Oregon
John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development
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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: June 24, 2015

Jurisdiction: Tillamook County

Local file no.: OA-15-01

DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 06/22/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us

DLCD FORM 2

NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 001-15 {23661}
Received: 6/22/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (*See* OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: Tillamook County

Local file no.: **OA-15-01**

Date of adoption: May 27, 2015 Date sent: 6/19/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?
Yes: Date (use the date of last revision if a revised Form 1was submitted): March 4, 2015
No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

No.

Local contact (name and title): Sarah Absher, Senior Planner

Phone: 503-842-3408x3317 E-mail: sabsher@co.tillamook.or.us

Street address: 1510-B Third Street City: Tillamook Zip: 97141-

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PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:
Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

None.

For a change to a comprehensive plan map:
Identify the former and new map designations and the area affected:

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): County-wide

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:
Identify the sections of the ordinance or code that were added or amended by title and number:

The Tillamook County Land Use Ordinance Modernization project ("project") will update key provisions of the Tillamook County Land Use Ordinance (LUO) Articles 1-12 and the Land Division Ordinance (LDO) to conform to current state statutes and administrative rules, update requirements and procedures to be consistent with current practices and to achieve desired outcomes, and to generally improve the structure and content of these ordinances.

For a change to a zoning map:
Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: DLCD, Tillamook County, Tillamook County Citizen Planning Advisory Committees.

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

FILED
3:45 P.M.
MAY 27 2015
TASSI O'NEIL
COUNTY CLERK

BEFORE THE BOARD OF COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON

In the Matter of Adopting Ordinance Amendment request OA-15-01: To amend the Tillamook County Land Use Ordinance (TCLUO) and the Tillamook County Land Division Ordinance (TCLDO) to conform to current state statutes and administrative rules, focused on accomplishing the following: Amendments to the Farm and Forest Zones of TCLUO Article 3 to comply with state law; Amendments to Article 10 to include permitting procedures; Amendments to TCLUO Articles 1, 2, 4, 5, 6, 7, 8, 9, and 11 for housekeeping purposes including the removal of Article 12 as all provisions will be carried into existing Articles of the TCLUO; and amendments to the Tillamook County Land Division Ordinance to comply with state law.	))))))	**Findings of Fact and Decision** **OA-15-01**

This matter came before the Tillamook County Board of Commissioners for public hearings on May 6, 2015 and May 27, 2015. The Board of Commissioners, being fully apprised of the testimony, records and files in this matter, now finds as follows:

1. The files in this proceeding can be found in the office of the Tillamook County Department of Community Development under Ordinance Amendment Request OA-15-01.

2. The Notice of Proposed Action was submitted to the Department of Land Conservation and Development on March 4, 2015.

3. The Tillamook County Planning Commission held a legislative public hearing on this request on April 9, 2015. The hearing was noticed in a proper manner according to the requirements of ORS 197 and 215. After reviewing the staff report, testimony, the record and file for OA-15-01, the Planning Commission found the application met the amendment criteria outlined in Article 9 of the Tillamook County Land Use Ordinance and unanimously passed a recommendation to the Tillamook County Board of Commissioners to adopt Ordinance Amendment Request OA-15-01.

4. The Board opened the legislative public hearing on Ordinance Amendment request OA-15-01 on May 6, 2015 and continued the hearing to May 27, 2015. The hearing was properly noticed according to the requirements of ORS 197 and 215. After reviewing the Planning Commission's recommendation, the staff report containing findings and conclusions, testimony, the record and file, the Board found that the amendment criteria outlined under Article 9 of the Tillamook County Land Use Ordinance had been met. The Board unanimously approved adoption of Ordinance Amendment request OA-15-01and concluded that the criteria had been met herein.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON, ORDERS AS FOLLOWS:

5. The Farm and Forest Zones of the Tillamook County Land Use Ordinance (TCLUO) Article 3 is hereby amended to comply with state law.
6. Article 10 of the TCLUO is hereby amended to include permitting procedures.
7. Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11 of the TCLUO are hereby amended for housekeeping purposes including the removal of Article 12 as all provisions will be carried into existing Articles of the TCLUO.
8. The Tillamook County Land Division Ordinance is hereby amended to comply with state law.

DATED THIS 27th DAY OF May, 2015.

BOARD OF COUNTY COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON	**Aye**	**Nay**	**Abstain/Absent**
Tim Josi, Chairperson	✓		
Mark Labhart, Vice-Chairperson	✓		
Bill Baertlein, Commissioner	✓		

ATTEST: Tassi O'Neil,
County Clerk

Special Deputy

APPROVED AS TO FORM:

William K. Sargent, County Counsel

BOARD OF COUNTY COMMISSIONERS • TILLAMOOK COUNTY • STATE OF OREGON

LAND DEVELOPMENT ORDINANCE

DEVELOPMENT APPROVAL PROCEDURES

INTRODUCTION

SECTION 010: PURPOSE

(1) The purpose of this Ordinance is to establish standards for property line adjustments for the division of land by way of partition or subdivision and for the development of improvements for areas of Tillamook County outside the urban growth boundaries of incorporated cities.

(2) These regulations are necessary:

(a) In order to provide uniform procedures and standards for the division of land;

(b) To coordinate proposed developments with development plans for highways, utilities, and other public facilities;

(c) To provide for the protection, conservation and proper use of land, water, and other natural resources;

(d) To carry out the policies and intent of the County Comprehensive Plan;

(e) To ensure adequate lot and parcel sizes for homesites;

(f) To encourage safe and convenient access for vehicles, pedestrians, and bicyclists;

(g) To ensure adequate sanitation and water supply services;

(h) For the equitable allocation of costs for improvements such as roads, sewers, water, and other service facilities;

(i) For the protection of the public from pollution, flood, slides, fire, and other hazards to life and property;

(j) To provide for energy efficient land use and the use of renewable energy systems;

(k) To provide for the accurate and timely recording in the office of the County Clerk all newly created property boundaries, street, roads, right-of-ways and easements; and

(l) To protect in other ways the public health, safety, and general welfare.

(3) It is expressly not the purpose or intent of this Ordinance to encourage the division of land or the provision or extension of roads or sewer lines into lands designated for resource use by the Tillamook County Land Use Ordinance. Thus Subdivisions shall be limited to those zones designated for residential, commercial or industrial use. All references to sewer lines in this Ordinance apply only to lands where such services conform to the intent and purposes of the County Comprehensive Plan.

SECTION 020: DEFINITIONS

As used in this Ordinance, unless it is apparent from the context that different meanings are intended, the words and phrases below shall have the following meanings. Other words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage, and to give this Ordinance its most reasonable application. Words used in the present tense include the future; words in the singular include the plural, and words in the plural include the singular. The word "building" includes the "structure". The word "shall" is mandatory and not directory.

AASHTO: American Association of State Highway and Transportation Officials

ACCESS: The legally established route by which pedestrians and vehicles enter and leave property from a public way which can be developed for safe access.

ALLEY: A narrow public way through a block provided for access to the back or side of properties fronting on a street.

