (A), (B), and (C) may be allowed upon a finding that:

(A) The use will:

- (1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;
- (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(B) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

### **33.2445 Use Compatibility Standards**

Specified uses of MCC 33.2425 ~~(C)~~, (D) and (E) and MCC 33.2430 (A), (B) and (C) may be allowed upon a finding that:

(A) The use will:

- (1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;
- (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(B) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

### **35.2245 Use Compatibility Standards**

(A) Specified uses of MCC 35.2225 ~~(C)~~, (D); and (E) and MCC 35.2230 (A), (B), and (C) may be allowed upon a finding that the use will:

- (1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

(2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(3) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

(B) Single family dwellings as specified in MCC 35.2225 (B) may be allowed upon a finding that they will not significantly impact open space, public facilities, wildlife habitat, and rural community character.

**36.2045 Use Compatibility Standards.**

Specified uses of MCC 36.2025 ~~(C)~~, (D), and (E) and MCC 36.2030 (A), (B) and (C) may be allowed upon a finding that:

(A) The use will:

(1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

(2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(B) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

**Section 8.** MCC 33.2061, 33.2261, 33.2461, 35.2061, 35.2261, and 36.2061 are amended as follows:

**33.2061 Development Standards for Dwellings and Structures**

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

\* \* \* \* \*

(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

\* \* \* \* \*

(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no

~~structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access. The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;~~

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the ~~fire apparatus access~~driveway standards of ~~MCC 33.2061(E)~~the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source.;

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(2) Evidence of a domestic water supply means:

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

(c) 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.

~~(E) A private road (including approved easements) accessing two or more dwellings, a driveway accessing a single dwelling, a Forest Practices road that is utilized as a private road/driveway accessing a dwelling(s), or a new driveway constructed to access a replacement/restored dwelling, shall be designed, built, and maintained to:~~

~~(1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;~~

~~(2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;~~

~~(3) Provide minimum curve radii of 48 feet or greater;~~

~~(4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;~~

~~(5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:~~

~~(a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;~~

~~(b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;~~

~~(6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;~~

~~(7) Provide for the safe and convenient passage of vehicles by the placement of:~~

~~(a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or~~

~~(b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.~~

~~(8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in MCC 29.012.~~

### **33.2261 Development Standards for Dwellings and Structures**

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

\* \* \* \* \*

(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

\* \* \* \* \*

(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

~~(a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access. The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;~~

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the ~~fire apparatus access driveway~~ standards of ~~MCC 33.2261(E) the Oregon Fire Code~~ with permanent signs posted along the access route to indicate the location of the emergency water source.;

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(2) Evidence of a domestic water supply means:

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

(c) 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.

~~(E) A private road (including approved easements) accessing two or more dwellings, a driveway accessing a single dwelling, a Forest Practices road that is utilized as a private road/driveway accessing a dwelling(s), or a new driveway constructed to access a replacement/restored dwelling, shall be designed, built, and maintained to:~~

~~(1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;~~

~~(2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;~~

~~(3) Provide minimum curve radii of 48 feet or greater;~~

~~(4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;~~

~~(5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:~~

~~(a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;~~

~~(b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;~~

~~(6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;~~

~~(7) Provide for the safe and convenient passage of vehicles by the placement of:~~

~~(a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or~~

~~(b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.~~

~~(8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in MCC 29.012.~~

### **33.2461 Development Standards for Dwellings and Structures**

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

\* \* \* \* \*

(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

\* \* \* \* \*

(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) ~~Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access. The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;~~

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the ~~fire apparatus access driveway~~ standards of ~~MCC 33.2461(E)~~ the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source.;

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(2) Evidence of a domestic water supply means:

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

(c) 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.



~~(E) A private road (including approved easements) accessing two or more dwellings, a driveway accessing a single dwelling, a Forest Practices road that is utilized as a private road/driveway accessing a dwelling(s), or a new driveway constructed to access a replacement/restored dwelling, shall be designed, built, and maintained to:~~

~~(1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;~~

~~(2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;~~

~~(3) Provide minimum curve radii of 48 feet or greater;~~

~~(4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;~~

~~(5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:~~

~~(a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;~~

~~(b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;~~

~~(6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;~~

~~(7) Provide for the safe and convenient passage of vehicles by the placement of:~~

~~(a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or~~

~~(b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.~~

~~(8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in MCC 29.012.~~

### **35.2061 Development Standards for Dwellings and Structures**

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

\* \* \* \* \*

(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

\* \* \* \* \*

(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) ~~Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access. The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;~~

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the ~~fire apparatus access driveway~~ standards of ~~MCC 35.2061(E)~~ the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source.;

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(2) Evidence of a domestic water supply means:

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

(c) 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.

~~(E) A private road (including approved easements) accessing two or more dwellings, a driveway accessing a single dwelling, a Forest Practices road that is utilized as a private road/driveway accessing a dwelling(s), or a new driveway constructed to access a replacement/restored dwelling, shall be designed, built, and maintained to:~~

~~(1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;~~

~~(2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;~~

~~(3) Provide minimum curve radii of 48 feet or greater;~~

~~(4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;~~

~~(5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:~~

~~(a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;~~

~~(b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;~~

~~(6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;~~

~~(7) Provide for the safe and convenient passage of vehicles by the placement of:~~

~~(a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or~~

~~(b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.~~

~~(8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in MCC 29.012.~~

### **35.2261 Development Standards for Dwellings and Structures**

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

\* \* \* \* \*

(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or

similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

\* \* \* \* \*

(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) ~~Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access. The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;~~

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the ~~fire apparatus access driveway~~ standards of ~~MCC 35.2261(E)~~ ~~the Oregon Fire Code~~ with permanent signs posted along the access route to indicate the location of the emergency water source.;

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(2) Evidence of a domestic water supply means:

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

(c) 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.

~~(E) A private road (including approved easements) accessing two or more dwellings, a driveway accessing a single dwelling, a Forest Practices road that is utilized as a private road/driveway accessing a dwelling(s), or a new driveway constructed to access a replacement/restored dwelling, shall be designed, built, and maintained to:~~

~~(1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;~~

~~(2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;~~

~~(3) Provide minimum curve radii of 48 feet or greater;~~

~~(4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;~~

~~(5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:~~

~~(a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;~~

~~(b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;~~

~~(6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;~~

~~(7) Provide for the safe and convenient passage of vehicles by the placement of:~~

~~(a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or~~

~~(b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.~~

~~(8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in MCC 29.012.~~

### **36.2061 Development Standards for Dwellings and Structures.**

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

\* \* \* \* \*

(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

\* \* \* \* \*

(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) ~~Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access. The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;~~

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the ~~fire apparatus access driveway~~ standards of ~~MCC 36.2061(E)~~ the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source;

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(2) Evidence of a domestic water supply means:

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

(c) 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.

~~(E) A private road (including approved easements) accessing two or more dwellings, a driveway accessing a single dwelling, a Forest Practices road that is utilized as a private road/driveway accessing a dwelling(s), or a new driveway constructed to access a replacement/restored dwelling, shall be designed, built, and maintained to:~~

~~(1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;~~

~~(2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;~~

~~(3) Provide minimum curve radii of 48 feet or greater;~~

~~(4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;~~

~~(5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:~~

~~(a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;~~

~~(b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;~~

~~(6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;~~

~~(7) Provide for the safe and convenient passage of vehicles by the placement of:~~

~~(a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or~~

~~(b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.~~

~~(8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in MCC 29.012.~~

**Section 9.** MCC 33.2620, 34.2620, 35.2620 and 36.2620 are amended as follows:

### **33.2620 Allowed Uses**

(A) Farm use, as defined in ORS 215.203.

- (B) Buildings other than dwellings customarily provided in conjunction with farm use.
- (C) The propagation or harvesting of forest products.
- (D) 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. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).
- (E) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732 (1)(a) or (b).
- (F) Climbing and passing lanes within the right of way existing as of July 1, 1987.
- (G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and 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 will occur, or no new land parcels result.
- (H) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (I) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- (J) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480 and listed on the National Register of Historic Places.
- (K) Creation of, restoration of or enhancement of wetlands.
- (L) Alteration, restoration or replacement of a lawfully established habitable dwelling.
  - (1) In the case of a replacement dwelling:
    - (a) The existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling, or
    - (b) If the applicant has requested a *deferred replacement permit*, the existing dwelling must be removed or demolished within three months after the *deferred replacement permit* is issued. If, however, the existing dwelling is not removed or demolished within three months after the *deferred replacement permit* is issued, the permit becomes void.
  - (2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling



to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

(M) Replacement of an existing lawfully established single family dwelling on the same lot not more than 200 feet from the original building site when the dwelling was unintentionally destroyed by fire, other casualty or natural disaster. The dwelling may be reestablished only to its previous nature and extent, and the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements. A building permit must be obtained within one year from the date of the event that destroyed the dwelling.