BICYCLE LANE: That part of the roadway or highway, adjacent to the roadway or highway, designated by official signs or markings for use by persons riding *bicycles* except as otherwise specifically provided by law.

BICYCLE PATH: A public way, not part of a roadway or highway, that is designated by official signs or markings for use by persons riding *bicycles* except as otherwise specifically provided by law.

BOARD: The Tillamook County Board of Commissioners.

BUILDOUT: The number of parcels or lots possible within a tract if developed to capacity meeting all requirements of development.

BUILDING LINE: A line on a preliminary plat or map indicating the limit beyond which buildings or other structures may not be erected.

CLUSTER SUBDIVISION: A Subdivision which includes undeveloped land or park facilities ("open space") belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract.

COMMISSION: The Tillamook County Planning Commission.

DEPARTMENT: The Tillamook County Planning Department.

DEVELOPER: Any person proposing to or completing a division of land into lots or parcels for eventual sale, lease, or trade through a partition or Subdivision.

DEVELOPMENT: Any human-caused purposeful alteration or division of, or construction upon, improved or unimproved land, excluding farming or forestry practices.

DIRECTOR: The Director of the Tillamook County Planning Department, or a designee thereof.

EASEMENT: A grant of the right to use a strip of land for specific purposes, such as ingress, egress, the placement of utilities or access to solar radiation.

INSOLATION: The incident solar radiation available at a building site for utilization by a solar energy system.

LAND DIVISION: The creation of any new lot or parcel by partition or subdivision. See definition for "Partition". See definition for "Subdivision".

LOT: A unit of land intended for eventual lease, transfer of ownership, or development, that is created by a Subdivision.

(1) CORNER LOT: A lot with at least two adjacent sides which abut streets other than alleys, provided that the angle of street intersection does not exceed 135 degrees.

(2) FLAG LOT: A generally "L" shaped lot or parcel for which the only portion of the property line adjacent to a street consists of a 25-foot minimum to a 40-foot maximum utilized for street access.

(3) THROUGH LOT: A lot fronting on two parallel or approximately parallel streets other than alleys.

PARCEL: A unit of land intended for eventual lease, transfer of ownership, or development that is created by a partition. A parcel may be a corner parcel, flag parcel, or through parcel as described for lots above.

PARTITION: The division of a tract of land into not more than three parcels of land within one calendar year when such land exists as a single unit or contiguous units of land under single ownership at the beginning of the same year.

PARTITION does not include:

(1) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;

(2) Adjusting a property line as property line adjustment is defined in this section;

(3) Dividing land as a result of the recording of a subdivision or condominium plat;

(4) Selling or granting by a person to a public agency or public body of property for state highway, county road or other right of way purposes if the road or right of way complies with the comprehensive plan and uses permitted in the Farm (F-1) Zone. However, any property sold or granted for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned; or

(5) Selling or granting by the County of excess property resulting from the acquisition of land by the the County for county roads or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.

PEDESTRIAN WAY: A right-of-way for pedestrian traffic.

PERSON: An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, including a trustee, receiver, assignee, or other similar representative thereof.

PLAT: A final subdivision plat, replat or partition plat.

PRIVATE STREET or ROAD: A private way that is created by the developer to provide vehicular access to one or more parcels of land, and is reserved for use by an identifiable set of persons.

RIGHT-OF-WAY: A legally described portion or strip of land which is condemned, reserved, or dedicated for specific purposes such as streets , water and sewer lines, or other traffic or utility uses.

ROAD: a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes. The terms "street", "access drive" and "highway" for the purposes of this Ordinance shall be synonymous with the term "road".

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

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

ROADWAY: The portion or portions of a street right-of-way or easement which is developed for vehicular traffic.

SIDEWALK: A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb, drainage facility (e.g., ditch or swale), or planter strip.

SOLAR ENERGY SYSTEMS: Any device, structure, mechanism or series of mechanisms which uses insolation for heating, cooling or electrical energy.

STREET: See definition for “Road.”

STREET FUNCTIONAL CLASSIFICATION: The classification for streets based on the type of use of the street. For purposes of this ordinance the following functional classifications are used:

> ARTERIAL: A street of considerable continuity which is primarily for connectivity among developed areas. Arterial streets shall be as designated by the Tillamook County Functional Classification List.
>
> COLLECTOR: A street supplementary to an arterial street that provides connectivity between arterial and local streets. Collector streets shall be as designated by the Tillamook County Functional Classification List.

LOCAL STREET: A street designed primarily for access to abutting properties, and further subclassified as follows:

A. Major Local - A local street with truck traffic (industrial, timber or farm) or ADT greater than 400 vehicles per day.

B. Minor Local - A local street with no truck traffic (industrial, timber or farm) and ADT of 400 or fewer vehicles per day.

C. Minimum Local - A local street accessing 4 or less residences.

STREET DOES NOT INCLUDE:

A private driveway providing access to a single parcel fronting on a street.

A road created to provide access to a parcel in conjunction with the use of such a parcel for forestry, mining or agricultural purposes.

SUBDIVISION: A tract of land divided into four or more units, or lots, within a single calendar year, for the purpose of eventual lease, transfer of ownership or building development.

TURNAROUND: The area defined as a cul-de-sac or area designated for vehicles to maneuver, i.e., emergency vehicles, etc. Turnarounds shall be located within designated rights-of-way or easements.

UNINCORPORATED COMMUNITY BOUNDARY: The boundary of any unincorporated community designated in the Tillamook County Comprehensive Plan, including the community boundaries of Neahkahnie, Mohler, Idaville, Barview/Twin Rocks/Watseco, Oceanside, Netarts, Pacific City, Neskowin, Beaver, Hebo, Cloverdale and Siskeyville.

SECTION 030: GENERAL PROVISIONS

(1) Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation according to the following two steps:

(a) The preliminary plat shall be approved, by the Tillamook County Planning Commission, before the final plat can be submitted for approval consideration; and

(b) Compliance with all conditions of approval of the preliminary plat shall be demonstrated prior to final plat approval.

(2) All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and partitions.

(3) No deed for a parcel created through a Partition shall be filed in the office of the County Clerk without the prior approval, by the Department, of the Partition.

(4) No Subdivision shall be filed in the office of the County Clerk without the signature of the Chair of the Planning Commission and all other signatures required by law.

(5) Approval of a final plat shall be void 30 days after the final approving signature is made thereon, unless the plat has been recorded in the office of the County Clerk.

(6) All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant with Section 150. These systems shall be located and constructed underground where feasible.

(7) All partition and subdivision proposals shall demonstrate that lots have adequate surface water drainage facilities or that these will be provided in order to reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant with Section 150.

(8) All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant with Section 150.

SECTION 040: PRELIMINARY PLAT APPROVAL PROCESS

(1) **Review Procedures.** Preliminary plats for partitions shall be processed using the Type II procedure under Article 10 Section 070. Preliminary plats for subdivisions shall be processed using the Type III procedure under Article 10 Section 080. All preliminary plats are subject to the approval criteria in Section 070 of this ordinance.