~~(N) Public or private schools, including all buildings essential to the operation of a school wholly within an EFU district may be maintained, enhanced or expanded:~~

~~(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and~~

~~(2) No new use may be authorized on high value farmland; and~~

~~(3) Must satisfy the requirements of MCC 33.4100 through MCC 33.4215, MCC 33.6020 (A), MCC 33.7000 through MCC 33.7060 and MCC 33.7450.~~

~~(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.~~

(~~O~~N) Churches and cemeteries in conjunction with churches, consistent with ORS 441, wholly within an EFU district may be maintained, enhanced or expanded:

(1) ~~Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and Use is subject to MCC 33.2640.~~

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 33.4100 through MCC 33.4215, MCC 33.6020 (A), MCC 33.7000 through MCC 33.7060 and MCC 33.7450.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

**(PO)** Accessory Structures:

(1) Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district;

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Similar structures.

(2) If the accessory structure is a building, then to be an “allowed use” the foot print of the building in combination with the footprint of all other accessory buildings on the property shall not exceed 2500 square feet.

(3) If the accessory structure has a bathroom or kitchen facilities, then prior to issuance of the building permit the property owner shall record a deed restriction with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

(4) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.

**(EP)** Structures or fenced runs for the shelter or confinement of poultry or livestock.

**(RO)** Type A home occupation pursuant to the definition and restrictions of MCC 33.0005. Home occupations as defined by MCC 33.0005 do not allow the level of activity defined in ORS 215.448.

**(SR)** Actions taken in response to an emergency/disaster event as defined in MCC 33.0005 pursuant to the provisions of MCC 33.0535.

~~(TS)~~ Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

~~(UT)~~ On-site filming and activities accessory to on-site filming if the activity would involve no more than 45 days on any site within any one-year period or does not involve erection of sets that would remain in place for longer than any 45-day period. On-site filming and activities accessory to on-site filming may be considered to include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

Temporary facilities may be used as temporary housing for security personnel.

"On-site filming and activities accessory to on-site filming" includes: filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming and production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way. "On-site filming and activities accessory to on-site filming" does not include: facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that requires a building permit.

~~(VU)~~ A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph 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. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "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.

~~(WV)~~ Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 33.4100 through MCC 33.4215 (off-street parking), MCC 33.6020(A) (yards), MCC 33.7000 through MCC 33.7060 (design review), and MCC 33.7450 (signs).

~~(XW)~~ Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

~~(YX)~~ Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and 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.

~~(ZY)~~ Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

~~(AAZ)~~ Signs, as provided in this chapter.

~~(BBAA)~~ Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 33.0005;

(b) The system meets all overlay zone requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

### **34.2620 Allowed Uses**

(A) Farm use, as defined in ORS 215.203.

(B) Buildings other than dwellings customarily provided in conjunction with farm use.

(C) The propagation or harvesting of forest products.

(D) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 522.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(E) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732 (1)(a) or (b).

(F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and 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 will occur, or no new land parcels result. Reconstruction or modification also includes "channelization" of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings.

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

(I) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(J) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480 and listed on the National Register of Historic Places.

(K) Creation of, restoration of or enhancement of wetlands.

(L) Alteration, restoration or replacement of a lawfully established habitable dwelling.

(1) In the case of a replacement dwelling:

(a) The existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling, or

(b) If the applicant has requested a *deferred replacement permit*, the existing dwelling must be removed or demolished within three months after the *deferred replacement permit* is issued. If, however, the existing dwelling is not removed or demolished within three months after the *deferred replacement permit* is issued, the permit becomes void.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records

for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

(3) As a condition of approval, 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 practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(M) Replacement of an existing lawfully established single family dwelling on the same lot not more than 200 feet from the original building site when the dwelling was unintentionally destroyed by fire, other casualty or natural disaster. The dwelling may be reestablished only to its previous nature and extent, and the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements. A building permit must be obtained within one year from the date of the event that destroyed the dwelling.

~~(N) Public or private schools, including all buildings essential to the operation of a school wholly within an EFU district may be maintained, enhanced or expanded:~~

~~(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and~~

~~(2) No new use may be authorized on high value farmland; and~~

~~(3) Must satisfy the requirements of MCC 34.4100 through MCC 34.4215, MCC 34.6020 (A), MCC 34.7000 through MCC 34.7060 and MCC 34.7450.~~

~~(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.~~

~~(N)~~ Churches and cemeteries in conjunction with churches, consistent with ORS 441, wholly within an EFU district may be maintained, enhanced or expanded:

~~(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and Use is subject to MCC 34.2640.~~

~~(2) No new use may be authorized on high value farmland; and~~

~~(3) Must satisfy the requirements of MCC 34.4100 through MCC 34.4215, MCC 34.6020 (A), MCC 34.7000 through MCC 34.7060 and MCC 34.7450.~~

~~(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.~~

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

**(PO)** Accessory Structures:

(1) Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district;

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Similar structures.

(2) If the accessory structure is a building, then to be an “allowed use” the foot print of the building in combination with the footprint of all other accessory buildings on the property shall not exceed 2500 square feet.

(3) If the accessory structure has a bathroom or kitchen facilities, then prior to issuance of the building permit the property owner shall record a deed restriction with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

(4) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.

**(QP)** Structures or fenced runs for the shelter or confinement of poultry or livestock.

**(RQ)** Type A home occupation pursuant to the definition and restrictions of MCC 34.0005. Home occupations as defined by MCC 34.0005 do not allow the level of activity defined in ORS 215.448.

**(SR)** Actions taken in response to an emergency/disaster event as defined in MCC 34.0005 pursuant to the provisions of MCC 34.0535.

~~(FS)~~ Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

~~(UT)~~ On-site filming and activities accessory to on-site filming if the activity would involve no more than 45 days on any site within any one-year period or does not involve erection of sets that would remain in place for longer than any 45-day period. On-site filming and activities accessory to on-site filming may be considered to include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

Temporary facilities may be used as temporary housing for security personnel.

"On-site filming and activities accessory to on-site filming" includes: filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming and production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way. On-site filming and activities accessory to on-site filming" does not include: facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that requires a building permit.

~~(VU)~~ A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph 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. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "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.

~~(WV)~~ Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 34.4100 through MCC 34.4215 (off-street parking), MCC 34.6020(A) (yards), MCC 34.7000 through MCC 34.7060 (design review), and MCC 34.7450 (signs).

~~(XW)~~ Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

~~(YX)~~ Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and 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.



~~(ZY)~~ Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

~~(AAZ)~~ Signs, as provided in this chapter.

~~(BBAA)~~ Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 34.0005;

(b) The system meets all overlay zone requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

### **35.2620 Allowed Uses**

(A) Farm use, as defined in ORS 215.203.

(B) Buildings other than dwellings customarily provided in conjunction with farm use.

(C) The propagation or harvesting of forest products.

(D) 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. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(E) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732 (1)(a) or (b).

(F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and 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 will occur, or no new land parcels result.

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

(I) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(J) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480 and listed on the National Register of Historic Places.

(K) Creation of, restoration of or enhancement of wetlands.

(L) Alteration, restoration or replacement of a lawfully established habitable dwelling.

(1) In the case of a replacement dwelling:

(a) The existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling, or

(b) If the applicant has requested a *deferred replacement permit*, the existing dwelling must be removed or demolished within three months after the *deferred replacement permit* is issued. If, however, the existing dwelling is not removed or demolished within three months after the *deferred replacement permit* is issued, the permit becomes void.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the

provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

(M) Replacement of an existing lawfully established single family dwelling on the same lot not more than 200 feet from the original building site when the dwelling was unintentionally destroyed by fire, other casualty or natural disaster. The dwelling may be reestablished only to its previous nature and extent, and the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements. A building permit must be obtained within one year from the date of the event that destroyed the dwelling.