(2) **Approval Period.** Preliminary plat approval shall be effective for a period of two (2) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided within the two-year period. The Planning Commission may approve phased subdivisions with an overall time frame of more than two (2) years between preliminary and final plat approvals pursuant to Subsection 040(4).

(3) **Extensions.** The County may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period provided that all of the following criteria are met:

(a) All requests for extensions of preliminary plat approval shall be received in the Department office at least 30 days prior to the expiration date of the approval.

(b) Where there has been substantial improvement after two (2) years from the date of original plat approval, the Department may extend preliminary plat approval for a single 2-year period under a Type I procedure, pursuant to Article 10 Section 060. Substantial improvement will have occurred where the layout of improvements completed at the time of the request for an extension precludes the alteration of either street placement or the number of lots within the tract.

(c) If the developer requests an extension beyond 2-years from preliminary plat approval and no substantial improvement has occurred, as described in (3)(b)., the request shall be reviewed through a Type III procedure, pursuant to Article 10 Section 080. The Department shall review the conditions of preliminary plat approval to determine their relevance, given changes in Ordinance requirements, State laws, or development circumstances in the vicinity of the proposed Subdivision. In making such a determination, the Department may consult with any other County Department. The Department shall present its review and any suggested changes in the conditions of preliminary plat approval to the Commission for its review.

(d) All requests for an extension of preliminary plat approval may be subject to either new conditions or denial by the Commission following its consideration of the Department's review as described in Subsection 3(c).

(e) A denial of a request for an extension shall not preclude an application for preliminary plat approval as set forth in Section 070 of this Ordinance.

(f) No preliminary plat shall be approved for a period greater than 4 years.

(4) Phased Subdivisions. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided applicant's proposal meets all of the following criteria:

(a) In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than two (2) years;
(b) Public facilities shall be constructed in conjunction with or prior to each phase;
(c) The phased development shall not result in requiring the County or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;
(d) The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and
(e) Planning Commission approval is required for modifications to phasing plans.

SECTION 050 – PRE-PLANNING FOR LARGE SITES

(1) Pre-planning of large sites is required within Unincorporated Community Boundaries as designated in the Land Use Ordinance, or that are within one mile of either Urban or Unincorporated Community Boundaries in conjunction with applications for partitions or phased subdivisions, the purpose of which is to avoid piecemeal development with inadequate public facilities.

(2) This section applies to land use applications affecting more than 11,000 square feet in size of land under the same contiguous ownership, even where only a portion of the site is proposed for subdividing. For the purposes of this Section, the same contiguous ownership means the same individual, or group of individuals, corporations, or other entities, controls a majority share of ownership.

(3) Prior to submittal of a land division application for an area subject to this Section, a conceptual master plan shall be submitted to the Director with the required pre-application materials for the project or proposal. The conceptual master plan shall illustrate the type and location of planned streets, utility corridors, open spaces, and land uses for the ultimate buildout of the subject property and all lands under contiguous ownership and demonstrate that the following design guidelines can be met:

(a) Streets are interconnected and are shown with logical extensions to neighboring parcels and to the planned transportation system.

(b) Water, sewer and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations, etc.) in the future, the plan shall describe conceptually how such improvements can be accommodated.

(c) Within Unincorporated Community Boundaries, the plan demonstrates that housing densities and urban uses can be accommodated, consistent with the Comprehensive Plan and Tillamook County Land Use Ordinance.

SECTION 060: PRELIMINARY PLAT SUBMISSION REQUIREMENTS

(1) Applications for Preliminary Plat approval shall contain the following information:

(a) General Preliminary Plat Requirements. Information required for a Type II Review (for partitions) or Type III Review (for subdivisions), pursuant to Article 10 Section 070 and Section 080, respectively.

(b) Preliminary Plat Information. In addition to the general information described in Subsection (a) above, the Preliminary Plat application shall consist of drawings and supplementary material adequate to provide the following information, in quantities determined by the County Surveyor and Tillamook County Planning Commission.

i. General Information.

1. For subdivisions, the proposed name shall not duplicate or resemble the name of another land division in the County, and shall be approved by the County Surveyor.

2. Date, north arrow, scale of drawing.

3. Location of the development sufficient to define its location, boundaries, and a legal description of the site.

4. Zoning of parcel to be divided, including any overlay zones.

5. A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey.

6. Clear identification of the drawing as a "Preliminary Plat" and date of preparation.

7. Name and addresses of the owner(s), developer, and the engineer or surveyor.

ii. Existing Conditions. Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions:

1. Existing streets or roads (public or private), including location, names, right-of-way and pavement widths on and abutting the site; and location of existing access point

2. Width, location and purpose of all existing easements of record on and abutting the site;

3. The location and present use of all structures on the site and indication of which, if any structures are to remain after platting;

4. Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;

5. Location of all existing subsurface sewerage systems, including drainfields and associated easements on the site.

6. Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Director may waive this standard for partitions when grades, on average, are less than 10 percent;

7. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);

8. Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes and tide flats;

9. Any plat that is five (5) acres or larger, or proposes 50 lots or greater, shall include the Base Flood Elevation, per FEMA Flood Insurance Rate Maps,

10. North arrow and scale; and

11. Other information, as deemed necessary by the Planning Director for review of the application. The County may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

iii. Proposed Development. Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:

1. Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;

2. City boundary lines when crossing or adjoining the subdivision;

3. Easements: location, width and purpose of all proposed easements;

4. Proposed deed restrictions, if any, in outline form.

5. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;

6. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;

7. On slopes exceeding an average grade of 10%, as shown on a submitted topographic survey, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;

8. Preliminary utility plans for sewer, water and storm drainage when these utilities are to be provided. This information may be included on the preliminary plat map provided all information is legible.

9. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;

10. Evidence of compliance with applicable overlay zones, including but not limited to the Flood Hazard Overlay (FH) zone;

11. Evidence of contact with the applicable road authority for proposed new street connections; and

12. Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development.

(c) Any of the following information may be required by the Department to supplement a proposed subdivision plan:

i. If the Subdivision plat occupies only part of a tract owned or controlled by a developer, a sketch of preliminary street layout in the undivided portion.

ii. Special studies of areas which appear to be hazardous due to local geologic conditions.

iii. Where the plat includes natural features subject to the conditions or requirements contained in the County's Land Use Ordinance, materials shall be provided to demonstrate that those conditions and/or requirements can be met.

iv. Approximate center line profiles of streets, including extensions for a reasonable distance beyond the limits of the proposed Subdivision, showing the proposed finished grades and the nature and extent of construction.

v. Profiles of proposed drainage ways.

vi. In areas subject to flooding, materials shall be submitted to demonstrate that the requirements of the Flood Hazard Overlay (FHO) zone of the County's Land Use Ordinance will be met.

vii. If lot areas are to be graded, a plan showing the nature of cuts and fills, and information on the character of the soil.

viii. Proposed method of financing the construction of common improvements such as street, drainage ways, sewer lines and water supply lines.