~~(N) Public or private schools, including all buildings essential to the operation of a school wholly within an EFU district may be maintained, enhanced or expanded:~~

~~(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and~~

~~(2) No new use may be authorized on high value farmland; and~~

~~(3) Must satisfy the requirements of MCC 35.4100 through MCC 35.4215, MCC 35.6020 (A), MCC 35.7000 through MCC 35.7060 and MCC 35.7450.~~

~~(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.~~

~~(N)~~ Churches and cemeteries in conjunction with churches, consistent with ORS 441, wholly within an EFU district may be maintained, enhanced or expanded:

~~(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and Use is subject to MCC 35.2640.~~

~~(2) No new use may be authorized on high value farmland; and~~

~~(3) Must satisfy the requirements of MCC 35.4100 through MCC 35.4215, MCC 35.6020 (A), MCC 35.7000 through MCC 35.7060 and MCC 35.7450.~~

~~(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.~~

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

**(PO)** Accessory Structures:

(1) Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district;

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Similar structures.

(2) If the accessory structure is a building, then to be an “allowed use” the foot print of the building in combination with the footprint of all other accessory buildings on the property shall not exceed 2500 square feet.

(3) If the accessory structure has a bathroom or kitchen facilities, then prior to issuance of the building permit the property owner shall record a deed restriction with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

(4) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.

**(EP)** Structures or fenced runs for the shelter or confinement of poultry or livestock.

**(RO)** Type A home occupation pursuant to the definition and restrictions of MCC 35.0005. Home occupations as defined by MCC 35.0005 do not allow the level of activity defined in ORS 215.448.

**(SR)** Actions taken in response to an emergency/disaster event as defined in MCC 35.0005 pursuant to the provisions of MCC 35.0535.

~~(FS)~~ Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

~~(UT)~~ On-site filming and activities accessory to on-site filming if the activity would involve no more than 45 days on any site within any one-year period or does not involve erection of sets that would remain in place for longer than any 45-day period. On-site filming and activities accessory to on-site filming may be considered to include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

Temporary facilities may be used as temporary housing for security personnel.

"On-site filming and activities accessory to on-site filming" includes: filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming and production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way. "On-site filming and activities accessory to on-site filming" does not include: facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that requires a building permit.

~~(VU)~~ A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph 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. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "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.

~~(WV)~~ Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 35.4100 through MCC 35.4215 (off-street parking), MCC 35.6020(A) (yards), MCC 35.7000 through MCC 35.7060 (design review), and MCC 35.7450 (signs).

~~(XW)~~ Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

~~(YX)~~ Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and 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.

~~(ZY)~~ Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

~~(AAZ)~~ Signs, as provided in this chapter.

~~(BBAA)~~ Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 35.0005;

(b) The system meets all overlay zone requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

### **36.2620 Allowed Uses.**

(A) Farm use, as defined in ORS 215.203.

(B) Buildings other than dwellings customarily provided in conjunction with farm use.

(C) The propagation or harvesting of forest products.

(D) 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. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(E) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732 (1)(a) or (b).

(F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and 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 will occur, or no new land parcels result.

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

(I) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(J) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480(ORS 215.283(1)).

(K) Creation of, restoration of or enhancement of wetlands.

(L) Alteration, restoration or replacement of a lawfully established habitable dwelling.

(1) In the case of a replacement dwelling:

(a) The existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling, or

(b) If the applicant has requested a *deferred replacement permit*, the existing dwelling must be removed or demolished within three months after the *deferred replacement permit* is issued. If, however, the existing dwelling is not removed or demolished within three months after the *deferred replacement permit* is issued, the permit becomes void.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of

another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

(M) Replacement of an existing lawfully established single family dwelling on the same lot not more than 200 feet from the original building site when the dwelling was unintentionally destroyed by fire, other casualty or natural disaster. The dwelling may be reestablished only to its previous nature and extent, and the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements. A building permit must be obtained within one year from the date of the event that destroyed the dwelling.

~~(N) Public or private schools, including all buildings essential to the operation of a school wholly within an EFU district may be maintained, enhanced or expanded:~~

~~(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and~~

~~(2) No new use may be authorized on high value farmland; and~~

~~(3) Must satisfy the requirements of MCC 36.4100 through MCC 36.4215, MCC 36.6020 (A), MCC 36.7000 through MCC 36.7060 and MCC 36.7450.~~

~~(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.~~

(~~N~~) Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, wholly within an EFU district may be maintained, enhanced or expanded:

(1) ~~Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and Use is subject to MCC 36.2640.~~

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 36.4100 through MCC 36.4215, MCC 36.6020 (A), MCC 36.7000 through MCC 36.7060 and MCC 36.7450.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.



**(PO)** Accessory Structures:

(1) Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district;

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Similar structures.

(2) If the accessory structure is a building, then to be an “allowed use” the foot print of the building in combination with the footprint of all other accessory buildings on the property shall not exceed 2500 square feet.

(3) If the accessory structure has a bathroom or kitchen facilities, then prior to issuance of the building permit the property owner shall record a deed restriction with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

(4) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.

**(QP)** Structures or fenced runs for the shelter or confinement of poultry or livestock.

**(RQ)** Type A home occupation pursuant to the definition and restrictions of MCC 36.0005. Home occupations as defined by MCC 36.0005 do not allow the level of activity defined in ORS 215.448.

**(SR)** Actions taken in response to an emergency/disaster event as defined in MCC 36.0005 pursuant to the provisions of MCC 36.0535.

~~(FS)~~ A Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single family dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.) Ord 977 2/7/02.

~~(UT)~~ A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph 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. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "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.

~~(VU)~~ Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 36.4100 through 36.4215 (off-street parking), MCC 36.6020(A) (yards), MCC 36.7000 through MCC 36.7060 (design review), and MCC 36.7450 (signs).

~~(WV)~~ Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

~~(XW)~~ Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and 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.

~~(YX)~~ On-site filming and activities accessory to on-site filming if the activity would involve no more than 45 days on any site within any one-year period or does not involve erection of sets that would remain in place for longer than any 45-day period. On-site filming and activities accessory to on-site filming may be considered to include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

Temporary facilities may be used as temporary housing for security personnel.

"On-site filming and activities accessory to on-site filming" includes: filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming and production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way. "On-site filming and activities accessory to on-site filming" does not include: facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that requires a building permit.

(ZY) Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

(AAZ) Signs, as provided in this chapter.

(BBAA) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 36.0005;

(b) The system meets all overlay zone requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

**Section 10.** MCC 33.2625, 34.2625, 35.2625 and 36.2625 are amended as follows:

**33.2625 Review Uses**

\* \* \* \* \*

(F) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land not identified as high-value farmland when:

\* \* \* \* \*

(8) For purposes of this subsection, and of dwellings considered under MCC 33.2630 (~~NM~~) and (~~EN~~), the following definitions apply:

(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, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(b) *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.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

~~(G) Facilities wholly within an EFU district used for the breeding, kenneling and training of greyhounds for racing may be maintained, enhanced or expanded except no new facilities may be authorized on high value farmland and provided that the following requirements are satisfied:~~

~~(1) MCC 33.6420 (A) and (B); and~~

~~(2) MCC 33.7450; and~~

~~(3) MCC 33.7000 through MCC 33.7060; and~~

~~(4) Minimum Dimensional standards:~~

~~(a) Area: Two acres.~~

~~(b) Width: Two hundred fifty feet.~~

~~(c) Depth: Two hundred fifty feet.~~

~~(d) Setback from all lot lines: One hundred feet.~~

(HG) Farm Stands when found that:

(1) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up no more than 25 percent of the total 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. 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.

(4) As used in this section, “local agricultural area” includes Oregon or an adjacent county in Washington that borders Multnomah County.

~~(H)~~ A winery, as described in ORS 215.452.

~~(J)~~ Off-street parking and loading pursuant to MCC 33.4100 through 33.4215.

~~(K)~~ Lot Line Adjustment pursuant to the provisions of MCC 33.2670.

~~(L)~~ Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

~~(M)~~ A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 33.4100 through MCC 33.4215 (off-street parking), MCC 33.2660(C), (D) & (E) (yards), and MCC 33.7450 (signs).

~~(N)~~ Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

~~(O)~~ Consolidation of Parcels and Lots pursuant to MCC 33.7794.

~~(P)~~ Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 33.2620, Allowed Uses.