(d) Fifteen (15) legible “to scale” hard copies, or a lesser amount as deemed necessary by the Director, and one digital copy of the preliminary plat and all supplementary materials shall be submitted to the Department.

(e) Upon receipt of the preliminary plat and supplementary material, the Department shall furnish one copy each to the County Surveyor, the County Health Department, the County Sanitarian, the County Public Works Department, the County Assessor, and the appropriate school and fire districts. If the proposed Subdivision lies within one mile of the city limits of an incorporated city, or within the Urban Growth Boundary of a city, the Department shall furnish one copy to the City. If the proposed Subdivision is within 500 feet of a state highway, one copy shall be furnished to the Oregon Department of Transportation. Where the Department determines that it is necessary to do so, it shall furnish a copy of the plans to the Tillamook County Soil and Water Conservation District (SWCD), the appropriate water and sewer districts, the telephone service and electric service companies, and appropriate state or federal resource protection agencies.

SECTION 070: PRELIMINARY PLAT APPROVAL CRITERIA

(1) Approval Criteria. The Approval Authority (Director for partitions and Planning Commission for subdivisions) may approve, approve with conditions or deny a preliminary plat. The Approval Authority decision shall be based on findings of compliance with all of the following approval criteria:

(a) The land division application shall conform to the requirements of this ordinance;

(b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance – Article 3 Zone Regulations and the standards in Section 150 of this ordinance;

(c) Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to the standards in Sections 150 and 160 of this ordinance;

(d) The proposed plat name is not already recorded for another subdivision, does not bear a name similar to or pronounced the same as the name of any other subdivision within the County, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name;

(e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within Unincorporated Community Boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;

(f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;

(g) Provisions for access to and maintenance of off-right-of-way drainage, if any;

(h) Evidence that any required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and

(i) Evidence that improvements or conditions required by the road authority, Tillamook County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met, including but not limited to:

(i) Water Department/Utility District Letter which states that the partition or subdivision is either entirely excluded from the district or is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.

(ii) Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.

(2) Conditions of Approval. The Approval Authority may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.

SECTION 080: LAND DIVISION-RELATED VARIANCES

(1) Variances shall be processed in accordance with Article 8 of the Land Use Ordinance.

(2) Applications for variances shall be submitted at the same time an application for land division or property line adjustment is submitted; when practical the applications shall be reviewed concurrently.

SECTION 090: FINAL PLAT SUBMISSION REQUIREMENTS AND APPROVAL CRITERIA

Final plats require review and approval by the County per the requirements, approval criteria, and procedure below. These regulations are applicable to both partitions and subdivisions.

(1) Submission Requirements. The applicant shall submit the final plat within two (2) years of the approval of the preliminary plat unless an extension is granted as provided by Section 040.

(a) Additional Information for Final Plats. In addition to that otherwise specified by law, the following information shall be shown on the final plat for subdivisions:

i. The date, scale, north arrow, legend, highways, and railroads contiguous to the plat perimeter;

ii. Description of the plat perimeter;

iii. The names and signatures of all interest holders in the land being platted, and the surveyor; and

iv. Monuments of existing surveys identified, related to the plat by distances and bearings, and referenced to a document of record as follows:

1. Monuments or other evidence found on the ground and used to control the boundaries of the Subdivision;

2. Monuments of adjoining Subdivisions; or

(b) All plats submitted for approval shall show the following, where applicable; all distances shall be shown to the nearest 0.01 foot, and no ditto marks shall be used:

i. The exact location and width of all streets, pedestrian ways, easements, and any other rights-of-way located within the plat perimeter, including, where applicable, their center lines, bearings, central angles, radii, arc lengths, points of curvature, and tangent bearings.

ii. Easements shall be denoted by fine dotted lines, and clearly identified as to their purpose. Their recorded reference shall be indicated. If the easement is being dedicated by the final plat, it shall be properly referenced in the owner's certificates of dedication.

iii. Provisions for access to and maintenance of off-right-of-way drainage, if any.

iv. Block and lot boundary lines, their bearings and lengths.

v. Block numbers, beginning with the number "1", and continuing consecutively without omission throughout the Subdivision. Block numbers in an addition to a Subdivision of the same name shall be a continuation of the numbering in the original Subdivision.

vi. Lot numbers, beginning with the number "1", and numbered consecutively within each block. If all lots in the Subdivision are to be consecutively numbered without repetition, then no block numbers shall be required.

vii. The area, to the nearest hundredth of an acre, of each lot which is larger than one acre.

viii. Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots intended for sale.

(c) The following certificates, which may be combined where appropriate, shall accompany the final plat for subdivisions.

i. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recordation of the plat.

ii. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map intended for public use except those parcels which are intended for the exclusive use of the lot owners in the Subdivision, their licensees, vendors, and tenants.

iii. A certificate bearing the seal and signature of the engineer or surveyor responsible for the survey and the final map.

iv. A certificate from the Water Department/Utility District indicating that the partition or subdivision is within the district for purposes of receiving services.

v. A certificate, signed by the County Public Works Director, stating that the developer has complied with the requirements of Sections 180 and 190 of this Ordinance.

(d) Any County Department involved in the review of the final plat for a subdivision may require any of the following materials to assist in the review of the final plat:

i. A subdivision guarantee issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary for the preparation and recordation of the final plat, and their interest in the premises.

ii. Sheets and drawings showing the following:

1. Coordinates of the corners in the Subdivision boundary and coordinates of all lot corners.

2. The computation of all distances, angles, and courses shown on the final map.

3. Ties to existing monuments, adjacent Subdivisions, street corners, and State Highway stationing.

iii. A copy of any deed restrictions applicable to the Subdivision which are to be filed with the final plat.

iv. A copy of any dedications requiring separate documents.

(2) Technical Review of the Final Plat.

(a) Upon receipt of the final plat and related documents as described in this Ordinance, the staff of the department shall review the final map and documents to determine that the plat conforms with the approved preliminary plat, including any special conditions of approval, and that there has been compliance with provisions of the law and of this Ordinance.

(b) The County Surveyor shall examine the plat for compliance with requirements for accuracy and completeness, and shall collect such fees as are provided by State law. The County Surveyor may make checks in the field to verify that the map is sufficiently correct on the ground, and he may enter the property for this purpose. If it is determined that there is not full conformity, he shall advise the developer of the changes or additions that must be made, and afford the developer an opportunity to make such changes or additions.

(c) When the County Surveyor determines that full conformity has been made, he shall so certify, and return the plat to the Department.

(3) Approval Process and Criteria. By means of a Type I Review, the Director shall review and approve or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria:

(a) The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat and, if applicable, any modifications as approved pursuant to Section 140, and all conditions of approval have been satisfied;

(b) All public improvements required by the preliminary plat have been installed and approved by the County or applicable service provider if different than the County (e.g., road authority), or otherwise bonded in conformance with Section 150;

(c) The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;

(d) All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;

(e) The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets and roads, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;

(f) As applicable, the applicant has furnished acceptable copies of Covenants, Conditions and Restrictions (CC&R's); easements, maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat;

(g) Unless a subsurface sewerage permit or site evaluation approval has been issued from the appropriate agency for all the preliminary approved parcels, a notation shall be placed on the plat stating that the allowance of the partition does not warrant that sewer or site evaluation approval is or will be available to the approved parcels; and

(h) The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner approved by the Tillamook County Surveyor for purposes of identifying its location.