(P) Existing schools may be enhanced subject to the requirements for Design Review in MCC in 33.7000 – 33.7060, Off-street Parking in MCC 33.4100 - 4215, and the applicable provisions of MCC 33.2640. Enhancement includes alteration of school facilities that do not add enclosed structures that could increase the design capacity of the school or that do not extend school-related activities closer to the boundary of the tract.

(Q) A temporary dwelling for health hardship pursuant to MCC 33.0515 and 33.2660.

**34.2625 Review Uses**

\* \* \* \* \*

(F) Notwithstanding the *same ownership* grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land not identified as high-value farmland when:

\* \* \* \* \*

(8) For purposes of this subsection, and of dwellings considered under MCC 34.2630 (~~NM~~) and (~~EN~~), the following definitions apply:

(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, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(b) *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.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

~~(G) Facilities wholly within an EFU district used for the breeding, kenneling and training of greyhounds for racing may be maintained, enhanced or expanded except no new facilities may be authorized on high value farmland and provided that the following requirements are satisfied:~~

~~(1) MCC 34.6420 (A) and (B); and~~

~~(2) MCC 34.7450; and~~

~~(3) MCC 34.7000 through MCC 34.7060; and~~

~~(4) Minimum Dimensional standards:~~

~~(a) Area: Two acres.~~

~~(b) Width: Two hundred fifty feet.~~

~~(c) Depth: Two hundred fifty feet.~~

~~(d) Setback from all lot lines: One hundred feet.~~

~~(HG)~~ Farm Stands when found that:

- (1) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up no more than 25 percent of the total 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. 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.
- (4) As used in this section, “local agricultural area” includes Oregon or an adjacent county in Washington that borders Multnomah County.

~~(H)~~ A winery, as described in ORS 215.452.

~~(J)~~ Off-street parking and loading pursuant to MCC 34.4100 through 34.4215.

~~(K)~~ Lot Line Adjustment pursuant to the provisions of MCC 34.2670.

~~(L)~~ Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

~~(M)~~ A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 34.4100 through MCC 34.4215 (off-street parking), MCC 34.2660(C), (D) & (E) (yards), and MCC 34.7450 (signs).

~~(N)~~ Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(~~EN~~) Consolidation of Parcels and Lots pursuant to MCC 34.7794.

(~~PO~~) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 34.2620, Allowed Uses.

(P) Existing schools may be enhanced subject to the requirements for Design Review in MCC in 34.7000 – 34.7060, Off-street Parking in MCC 34.4100 - 4215, and the applicable provisions of MCC 34.2640. Enhancement includes alteration of school facilities that do not add enclosed structures that could increase the design capacity of the school or that do not extend school-related activities closer to the boundary of the tract.

(Q) A temporary dwelling for health hardship pursuant to MCC 34.0515 and 34.2660.

### 35.2625 Review Uses

\* \* \* \* \*

(F) Notwithstanding the *same ownership* grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land not identified as high-value farmland when:

\* \* \* \* \*

(8) For purposes of this subsection, and of dwellings considered under MCC 35.2630 (~~NM~~) and (~~EN~~), the following definitions apply:

(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, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(b) *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.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

~~(G) Facilities wholly within an EFU district used for the breeding, kenneling and training of greyhounds for racing may be maintained, enhanced or expanded except no new facilities may be authorized on high-value farmland and provided that the following requirements are satisfied:~~

~~(1) MCC 35.6420 (A) and (B); and~~

~~(2) MCC 35.7450; and~~

~~(3) MCC 35.7000 through MCC 35.7060; and~~



~~(4) Minimum Dimensional standards:~~

~~(a) Area: Two acres.~~

~~(b) Width: Two hundred fifty feet.~~

~~(c) Depth: Two hundred fifty feet.~~

~~(d) Setback from all lot lines: One hundred feet.~~

~~(HG)~~ Farm Stands when found that:

(1) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up no more than 25 percent of the total 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. 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.

(4) As used in this section, “local agricultural area” includes Oregon or an adjacent county in Washington that borders Multnomah County.

~~(H)~~ A winery, as described in ORS 215.452.

~~(I)~~ Off-street parking and loading pursuant to MCC 35.4100 through 35.4215.

~~(K)~~ Lot Line Adjustment pursuant to the provisions of MCC 35.2670.

~~(L)~~ Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

~~(M)~~ A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of

floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 35.4100 through MCC 35.4215 (off-street parking), MCC 35.2660(C), (D) & (E) (yards), and MCC 35.7450 (signs).

~~(NM)~~ Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

~~(ON)~~ Consolidation of Parcels and Lots pursuant to MCC 35.7794.

~~(PO)~~ Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 35.2620, Allowed Uses.

~~(P)~~ Existing schools may be enhanced subject to the requirements for Design Review in MCC in 35.7000 – 35.7060, Off-street Parking in MCC 35.4100 - 4215, and the applicable provisions of MCC 35.2640. Enhancement includes alteration of school facilities that do not add enclosed structures that could increase the design capacity of the school or that do not extend school-related activities closer to the boundary of the tract.

~~(Q)~~ A temporary dwelling for health hardship pursuant to MCC 35.0515 and 35.2660.

### 36.2625 Review Uses.

\* \* \* \* \*

~~(G)~~ Facilities wholly within an EFU district used for the breeding, kenneling and training of greyhounds for racing may be maintained, enhanced or expanded except no new facilities may be authorized on high value farmland and provided that the following requirements are satisfied:

- ~~(1) MCC 36.6420 (A) and (B); and~~
- ~~(2) MCC 36.7450; and~~
- ~~(3) MCC 36.7000 through MCC 36.7060; and~~
- ~~(4) Minimum Dimensional standards:~~
  - ~~(a) Area: Two acres.~~
  - ~~(b) Width: Two hundred fifty feet.~~
  - ~~(c) Depth: Two hundred fifty feet.~~

~~(d) Setback from all lot lines: One hundred feet.~~

~~(HG)~~ Farm Stands when found that:

- (1) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of 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. 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.
- (4) As used in this section, “local agricultural area” includes Oregon or an adjacent county in Washington that borders Multnomah County.

~~(HI)~~ A winery, as described in ORS 215.452.

~~(HJ)~~ Off-street parking and loading pursuant to MCC 36.4100 through 36.4215.

~~(KJ)~~ Lot Line Adjustment pursuant to the provisions of MCC 36.2670.

~~(LK)~~ Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

~~(ML)~~ A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. The siting standards are the requirements of MCC 36.4100 through MCC 36.4215 (off-street parking), MCC 36.2660(C), (D) & (E) (yards), and MCC 36.7450 (signs).

~~(NM)~~ One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured

dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. 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. The Planning Director shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this section is not eligible for replacement under MCC 36.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(1) The health hardship will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

~~(ON)~~ Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

~~(PO)~~ State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the provisions for Design Review in 36.7000 through 36.7060, and any other applicable zoning code requirements; and

(1) Accessory facilities including but not limited to parking areas, may only be allowed in the EFU zone if there is no alternative location in another zone and;

(2) Accessory facilities which must be located in the EFU zone, shall be of a size and scale that is consistent with the rural character of the area.

~~(QP)~~ Consolidation of Parcels and Lots pursuant to MCC 36.7794.

~~(RQ)~~ Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.2620, Allowed Uses.

(R) Existing schools may be enhanced subject to the requirements for Design Review in MCC in 36.7000 – 36.7060, Off-street Parking in MCC 36.4100 - 4215, and the applicable provisions of MCC 36.2640. Enhancement includes alteration of school facilities that do not add enclosed structures that could increase the design capacity of the school or that do not extend school-related activities closer to the boundary of the tract.

(S) A temporary dwelling for health hardship pursuant to MCC 36.0515 and 36.2660.

**Section 11.** MCC 33.2630, 34.2630, 35.2630 and 36.2630 are amended as follows:

**33.2630 Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 33.6300 to 33.6335:

- (A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 33.2625(ML).
- (B) Operations conducted for:
- (1) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this section; and
  - (2) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
- (C) Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120 and MCC 33.2640.
- (D) Private parks, playgrounds, hunting and fishing preserves, and campgrounds.
- (1) Existing facilities wholly within an EFU district may be maintained, enhanced or expanded subject to the applicable requirements of this Chapter.
  - (2) New facilities may be allowed, but not on high-value farm lands.
  - (3) In addition to the approval standards in MCC 33.6300 to 33.6335, a private campground shall be subject to the following:
    - (a) Except on a lot or parcel contiguous to a lake or reservoir, ~~the campgrounds shall not be allowed~~ within three miles of an urban growth boundary shall meet the provisions in MCC 33.2640 unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.
    - (b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.
    - (c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
    - (d) The 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.