(4) Recording

a. Within two (2) years of final review and approval, all final plats for land divisions shall be filed and recorded with the County Clerk, except as required otherwise for the filing of a plat to lawfully establish an unlawfully created unit of land.

b. Prior to acceptance of a final subdivision or partition plat for recording by the County Clerk, a copy of all supplemental information that must be recorded, such as restrictive

covenants, shall be attached to the final plat. Supplemental information that is required to be recorded shall be recorded immediately after recording the plat. The County Clerk shall note the document recording numbers on the plat.

c. All subdivision plats shall be approved and signed by the County Surveyor, the County Assessor, and the Chairperson or Vice-Chairperson of the Tillamook County Planning Commission and Board of County Commissioners.

SECTION 100: CLUSTER SUBDIVISIONS

(1) All Cluster Subdivisions shall be reviewed according to the provisions contained in this Ordinance. Standards for improvements in Cluster Subdivisions shall be as set forth in this Ordinance. All applicable Land Use Ordinance standards shall be as set forth therein.

Notwithstanding minimum lot size requirements found in the Land Use Ordinance, minimum lot sizes in Cluster Subdivisions for detached single-family dwellings shall be as follows:

ZONE MINIMUM CLUSTER LOT SIZE

Zone	Square Feet
R-1	6,000
R-2	4,000
R-3	4,000
RR	12,000

Lot sized may be further reduced only in Cluster Subdivisions which involve condominiums or other types of attached, individually owned, dwellings.

(2) Setbacks shall be as follows in Cluster Subdivisions for detached single family dwellings:

Front/Rear yards	10 feet
Side yards	5 feet
Street side yards	10 feet

The Department may require greater setbacks from collector or arterial roads. All multi-family dwellings must maintain 25-foot setbacks from all plat boundaries. Attached row houses or condominiums may be platted with no side yards.

(3) The plans submitted for review of Cluster Subdivisions, as defined in Section 020 of this Ordinance, shall include the following, in addition to meeting the Subdivision review requirements of this Ordinance.

(a) Preliminary Plan:

An analysis of the allowable development density of the tract to be developed, according to the applicable provisions of the Tillamook County Land Use Ordinance, and calculated as follows:

i. The total acreage of the tract to be developed, minus the total area of all existing easements, roads or road right-of-ways, and all other areas which cannot be developed due to the existence of sensitive natural features protected by the requirements of the Land Use Ordinance, is considered the gross acreage of the tract to be developed;

ii. The gross acreage, reduced by fifteen percent (15%) for proposed roads and parking areas, is considered to be the net acreage for development;

iii. The net acreage of the tract shall be divided by the minimum lot size for lots for single-family dwellings in the applicable zone, under the applicable provisions for sewage disposal, to determine the maximum number of dwellings allowed in the Cluster.

iv. A map of the proposed areas designated for common ownership, accompanied by a discussion of the nature of their proposed uses and the site limitations or justifications for creating a Cluster Subdivision on the tract.

v. A map of the proposed lots and their building lines, showing that each can be built upon within setbacks.

vi. A map showing parking areas and emergency access routes.

vii. A draft of the legal documents providing for the ownership and maintenance of the lands held in common, and preventing redivision of any land within the boundaries of the Cluster Subdivision under review.

(b) Final Plat:

i. The final plat for a Cluster Subdivision shall indicate that further division of any lot within the boundaries of the Subdivision shall not be permitted.

ii. The final plat shall indicate that development will be permitted only in accordance with the land uses indicated on the final plat.

iii. A copy of the final, recorded legal documents showing ownership, utilization and maintenance of all common areas shown on the final plat. All covenants and agreements shall be perpetual and recorded along with the final plat.

SECTION 110: MINOR REVISIONS TO PRELIMINARY APPROVED LAND DIVISIONS

(1) Minor revisions to preliminary approved land divisions involve a limited number of changes from the original application and typically should not alter any approval criteria and development standards which apply to the development proposal. Minor revisions to a preliminary approval for a land division may be made through a Type I procedure for the following:

(a) Lot dimensions;

(b) Street locations;

(c) Lot patterns; and

(d) Density decreases.

(2) All other revisions shall be processed as a new application and shall be subject to the standards deemed necessary that are in effect at the time the new application is submitted.

SECTION 120: RE-PLATTING AND VACATION OF PLATS

(1) Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed, or vacated pursuant to subsection (5) or (6).

(2) The same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat a recorded plat.

(3) Limitations on replatting include, but are not limited to, the following:

(a) a replat shall only apply to a recorded plat;

(b) a replat shall not vacate any public street or road; and

(c) a replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.

(4) A re-plat application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable County standards.

(5) Vacation of lot lines: Quasi-judicial Review. One or more interior lot lines in a recorded plat may be vacated either by private petition or by public resolution as prescribed in ORS 368. A lot line vacation under this provision is a quasi-judicial action subject to an established fee, petition/application, notice and hearing before the Planning Commission.

(6) Vacation of lot lines: Owner Consent. Notwithstanding the above provision, and as authorized in ORS 368, one or more interior lines in an approved subdivision or partition may be vacated upon written consent from 100 percent of those who own the private property proposed to be vacated; or in cases involving public property, written consent shall be obtained from 100 percent of property owners abutting the public property proposed to be vacated.

(a) A pre-application conference and administrative action fee shall be required. Property owner consent shall be obtained by the applicant and submitted to the Planning Department on forms provided by the County. Those owners whose consent signature is required shall be identified by the Planning Department. Property owner consent signatures shall be verified by sending a copy of the signed consent form to each identified property owner.

(b) The line vacation shall be approved:

i. Upon verification of the required consent signatures, and

ii. After the Director or the Public Works Director file a written report finding that the action

1. Complies with applicable land use regulations;

2. Facilitates development of the private property subject to the vacation; and,

3. Any vacation of public property is in the public interest.

(c) If the required owner consent signatures cannot be obtained, then in order to continue with the proposed lot line vacation, the applicant(s) shall remit the additional fee required for an quasi-judicial lot line vacation and proceed under the provisions of Section 120.5.

SECTION 130: PROPERTY LINE ADJUSTMENTS

(1) A Property Line Adjustment is the modification of a parcel or lot boundary when no parcel or lot is created. The Director reviews applications for Property Line Adjustments pursuant with the Type I procedure under Article 10 Section 060. The application submission and approval process for Property Line Adjustments is as follows:

(a) Submission Requirements. All applications for Property Line Adjustment shall be made on forms provided by the County and shall include information required for a Type I review, pursuant with Article 10 Section 060. The application shall include a preliminary property line map drawn to scale and based upon the Director's determination, may be required to identify all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; a FEMA FIRMette identifying the subject properties and demonstration of compliance to Section 3.060: Tillamook County Flood Hazard Overlay zone; existing fences and walls; and any other information deemed necessary by the Director for ensuring compliance

with County codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.

(b) Approval Criteria. The Director shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:

i. Parcel Creation. No additional parcel or lot is created by the lot line adjustment;

ii. Lot standards.

1. All lots and parcels conform to the applicable lot standards of the zone including lot area, dimensions, setbacks, and coverage, except where 2. or 3. applies.

2. For properties entirely outside an Unincorporated Community Boundary, where one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment, one property shall be as large or larger than the minimum lot or parcel size for the applicable zone after the adjustment.

3. For properties entirely outside an Unincorporated Community Boundary, both abutting properties are smaller than the minimum lot size for the applicable zone before and after property line adjustment.

4. As applicable, all lots and parcels shall conform the Tillamook County Flood Hazard Overlay Zone.

iii. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Section 150: Development Standards for Land Divisions, and all applicable road authority requirements are met. If a lot is nonconforming to any road authority standard, it shall not be made less conforming by the property line adjustment.

(c) Recording Property Line Adjustments

i. All property line adjustments shall comply with ORS Chapter 92 and be executed by deed.

ii. All deeds necessary to execute a property line adjustment shall be filed and recorded with the Tillamook County Clerk's Office.

(2) Property Line Adjustments in Subdivisions and Partitions

(a) Except as provided for in subsection (b), all property line adjustments within recorded plats shall be accomplished by replatting in accordance with Section 120.

(b) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments set forth in Section 130, rather than by replatting, when the director determines that:

i. The property line or lines to be adjusted will not result in a substantial reconfiguration, as deemed by the Director, of the affected lots or parcels; and

ii. All of the other requirements for property line adjustments set forth in 130 will be met.

SECTION 140: IMPROVEMENT PROCEDURES

(1) Before final approval of any land division action, the developer shall install all improvements required by this Ordinance, and shall repair existing streets and other public facilities damaged in the process of development, or shall provide assurance of completion as provided in this Section.

(2) All improvements shall conform to the requirements of this Ordinance and improvement standards and specifications adopted by the County or required by the Public Works Department, and shall be installed according to the following procedure:

(a) Work shall not commence until the County has been notified in advance, and improvement plans drawn by a licensed professional have been reviewed for adequacy and approved by the County Public Works Department.

(b) Required improvements shall be inspected by and constructed to the satisfaction of the County. The Public Works Department may require changes in typical sections or details if unusual conditions arising during construction warrant such changes.

(c) All subsurface improvements shall be constructed and inspected prior to street surfacing. Stubs for service connections to underground improvements shall be placed so as to avoid the need to disturb paved surfaces when service connections are made.

(d) A map showing the as-built location and the nature of public improvements shall be filed with the Public Works Department upon completion of installation.

(3) In lieu of completing improvements prior to filing the final plat, the developer may execute and file with Tillamook County an agreement between himself and the County, specifying the period in which the required improvements and repairs shall be completed. Such agreement shall provide that if the work is not completed within the specified period, the County may complete or contract to complete the work and recover the full cost and expense thereof from the developer. The agreement may provide for the construction of the improvements in units and for an extension of time under specified conditions.

(a) The developer shall file with the agreement, to assure his full and faithful performance thereof, one of the following:

i. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the District Attorney.

ii. In lieu of said bonds, the developer may elect either of the following alternatives:

1. A Time Certificate of Deposit naming Tillamook County as beneficiary, placed on file with Tillamook County by the developer.

2. Written Certification by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses and that an amount approved by the County Public Works Director will not be released until written authorization is received from the County Public Works Director.

(b) All such Bonds, Deposits, Certificates, and agreements shall be for an amount deemed sufficient by the Public Works Director to cover the cost of said improvements, incidental expenses, the replacement and repair of existing improvements, and shall be at least one hundred and ten percent (110%) of the cost of all work to be done.

(4) If the developer fails to carry out the provisions of the agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or deposit for reimbursement. If the amount deposited exceeds the cost and expense incurred by the County, the County shall release the remainder. If the amount deposited is less than the cost and expense incurred by the County, the developer shall be liable to the County for the difference.

SECTION 150: DEVELOPMENT STANDARDS FOR LAND DIVISIONS

The following requirements and standards shall apply to all land divisions:

(1) WATER SUPPLY: All lots or parcels shall either be served by a public domestic water supply system conforming to State of Oregon specifications, or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the Sanitarian considers adequate for soil and water conditions. Lot sizes in areas without public water supplies shall be adequate to maintain a separation of at least 100 feet between each well and sewage disposal facility, and shall be at least 100 feet wide and 20,000 square feet in area.

(2) SEWAGE: All lots or parcels shall either be served by a public or community sewage disposal system conforming to state specifications and the policies and intent of the Comprehensive Plan, or the lot size shall be increased to provide sufficient area for an individual subsurface sewage disposal system. Such systems shall be approved by the County Sanitarian, considering soil and water conditions and the nature of the water supply.

(3) STREETS, GENERAL: The developer shall grade and improve all streets in the subdivision or partition, and shall extend such streets to the paving line of existing streets, in conformance with standards contained in this Ordinance. Street improvements shall be provided consistent with the standards in Sections 150 and 160, and shall include curbs and shoulders to the extent that they are required by the density or character of development. Improvements may be required by the Public Works Department on streets serving, but not within the boundaries of, the Subdivision or through the Partition of a parcel with a buildout potential of 5 or more parcels. Such

improvements which are required in areas not within the plat perimeter shall be limited to the extent required to serve the proposed Subdivision or Partition.

(4) ACCESS:

(a) All parcels created by a partition shall abut a public road or a private easement for at least 25 feet for access. All private easements serving four or fewer lots shall be at least 25 feet wide, unless a lesser width is approved by the Public Works Department.

(b) All parcels or lots created by a subdivision shall abut a street or private road, other than an alley, for at least 25 feet at a point which can be developed for safe access.

(5) STORM DRAINAGE SYSTEMS: Such grading shall be performed and drainage facilities installed conforming to Tillamook County Public Works Department specifications as are necessary to provide proper drainage within the development and other affected areas in order to secure safe, healthful and convenient conditions for the residents of the Subdivision and the general public. When feasible, and when such off-site drainage facilities have the capacity to carry the increased drainage flow, drainage facilities in the development shall be connected to drainage facilities outside the development. Areas subject to inundation shall comply with the applicable provisions of the Tillamook County Land Use Ordinance. Provisions for the access and maintenance of storm drainage facilities that are not located in a public right of way shall be provided as required in accordance with adopted County standards. An easement or tract with adequate width for access and maintenance of drainage facilities shall be provided.

(a) Design exceptions to these standards may be approved by the Tillamook County Public Works Director. For subdivisions, such approval is subject to approval ratification by the Planning Commission. The County Engineer may, in concurrence with the Community Development Department, approve design exceptions to these standards for partitions. Design exceptions may only be approved if the provisions of Section 110: Minor Revisions to Preliminary Approved Land Divisions are met

(b) When lot sizes are increased to provide separation of water sources and sewage disposal systems, but are likely to be capable of further division as described in Section 050 of this Ordinance, the requirements of Section 050 must be met.