(e) 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. 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 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.
2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
3. As used in this subsection, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) Community centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. The use shall meet the provisions in MCC 33.2640.

(F) Type B home occupation as provided for in MCC 33.6650 and provided:

- (1) That no sale of merchandise is made from the premise;
- (2) That noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity is not detectable at any property line;
- (3) That a home occupation located on high-value farmland may employ only residents of the home;
- (4) That the home occupation is operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district; and
- (5) That the home occupation will not unreasonably interfere with other uses permitted in the EFU zoning district.

(G) A facility for the primary processing of forest products, provided that such facility and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature.

The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.

Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

~~(H) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. 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. The Planning Director shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this subsection is not eligible for replacement under MCC 33.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~

~~A finding shall be made that the health hardship manufactured dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.~~

~~(H)~~ Transmission towers over 200 feet in height, except as follows:

- (1) Radio and television towers if found to satisfy the requirements of MCC 33.6100 through 33.6130; and
- (2) Wireless communications facilities 200 feet and over are not allowed.

~~(J)~~ Dog kennels ~~not described in section MCC 33.2625(G)~~. Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

~~(K)~~ The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission. In accordance with ORS 215.283(2)(p) 2006, notice of all applications shall be mailed to the State Department of Agriculture at least 20 calendar days prior to any initial hearing on the application.

~~(L)~~ 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.

~~(M)~~ 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.

~~(N)~~ Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: MCC 33.6315 Conditional Use Approval Criteria does not apply)

- (1) The lot or parcel meets the requirements of MCC 33.2625 (F) (1) through (8); and

(2) 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. 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 demonstrate that a lot or parcel cannot be practicably managed for farm use. 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. 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; and

(3) The dwelling will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(4) The dwelling will not materially alter the stability of the overall land use pattern of the area.

(~~EN~~) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: 33.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of 33.2625 (F) (1) through (8); and

(2) The tract on which the dwelling will be sited is:

(a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and

(b) Less than twenty-one acres in size; and

(c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(d) Is not a flag lot and the tract is bordered on at least 25% 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

(e) The tract is a flag lot 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. For purposes of this section, the center of the subject tract



is 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. As used in this subsection:

1. “Flag lot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and

2. “Geographic center of the flag lot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

**(PO)** Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

**(QP)** Park and ride lots.

**(RQ)** Realignment of roads, subject to the following limitations and the approval criteria in MCC 33.6315 and MCC 33.6340:

(1) “Realignment” means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being re-aligned as specified in the acknowledged comprehensive plan.

**(SR)** New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway, subject to the following limitations and the approval criteria in MCC 33.6315 and MCC 33.6340:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

**(TS)** Transportation facilities, services and improvements that serve local travel needs, and which:

(1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 “Transportation Improvements on Rural Lands;” and

(2) Satisfy the approval criteria in MCC 33.6315 and MCC 33.6340:

**(T) Rural schools as provided in this subsection. “Rural schools” means 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. Establishment and expansion of rural schools shall meet the requirements for approval of Community Service Uses in MCC 33.6000 – 33.6020 in lieu of the Conditional Use Provisions of MCC 33.6330 – 33.6335 and, if located within three miles of an urban growth boundary, the additional requirements set forth in MCC 33.2640.**

(1) New rural schools may be established and existing rural schools may be expanded on land not identified as high-value farmland.

(2) Existing rural schools located on high-value farmland wholly within the EFU zone may be expanded on the same tract.

(U) Notwithstanding the authority in MCC 33.7200 – 33.7214 to expand a nonconforming use, but in addition and not in lieu of the authority therein to continue, alter, restore or replace a nonconforming use, schools located in an exclusive farm use zone that are no longer allowed under ORS 215.283

(1)(a), as in effect before January 1, 2010, but were established on or before January 1, 2009, and are not rural schools as defined in MCC 33.2630 (T) may be expanded only if:

(1) The expansion meets the requirements for approval of Community Service Uses in MCC 33.6000 – 33.6020 in lieu of the Conditional Use Provisions of MCC 33.6330 – 33.6335 and, if located within three miles of an urban growth boundary, the requirements set forth in MCC 33.2640;

(2) The expansion occurs on the tax lot on which the use was established prior to January 1, 2009, or a tax lot contiguous thereto that was owned by the applicant on January 1, 2009.

#### **34.2630 Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 34.6300 to 34.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 34.2625(M).

(B) Operations conducted for:

(1) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this section; and

(2) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

(C) Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120 and MCC 34.2640.

(D) Private parks, playgrounds, hunting and fishing preserves, and campgrounds.

(1) Existing facilities wholly within an EFU district may be maintained, enhanced or expanded subject to the applicable requirements of this Chapter.

(2) New facilities may be allowed, but not on high-value farm lands.

(3) In addition to the approval standards in MCC 34.6300 to 34.6335, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, ~~the campgrounds shall not be allowed~~ within three miles of an urban growth boundary shall meet the provisions in MCC 34.2640 unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The 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.

(e) 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. 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 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.

2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

3. As used in this subsection, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) Community centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. The use shall meet the provisions in MCC 34.2640.

(F) Type B home occupation as provided for in MCC 34.6650 and provided:

(1) That no sale of merchandise is made from the premise;

(2) That noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity is not detectable at any property line;

(3) That a home occupation located on high-value farmland may employ only residents of the home;

(4) That the home occupation is operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district; and

(5) That the home occupation will not unreasonably interfere with other uses permitted in the EFU zoning district.

(G) A facility for the primary processing of forest products, provided that such facility and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature.

The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.

Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

~~(H) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. 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. The Planning Director shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this subsection is not eligible for replacement under MCC 34.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~

~~A finding shall be made that the health hardship manufactured dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.~~

~~(H)~~ Transmission towers over 200 feet in height, except as follows:

(1) Radio and television towers if found to satisfy the requirements of MCC 34.6100 through 34.6130; and

(2) Wireless communications facilities 200 feet and over are not allowed.

~~(J)~~ Dog kennels ~~not described in section MCC 34.2625 (G)~~. Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

~~(K)~~ The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission. In accordance with ORS 215.283(2)(p)

2006, notice of all applications shall be mailed to the State Department of Agriculture at least 20 calendar days prior to any initial hearing on the application.

~~(LK)~~ 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.

~~(ML)~~ 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.

~~(NM)~~ Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

(Note: MCC 34.6315 Conditional Use Approval Criteria does not apply)

- (1) The lot or parcel meets the requirements of MCC 34.2625 (F) (1) through (8); and
- (2) 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. 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 demonstrate that a lot or parcel cannot be practicably managed for farm use. 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. 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; and
- (3) The dwelling will not:
  - (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or
  - (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (4) The dwelling will not materially alter the stability of the overall land use pattern of the area.

~~(ON)~~ Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

(Note: 34.6315 Conditional Use Approval Criteria does not apply)

- (1) The lot or parcel meets the requirements of 34.2625 (F) (1) through (8); and

(2) The tract on which the dwelling will be sited is:

(a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and

(b) Less than twenty-one acres in size; and

(c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(d) Is not a flag lot and the tract is bordered on at least 25% 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

(e) The tract is a flag lot 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. For purposes of this section, the center of the subject tract is 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. As used in this subsection:

1. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and

2. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

**(PO)** Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

**(QP)** Park and ride lots, [OAR 660-012-0065(3)(i)].

**(RQ)** Realignment of roads [OAR 660-012-0065(3)(d)], subject to the following limitations and the approval criteria in MCC 34.6315 and MCC 34.6340:

(1) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan.

(~~SR~~) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway [OAR 660-012-0065(3)(g)], subject to the following limitations and the approval criteria in MCC 34.6315 and MCC 34.6340:

- (1) The roads shall be limited to two travel lanes.
- (2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(~~TS~~) Transportation facilities, services and improvements that serve local travel needs [OAR 660-012-0065(3)(o)], and which:

- (1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 “Transportation Improvements on Rural Lands;” and
- (2) Satisfy the approval criteria in MCC 34.6315 and MCC 34.6340.

(T) Rural schools as provided in this subsection. “Rural schools” means 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. Establishment and expansion of rural schools shall meet the requirements for approval of Community Service Uses in MCC 34.6000 – 34.6020 in lieu of the Conditional Use Provisions of MCC 34.6330 – 34.6335 and, if located within three miles of an urban growth boundary, the additional requirements set forth in MCC 34.2640.