(6) BLOCKS:

(a) GENERAL: The length, width and shape of blocks shall take into account the need for adequate lot size and street width, and shall recognize the limitations of the topography.

(b) SIZE: No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street or unless topography or the location of adjoining streets requires otherwise. The recommended minimum length of blocks along an arterial is 2,000 feet.

(7) BUILDING LINES

(a) If special building setback lines are to be established in the Subdivision, they shall be shown on the preliminary Subdivision plat. If setbacks are proposed which are less than the minimum requirements contained either in the Land Use Ordinance or in Section 100 of this Ordinance, the Planning Commission may approve such special setbacks only in accordance with the requirements of Section 080 of this Ordinance. Special setback lines shall not be established which would preclude the use of insolation for alternative energy production on adjacent lots.

(8) LAND FOR PUBLIC PURPOSES

(a) If the County has an interest in acquiring any portion, besides dedicated roads, of any proposed Subdivision for a public purpose, or if the County has been advised of such interest by a school district or other public agency, and there is written notification to the developer from the County that steps will be taken to acquire the land, then the Commission may require that those portions of the Subdivision be reserved, for a period not to exceed one year, for public acquisition at a cost not to exceed the value of the land.

(9) DEDICATIONS. The Commission may require as a condition of approval the dedication to the public of rights-of-way for public purposes. All dedications must appear on the final plat, and be approved by the County prior to recording.

(10) EASEMENTS

(a) UTILITY LINES: Easements for utilities shall be dedicated whenever necessary.

(b) PEDESTRIAN WAYS: When desirable for public convenience, pedestrian ways may be required to connect cul-de-sacs or to pass through unusually long or oddly-shaped blocks.

(11) LOTS

(a) SIZE: Lot sizes shall conform to standards contained in the Tillamook County Land Use Ordinance. Lots reserved for commercial or industrial purposes shall be adequate to provide off-street parking and service facilities required by the type of use proposed.

(b) In areas that will not be served by a public water supply or a public sewer, minimum lot sizes shall conform to the requirements of the County Health Department and shall take into consideration requirements for water supply and sewage disposal.

(c) ACCESS: Each lot shall abut upon a street or private road, other than an alley, for a width of at least 25 feet.

(d) THROUGH LOTS: Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation.

(e) LOT SIDE LINES: Where possible, the side lines of lots shall run at right angles to the street upon which the lots face, unless a different angle is required to provide optimum solar orientation, or is necessary to conform to topography or road orientation.

(f) GRADING: Grading shall conform to a plan approved by the County Public Works Director.

SECTION 160: STREET IMPROVEMENTS

The design, improvement, and construction of all roads and streets resulting from the division of land shall comply with the following standards and requirements, to the extent possible given topography, aesthetics, safety, or other design considerations.

(1) STREETS - GENERAL

(a) The design of improvements governed by these standards shall, in general, conform to policies set forth in the current editions of the following publications by the American Association of State Highway and Transportation Officials (AASHTO):

i. "A Policy on Geometric Design on Highways and Streets".

ii. "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT < 400)"

(b) Standards in Section 160 apply to both public and private streets.

(c) These standards apply to improvements required within the land division and for any street improvements required to access the land division.

(d) Except for design exceptions to standards as provided in Section 150, deviations from the standards may only be approved through the Variance procedures in Article 8.

(2) ROADWAY WIDTH AND ALIGNMENT STANDARDS

(a) The design, improvement, and construction of all streets resulting from the division of land or creation of an access easement shall comply with the County Public Road Improvement Ordinance design standards, as well as the following standards and requirements.

(b) Average Daily Traffic (ADT) for design is to be determined based on the anticipated future usage of the roadway based on maximum density allowed by the zoning. For residential developments the ADT is assumed to be 10 vehicles per day per residence.

(c) The traveled way shall be paved except for:

i. Minimum Local Streets, and

ii. Minor Local Streets in zones with minimum lot sizes of greater than ten (10) acres.

(d) All roadways with a profile grade in excess of 12% shall be paved, including the exceptions listed.

(3) MINIMUM RIGHT-OF-WAY WIDTHS:

(a) The minimum Right-of-Way width for roadways shall be based on their functional classification as follows:

Functional Classification	Width
Arterial & Collectors	60 ft.
Major Local	60 ft.
Minor Local	50 ft.
Minimum Local	30 ft.

(b) Side slope easements are required whenever roadway cuts or fills extend beyond the right-of-way.

(c) Additional right-of-way may be required when features such as left turn refuges or deceleration tapers are needed.

(d) Any right-of-way less than 50 feet wide shall be a private street and be dedicated as an easement.

(4) DEAD END STREETS

(a) A dead end street is allowed if all of the following conditions exist:

i. The street is a Minor Local Street or a Minimum Local Street, and

ii. the street is not more than 2000 feet in length, and

iii. the street serves no more than 18 dwellings.

(b) A dead end street shall terminate with a turnaround adequate for emergency vehicle turn-around. Temporary dead end streets shall have temporary turnarounds within temporary easements which may expire upon the extension of the street into adjacent land.

(5) FUTURE EXTENSION OF STREETS:

(a) Streets shall be extended to the parcel boundary where they are necessary to serve adjoining properties or to improve traffic circulation in and around the tract.

(b) Public streets may be required through the subdivisions when it is necessary to:

i. provide for continuation, through projection, of an existing principal street in the surrounding areas; or

ii. permit future subdivision of adjoining land.

(6) INTERSECTIONS

(a) Streets shall be in alignment with existing streets by continuations of the centerlines thereof. Staggered street alignment resulting in T-intersections shall, wherever practical, leave a minimum distance of 250 feet between the center lines of intersecting. Such intersections shall not be less than 125 feet apart.

(b) Streets shall be laid out to intersect as near to right angles as practical. In no case shall the angle be less than 60 degrees unless there is a special intersection design.

(c) Arterial or collector streets shall have at least 100 feet of tangent adjacent to any intersection. Local streets shall have at least 50 feet of tangent adjacent to any intersection.

(7) IMPROVEMENTS TO EXISTING STREETS: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way and surfacing shall be provided by the applicant as part of the Subdivision or Partition.

(8) STREET NAMES: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets.

(9) FRONTAGE STREETS: Where a Subdivision abuts or contains an existing or proposed arterial, the County may require limited access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation, or other treatment necessary to afford separation of through and local traffic and incompatible land uses.

(10) ALLEYS: Alleys shall be provided in commercial and industrial zones, unless other permanent provisions for access to utilities and off-street parking and loading facilities are approved by the Commission.

(11) FEATURES PROHIBITED IN PUBLIC STREETS: Roadway gates, parking lots and islands are not allowed in public street rights-of-way.

SECTION 170: INTERPRETATION

Where the provisions of this Ordinance are less restrictive than the provisions of any other Ordinance, resolution or regulation, or are inconsistent in their requirements, the more restrictive provisions shall be applied.