(1) New rural schools may be established and existing rural schools may be expanded on land not identified as high-value farmland.

(2) Existing rural schools located on high-value farmland wholly within the EFU zone may be expanded on the same tract.

(U) Notwithstanding the authority in MCC 34.7200 – 34.7214 to expand a nonconforming use, but in addition and not in lieu of the authority therein to continue, alter, restore or replace a nonconforming use, schools located in an exclusive farm use zone that are no longer allowed under ORS 215.283 (1)(a), as in effect before January 1, 2010, but were established on or before January 1, 2009, and are not rural schools as defined in MCC 34.2630 (T) may be expanded only if:

(1) The expansion meets the requirements for approval of Community Service Uses in MCC 34.6000 – 34.6020 in lieu of the Conditional Use Provisions of MCC 34.6330 – 34.6335 and, if located within three miles of an urban growth boundary, the requirements set forth in MCC 34.2640;

(2) The expansion occurs on the tax lot on which the use was established prior to January 1, 2009, or a tax lot contiguous thereto that was owned by the applicant on January 1, 2009.

### **35.2630 Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 35.6300 to 35.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 35.2625(N).

(B) Operations conducted for:

(1) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this section; and

(2) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

(C) Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120 and MCC 35.2640.

(D) Private parks, playgrounds, hunting and fishing preserves, and campgrounds.

(1) Existing facilities wholly within an EFU district may be maintained, enhanced or expanded subject to the applicable requirements of this Chapter.

(2) New facilities may be allowed, but not on high-value farm lands.

(3) In addition to the approval standards in MCC 35.6300 to 35.6335, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, ~~the campgrounds shall not be allowed~~ within three miles of an urban growth boundary shall meet the provisions in MCC 35.2640 unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The 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.

(e) 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. 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 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.



(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.
2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
3. As used in this subsection, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) Community centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. The use shall meet the provisions in MCC 35.2640.

(F) Type B home occupation as provided for in MCC 35.6650 and provided:

- (1) That no sale of merchandise is made from the premise;
- (2) That noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity is not detectable at any property line;
- (3) That a home occupation located on high-value farmland may employ only residents of the home;
- (4) That the home occupation is operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district; and
- (5) That the home occupation will not unreasonably interfere with other uses permitted in the EFU zoning district.

(G) A facility for the primary processing of forest products, provided that such facility and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature.

The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.

Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

~~(H) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. 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. The Planning Director shall review the~~

~~permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this subsection is not eligible for replacement under MCC 35.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.~~

~~A finding shall be made that the health hardship manufactured dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.~~

~~(H)~~ Transmission towers over 200 feet in height, except as follows:

- (1) Radio and television towers if found to satisfy the requirements of MCC 35.6100 through 35.6130; and
- (2) Wireless communications facilities 200 feet and over are not allowed.

~~(J)~~ Dog kennels ~~not described in section MCC 35.2625 (G)~~. Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

~~(K)~~ The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission. In accordance with ORS 215.283(2)(p) 2006, notice of all applications shall be mailed to the State Department of Agriculture at least 20 calendar days prior to any initial hearing on the application.

~~(L)~~ 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.

~~(M)~~ 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.

~~(N)~~ Notwithstanding the *same ownership* grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

(Note: MCC 35.6315 Conditional Use Approval Criteria does not apply)

- (1) The lot or parcel meets the requirements of MCC 35.2625 (F) (1) through (8); and
- (2) 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. 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 demonstrate that a lot of parcel cannot be practicably managed for farm use. 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. 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; and

(3) The dwelling will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(4) The dwelling will not materially alter the stability of the overall land use pattern of the area.

(~~EN~~) Notwithstanding the *same ownership* grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

(Note: 35.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of 35.2625 (F) (1) through (8); and

(2) The tract on which the dwelling will be sited is:

- (a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and
- (b) Less than twenty-one acres in size; and
- (c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or
- (d) Is not a flag lot and the tract is bordered on at least 25% 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
- (e) The tract is a flag lot 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. For purposes of this section, the center of the subject tract is 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. As used in this subsection:

1. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and

2. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a

flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

~~(PO)~~ Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

~~(QP)~~ Park and ride lots.

~~(RQ)~~ Realignment of roads, subject to the following limitations and the approval criteria in MCC 35.6315 and MCC 35.6340:

(1) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being re-aligned as specified in the acknowledged comprehensive plan.

~~(SR)~~ New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway, subject to the following limitations and the approval criteria in MCC 35.6315 and MCC 35.6340:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

~~(FS)~~ Transportation facilities, services and improvements that serve local travel needs, and which:

(1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and

(2) Satisfy the approval criteria in MCC 35.6315 and MCC 35.6340:

(T) Rural schools as provided in this subsection. "Rural schools" means 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. Establishment and expansion of rural schools shall meet the requirements for approval of Community Service Uses in MCC 35.6000 – 35.6020 in lieu of the Conditional Use Provisions of MCC 35.6330 – 35.6335 and, if located within three miles of an urban growth boundary, the additional requirements set forth in MCC 35.2640.

(1) New rural schools may be established and existing rural schools may be expanded on land not identified as high-value farmland.

(2) Existing rural schools located on high-value farmland wholly within the EFU zone may be expanded on the same tract.

(U) Notwithstanding the authority in MCC 35.7200 – 35.7214 to expand a nonconforming use, but in addition and not in lieu of the authority therein to continue, alter, restore or replace a nonconforming use, schools located in an exclusive farm use zone that are no longer allowed under ORS 215.283

(1)(a), as in effect before January 1, 2010, but were established on or before January 1, 2009, and are not rural schools as defined in MCC 35.2630 (T) may be expanded only if:

(1) The expansion meets the requirements for approval of Community Service Uses in MCC 35.6000 – 35.6020 in lieu of the Conditional Use Provisions of MCC 35.6330 – 35.6335 and, if located within three miles of an urban growth boundary, the requirements set forth in MCC 35.2640;

(2) The expansion occurs on the tax lot on which the use was established prior to January 1, 2009, or a tax lot contiguous thereto that was owned by the applicant on January 1, 2009.

### **36.2630 Conditional Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable provisions in MCC 36.6300 to 36.6335 or the criteria listed for the use:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 36.2625(M) above. Uses under this provision shall be subject to the approval criteria in MCC 36.6315(1) through (7).

(B) Operations conducted for:

(1) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this section; and

(2) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

(C) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. The use shall meet the provisions in MCC 36.2640.

(D) Type B home occupation as provided for in MCC 36.6650 and provided:

(1) That no sale of merchandise is made from the premise;

(2) That noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity is not detectable at any property line;

(3) That a home occupation located on high-value farmland may employ only residents of the home;

(4) That the home occupation is operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district; and

(5) That the home occupation will not unreasonably interfere with other uses permitted in the EFU zoning district.

(E) A facility for the primary processing of forest products, provided that such facility is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature.

The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.

Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(F) Transmission towers over 200 feet in height subject to the requirements of MCC 36.6100 through MCC 36.6130.

(G) Dog kennels ~~not described in section MCC 36.2625 (G)~~. Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

(H) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission subject to the approval criteria in MCC 36.6315(A) through (H). In accordance with ORS 215.283(2)(p) 2006, notice of all applications shall be mailed to the State Department of Agriculture at least 20 calendar days prior to any initial hearing on the application.

(I) Public road and highway projects subject to the approval criteria in MCC 36.6010(A) through (H) including;

(1) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels; and

(2) 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.

(J) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: MCC 36.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of MCC 36.2625 (F) (1) through (8); and

(2) 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. 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 demonstrate that a lot or parcel cannot be practicably managed for farm use. 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. 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; and

(3) The dwelling will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(4) The dwelling will not materially alter the stability of the overall land use pattern of the area.

(K) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: 36.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of 36.2625 (F) (1) through (8); and

(2) The tract on which the dwelling will be sited is:

(a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and

(b) Less than twenty-one acres in size; and

(c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(d) Is not a flag lot and the tract is bordered on at least 25% 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

(e) The tract is a flag lot 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. For purposes of this section, the center of the subject tract is 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. As used in this subsection:

1. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and

2. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a

flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

(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) Park and ride lots.

(N) Realignment of roads, subject to the following limitations and the approval criteria in MCC 36.6315 and MCC 36.6340:

(1) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being re-aligned as specified in the acknowledged comprehensive plan.

(O) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway, subject to the following limitations and the approval criteria in MCC 36.6315 and MCC 36.6340:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(P) Transportation facilities, services and improvements that serve local travel needs, and which:

(1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and

(2) Satisfy the approval criteria in MCC 36.6315 and MCC 36.6340:

(O) Rural schools as provided in this subsection. "Rural schools" means 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. Establishment and expansion of rural schools shall meet the requirements for approval of Community Service Uses in MCC 36.6000 – 36.6020 in lieu of the Conditional Use Provisions of MCC 36.6330 – 36.6335 and, if located within three miles of an urban growth boundary, the additional requirements set forth in MCC 36.2640.

(1) New rural schools may be established and existing rural schools may be expanded on land not identified as high-value farmland.

(2) Existing rural schools located on high-value farmland wholly within the EFU zone may be expanded on the same tract.

(R) Notwithstanding the authority in MCC 36.7200 – 36.7214 to expand a nonconforming use, but in addition and not in lieu of the authority therein to continue, alter, restore or replace a nonconforming use, schools located in an exclusive farm use zone that are no longer allowed under ORS 215.283



(1)(a), as in effect before January 1, 2010, but were established on or before January 1, 2009, and are not rural schools as defined in MCC 36.2630 (Q) may be expanded only if:

(1) The expansion meets the requirements for approval of Community Service Uses in MCC 36.6000 – 36.6020 in lieu of the Conditional Use Provisions of MCC 36.6330 – 36.6335 and, if located within three miles of an urban growth boundary, the requirements set forth in MCC 36.2640;

(2) The expansion occurs on the tax lot on which the use was established prior to January 1, 2009, or a tax lot contiguous thereto that was owned by the applicant on January 1, 2009.

**Section 12.** MCC Chapters 33-36 are amended to add §§ 33.2640, 34.2640, 35.2640 and 36.2640 as follows:

**§ 33.2640 Limitations to the Design Capacity of Structures**

**§ 34.2640 Limitations to the Design Capacity of Structures**

**§ 35.2640 Limitations to the Design Capacity of Structures**

**§ 36.2640 Limitations to the Design Capacity of Structures**

(A) 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.

(B) Any enclosed structure or group of enclosed structures described in subsection (A) within a tract that existed on (effective date of this ordinance) must be separated from other enclosed structures by at least one-half mile.

(C) 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 section.

**Section 13.** MCC 33.6010, 34. 6010, 35. 6010 and 36. 6010 are amended as follows:

### **33.6010 Approval Criteria**

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for radio and television transmission towers, which shall meet the approval criteria of MCC 33.6100 through 33.6125, wireless communications facilities which shall meet the approval criteria of MCC 33.6175 through 33.6188; and except for regional sanitary landfills which shall comply with MCC 33.6200 through 33.6230.

(A) Is consistent with the character of the area;

(B) Will not adversely affect natural resources;

(C) ~~The use will not conflict with farm or forest uses in the area;~~

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- (D) Will not require public services other than those existing or programmed for the area;
- (E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (F) Will not create hazardous conditions;
- (G) Will satisfy the applicable policies of the Comprehensive Plan;
- (H) Will satisfy such other applicable approval criteria as are stated in this Section.

### **34.6010 Approval Criteria**

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for radio and television transmission towers, which shall meet the approval criteria of MCC 34.6100 through 34.6125, wireless communications facilities which shall meet the approval criteria of MCC 34.6175 through 34.6188; and except for regional sanitary landfills which shall comply with MCC 34.6200 through 34.6230.

- (A) Is consistent with the character of the area;
- (B) Will not adversely affect natural resources;
- (C) ~~The use will not conflict with farm or forest uses in the area;~~

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- (D) Will not require public services other than those existing or programmed for the area;
- (E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (F) Will not create hazardous conditions;
- (G) Will satisfy the applicable policies of the Comprehensive Plan;
- (H) Will satisfy such other applicable approval criteria as are stated in this Section.

### 35.6010 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for radio and television transmission towers, which shall meet the approval criteria of MCC 35.6100 through 35.6125, wireless communications facilities which shall meet the approval criteria of MCC 35.6175 through 35.6188; and except for regional sanitary landfills which shall comply with MCC 35.6200 through 35.6230.

- (A) Is consistent with the character of the area;
- (B) Will not adversely affect natural resources;
- (C) ~~The use W will not conflict with farm or forest uses in the area;~~
  - (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor
  - (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- (D) Will not require public services other than those existing or programmed for the area;
- (E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (F) Will not create hazardous conditions;
- (G) Will satisfy the applicable policies of the Comprehensive Plan;
- (H) Will satisfy such other applicable approval criteria as are stated in this Section.

### 36.6010 Approval Criteria.

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for transmission towers, which shall meet the approval criteria of MCC 36.6100 through 36.6125, wireless communications facilities, subject to the provisions of MCC 36.6176, and except for regional sanitary landfills which shall comply with MCC 36.6200 through 36.6230.

- (A) Is consistent with the character of the area;
- (B) Will not adversely affect natural resources;
- (C) ~~The use W will not conflict with farm or forest uses in the area;~~
  - (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- (D) Will not require public services other than those existing or programmed for the area;
- (E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (F) Will not create hazardous conditions;
- (G) Will satisfy the applicable policies of the Comprehensive Plan;
- (H) Will satisfy such other applicable approval criteria as are stated in this Section.
- (I) The use is limited in type and scale to primarily serve the needs of the rural area.

**Section 14.** MCC 33.6315, 34.6315, 35.6315 and 36.6315, Approval Criteria, are amended as follows:

**33.6315 Conditional Use Approval Criteria**

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

- (1) Is consistent with the character of the area;
- (2) Will not adversely affect natural resources;
- (3) ~~The use will not conflict with farm or forest uses in the area:~~
  - (a) ~~Will not force~~ a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; ~~nor and~~
  - (b) ~~Will not s~~Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- (4) Will not require public services other than those existing or programmed for the area;
- (5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (6) Will not create hazardous conditions; and
- (7) Will satisfy the applicable policies of the Comprehensive Plan.

(B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC 33.6520.

### 34.6315 Conditional Use Approval Criteria

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

- (1) Is consistent with the character of the area;
- (2) Will not adversely affect natural resources;
- (3) ~~The use will not conflict with farm or forest uses in the area:~~
  - (a) ~~Will not force~~ a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; ~~nor~~
  - (b) ~~Will not significantly~~ increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- (4) Will not require public services other than those existing or programmed for the area;
- (5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (6) Will not create hazardous conditions; and
- (7) Will satisfy the applicable policies of the Comprehensive Plan.

(B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC 34.6520.

### 35.6315 Conditional Use Approval Criteria

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

- (1) Is consistent with the character of the area;
- (2) Will not adversely affect natural resources;
- (3) ~~The use will not conflict with farm or forest uses in the area:~~
  - (a) ~~Will not force~~ a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; ~~nor~~

(b) ~~Will not s~~Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- (4) Will not require public services other than those existing or programmed for the area;
- (5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (6) Will not create hazardous conditions; and
- (7) Will satisfy the applicable policies of the Comprehensive Plan.

(B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC 35.6520.

### **36.6315 Conditional Use Approval Criteria.**

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

- (1) Is consistent with the character of the area;
- (2) Will not adversely affect natural resources;
- (3) ~~The use W~~will not ~~conflict with farm or forest uses in the area:~~
  - (a) ~~Will not f~~Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; ~~nor and~~
  - (b) ~~Will not s~~Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- (4) Will not require public services other than those existing or programmed for the area;
- (5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (6) Will not create hazardous conditions; and
- (7) Will satisfy the applicable policies of the Comprehensive Plan.
- (8) .The use is limited in type and scale to primarily serve the needs of the rural area.

(B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC 36.6520.

**Section 15.** MCC 33.6340, 34. 6340, 35. 6340, 33.6405, 34.6405, 35.6405 and 37.0690 are amended to correct references as follows:

**33.6340 Additional Approval Criteria For Certain Transportation Uses In The Exclusive Farm Use Zoning District**

For the transportation uses listed in MCC ~~3433~~.2630(~~RQ~~), (~~SR~~), and (~~FS~~), the Hearing Authority shall find that Multnomah County has:

- (A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.
- (B) Assessed the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands.
- (C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

**34.6340 Additional Approval Criteria for Certain Transportation Uses in the Exclusive Farm Use Zoning District**

For the transportation uses listed in MCC 34.2630(~~SQ~~), (~~FR~~), and (~~US~~), the Hearing Authority shall find that Multnomah County has:

- (A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.
- (B) Assessed the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands.
- (C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

**35.6340 Additional Approval Criteria For Certain Transportation Uses In The Exclusive Farm Use Zoning District**

For the transportation uses listed in MCC ~~3435~~.2630(~~RQ~~), (~~SR~~), and (~~FS~~), the Hearing Authority shall find that Multnomah County has:

(A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.

(B) Assessed the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands.

(C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

### **33.6405 Location Requirements**

These uses shall be permitted only in the EFU, MUA-20 and RR districts and only where they will not conflict with the surrounding property uses. Additional requirements for locating or expanding kennels in the EFU district are found at MCC 33.2630 (H).

### **34.6405 Location Requirements**

These uses shall be permitted only in the EFU, MUA-20 and RR districts and only where they will not conflict with the surrounding property uses. Additional requirements for locating or expanding kennels in the EFU district are found at MCC 34.2630 (H).

### **35.6405 Location Requirements**

These uses shall be permitted only in the EFU, MUA-20 and RR districts and only where they will not conflict with the surrounding property uses. Additional requirements for locating or expanding kennels in the EFU district are found at MCC 35.2630 (H).

### **37.0690 Expiration And Extension Of A Type II Or Type III Decision in EFU and CFU Zones.**

(A) Type II or Type III land use approval issued pursuant to this Chapter for a use or development that does not include a structure shall expire two years after the date of the final decision, unless the use or development was established according to all specifications and conditions of approval in the land use approval. Expiration of an approval means that a new application is required for uses that are not established during the approval period. For land divisions, "established" means the final deed or plat has been recorded with the county recorder.

(B) Except for approval of residential developments as specified in (C) below, a Type II or Type III land use approval issued pursuant to this Chapter for a use or development that includes a structure shall expire as described in 1 or 2 below:



(1) When construction has not commenced within two years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.

(2) When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

(C) A Type II or III decision approving residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is subject to the following provisions:

(1) The approval shall expire as described in (a) or (b) below:

(a) When construction has not commenced within four years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.

(b) When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

(2) For the purposes of this section, the expiration provisions in (a) and (b) shall also apply to all other Type II or III decisions associated with approval of the residential development, such as SEC or HDP permits.

(3) The provisions in (C) shall only apply to residential development for which a decision of approval:

(a) Was valid (not expired) on January 1, 2002, or

(b) Was issued after January 1, 2002 (the effective date of Senate Bill 724, 2001).

(4) For the purposes of this section, "residential development" only includes dwellings as provided for under:

(a) ORS 215.283(1)(s) – alteration, restoration or replacement of a lawfully established dwelling in the EFU zones as provided in MCC 33.2620 (J), (L) & (M); 34.2620 (J), (L) & (M); 35.2620 (J), (L) & (M); 36.2620 (J), (L) & (M); and

(b) ORS 215.284 – dwelling not in conjunction with farm use in the EFU zones (not currently provided for in any MCC Chapter); and

(c) ORS 215.705 (1) to (3) – "Heritage Tract Dwelling" in the EFU zones as provided for in MCC 33.2625 (F); 33.2630 (OM) & (PN); 34.2625 (F); 34.2630 (OM) & (PN); 35.2625 (F); 35.2630 (OM) & (PN); 36.2625 (F); 36.2630 (J) & (K); and

(d) ORS 215.720 – “Heritage Tract Dwelling” in the CFU zones as provided in MCC 33.2230 (C); and 35.2230 (C); 36.2030 (C); and

(e) ORS 215.740 – “Large Acreage Dwelling” in the CFU zones as provided for in MCC 33.2030 (A); 33.2230 (A); 35.2230 (A); 36.2030 (A); and

(f) ORS 215.750 – “Template Dwelling” in the CFU zones as provided for in MCC 33.2230 (B); 33.2430 (A); 35.2230 (B); 36.2030 (B); and

(g) ORS 215.755 (1) – alteration, restoration or replacement of a lawfully established dwelling in the CFU zones as provided in MCC 33.2020 (D) & (E); 33.2025 (A) & (B); 33.2220 (D) & (E); 33.2225 (A) & (B); 33.2420 (D) & (E); 33.2425 (A) & (B); 35.2020 (D) & (E); 35.2025 (A) & (B); 35.2220 (D) & (E); 36.2020 (D); 36.2025 (A) & (B); and

(h) ORS 215.755 (3) a caretaker residence for a public park or public fish hatchery in the CFU zones as provided for in MCC 33.2020 (H); 33.2220 (H); 33.2420 (H); 35.2020 (H); 35.2220 (H); and 36.2020 (G).

(D) Expiration under (A), (B), or (C) above is automatic. Failure to give notice of expiration shall not affect the expiration of a Type II or III approval.

(E) Notwithstanding Subsections (A), (B), or (C) of this section, on exception lands the decision maker may set forth in the written decision specific instances or time periods when a permit expires.

(F) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings.

**Section 16.** MCC 33.6400, 34.6400, and 35. 6400 are amended as follows:

**33.6400- Uses**

~~Except as provided for as a Review Use in the EFU district at MCC 33.2625 (G), d~~ Dog kennels, boarding, breeding, keeping or training places or the keeping or raising of four or more dogs over six months of age may be permitted only upon the approval of the approval authority as a conditional use. Such approval shall not include animal hospitals or veterinary clinics as conditional uses.

**34.6400- Uses**

~~Except as provided for as a Review Use in the EFU district at MCC 34.2625 (G), d~~ Dog kennels, boarding, breeding, keeping or training places or the keeping or raising of four or more dogs over six months of age may be permitted only upon the approval of the approval authority as a conditional use. Such approval shall not include animal hospitals or veterinary clinics as conditional uses.

**35.6400- Uses**

~~Except as provided for as a Review Use in the EFU district at MCC 35.2625 (G), d~~ Dog kennels, boarding, breeding, keeping or training places or the keeping or raising of four or more dogs over six months of age may be permitted only upon the approval of the approval authority as a conditional use. Such approval shall not include animal hospitals or veterinary clinics as conditional uses.

**Section 17.** MCC 33.7785, 34.7785, 35.7785 and 36.7785 are amended as follows:

**33.7785 Creation of Lots and Parcels That Were Unlawfully Divided**

**34.7785 Creation of Lots and Parcels That Were Unlawfully Divided**

**35.7785 Creation of Lots and Parcels That Were Unlawfully Divided**

**36.7785 Creation of Lots and Parcels That Were Unlawfully Divided**

This Code section provides the mechanism to review and, based upon findings of compliance with specific approval criteria, to approve certain unlawfully divided lots or parcels. The review mechanism to correct an unlawfully divided unit of land differs according to the date the unlawful lot or parcel was divided as provided in (A) and (B) below, or under (C) if a land use permit was issued for a primary use. For the purposes of this section, an “unlawfully divided” lot or parcel means a lot or parcel that, when divided, did not satisfy all applicable zoning and land division laws.

(A) An application to create a legal lot or parcel from an unlawfully divided unit of land divided before January 27, 1994 (eff. date of Mult. Co. Ord. 781) shall be a Category 4 Land Division and be reviewed as a Type II process. In addition to the applicable Category 4 Land Division requirements, the application shall satisfy the following approval criteria:

\* \* \* \* \*

(3) Practical physical access to the site currently exists from a public road or can be provided through an irrevocable easement or equivalent means. Practical physical access at a minimum must meet the standards of MCC ~~29.01229.003~~ and allow emergency vehicle access to the building site.

\* \* \* \* \*

**Section 18.** The amendments to Chapter 38 Columbia River Gorge National Scenic Area shall be effective upon notification of approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

FIRST READING: \_\_\_\_\_ October 6, 2011 \_\_\_\_\_

SECOND READING AND ADOPTION: \_\_\_\_\_ October 13, 2011 \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Jeff Zogen, Chair

REVIEWED:  
JENNY M. MORF, ACTING COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Jed Tomkins, Assistant County Attorney

SUBMITTED BY: M. Cecilia Johnson, Director, Department of Community Services

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M522  
MULTNOMAH COUNTY  
Land Use Planning Division  
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