SECTION 180: VALIDITY

If, for any reason, a provision of this Ordinance is judged invalid or unconstitutional, such judgment shall not affect the validity or applicability of the rest of the Ordinance.

SECTION 190: ENFORCEMENT

This Ordinance may be enforced in any manner authorized by State or local law, including ORS Chapters 92, 203, 215 and Tillamook County Ordinance No. 35, the Tillamook County Citation Ordinance.

SECTION 200: REPEALER

Tillamook County Ordinance No. 34, effective March 30, 1982, is repealed upon the effective date of this Ordinance. Any use of land which was illegal under the provisions of Ordinance No. 34 is a violation of this Ordinance, and may be the subject of enforcement action pursuant to Section 31 hereof.

SECTION 210: ADOPTION

This Ordinance shall be in full force and effect immediately upon its adoption.

SECTION 220: PROHIBITION

Any use of land by any person which is contrary to the terms of this Ordinance or of any permit or other approval issued hereunder is prohibited.

Tillamook County

DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

1510 – B Third Street
Tillamook, Oregon 97141
www.tillamook.or.us

Building (503) 842-3407
Planning (503) 842-3408
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ORDINANCE AMENDMENT OA-15-01: Tillamook County Code Modernization Project

TILLAMOOK COUNTY COMPREHENSIVE PLAN,

TILLAMOOK COUNTY LAND USE ORDINANCE (TCLUO)

AND TILLAMOOK COUNTY LAND DIVISION ORDINANCE (TCLDO)

AMENDMENTS

DEPARTMENT RECOMMENDATION:

APPROVAL AND ADOPTION OF PROPOSED AMENDMENTS

STAFF REPORT DATE: April 1, 2015
TILLAMOOK COUNTY PLANNING COMMISSION HEARING DATE: April 9, 2015
BOARD OF COMMISSIONERS HEARING DATE: May 6, 2015
PREPARED BY: Sarah Absher, Senior Planner

I. GENERAL INFORMATION

Requested actions: To amend the Tillamook County Land Use Ordinance (TCLUO) and the Tillamook County Land Division Ordinance (TCLDO) to conform to current state statutes and administrative rules, focused on accomplishing the following:

- Amended Farm and Forest Zones of TCLUO Article 3 to comply with state law;
- Amendments to Article 10 to include permitting procedures;
- Amendments to TCLUO Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11 for housekeeping purposes including the removal of Article 12 as all provisions will be carried into existing Articles of the TCLUO;
- Amendments to update the Tillamook County Land Division Ordinance to comply with state law; and
- Updated Comprehensive Plan policies if needed to ensure consistency with the plan and amended TCLUO ordinance provisions.

Initiated by: Tillamook County Department of Community Development

II. BACKGROUND AND SUMMARY OF PROPOSED AMENDMENTS

The Code Modernization Project is a Department of Land Conservation and Development (DLCD) technical assistance grant funded project that consists of a series of seven (7) work tasks listed and described below, with a clearly defined scope of work that includes updating key provisions of the Tillamook County Land Use Ordinance (TCLUO) and Tillamook County Land Division Ordinance (TCLDO) to conform to current state statutes and administrative rules, update requirements and procedures to be consistent with current practices and to achieve desired outcomes, and to generally improve the structure and content of the Tillamook County Land Use Ordinance.

Task #1: Draft Updates to the Tillamook County Land Use Ordinance (TCLUO), the Tillamook County Land Division Ordinance (TCLDO) and the Tillamook County Comprehensive Plan. Task #1 was divided into a series of sub-tasks that included:

- TCLUO Audit- A high-level review of the TCLUO in its entirety and identify/document areas that need improvement, including associated major policy decisions that will need to be made, in order to steer and prioritize future work.
- An updated Farm (F-1) Zone code section (TCLUO Section 3.002)
- An updated Forest (F) Zone code section (TCLUO Section 3.004)
- Revisions to Section 3.006: Small Farm and Woodlot-20 (SFW-20) to be consistent with state law
- Revisions to Article 10- Focus on land use permitting procedures ("Type" reviews) and compliance with ORS 215 and ORS 197
- An updated Land Division code to comply with ORS Chapter 92
- Comprehensive Plan Review- Goal 3 Element (Agricultural Lands) and Goal 4 Element (Forest Lands) and updates as necessary
- Formation of the Technical Advisory Committee (TAC) and establishment of a meeting schedule

Task #2: Hearings-Ready Draft TCLUO, TCLDO and Comprehensive Plan Amendments.

The end product of Task #2 consisted of hearings-ready drafts of amendments to the TCLUO and TCLDO, including reformatting and a matrix comparing the current TCLUO and TCLDO to the proposed TCLUO and TCLDO. The hearings-ready drafts included as exhibits to this report are based upon further refinement and feedback from meetings with the Technical Advisory Committee (TAC), the Tillamook County Planning Commission, County Citizen Advisory Committees, the Surveyor's Department, the Tillamook County Public Works Department, and input from local private surveyors.

Additionally, Planning Staff participated on the DLCD Western County Regional Team to assist in providing guidance on model resource zones. The County-specific ordinance language contained within the Farm (F-1) and Forest (F) zone sections are a reflection of the outcome of the work completed by the Western County Regional Team.

Task #3: TCLUO Audit to Identify and Prioritize Future Updates

This task included documentation and prioritization of areas of the TCLUO that have been identified as needing updated, beyond what can be accomplished through this targeted, policy neutral update. This audit was completed by the TAC with the consultant's assistance.

Those areas of the TCLUO identified include addressing major policy issues and needed amendments, including amendments to the Comprehensive Plan for consistency, and are outside of the scope of this project. A prioritization list reflective of this audit has been included for review and discussion has been included as "Exhibit D" of this report. It should be noted that the list of priorities are in no particular order and will be addressed as time and resources allow. It should also be noted that the Department has already began working on some of the priorities on the list.

Task #4: Comprehensive Plan Updates and Zoning Maps

Task #4 includes a review of how the County is currently depicting and sharing geographic information such as planned land uses, zoning, natural hazards and coastal resources in addition to identifying the role of County zoning maps in relation to TCLUO requirements. While identifying the role of the county zoning maps in relation to TCLUO requirements, this portion of the task also included determining whether or not specific TCLUO requirements are based on ordinance text or the associated map, and to identify where there may have been a need to create new or update existing maps.

It should be noted that review of Tillamook County Comprehensive Plan Goal Elements 1, 2, 3 and 4 in conjunction with this project confirms that no amendments are required at this time as all revisions and processes remain consistent with existing goals and policies of these Comprehensive Plan elements.

Task #5: Future Work Plan

As mentioned earlier, list of future projects has been created by the Department that is a reflection of those projects identified in meetings and as part of Task #3 (TCLUO Audit). It should be noted that this list is not part of the amendment process.

Task #6: Land Use Application Forms:

As of the date of this report, Staff has completed an audit of all existing land use application forms and is working with the consultant on new land use application forms that reflect updated procedures. This task remains open as forms are still in process of being amended but has an expected completion date of June 15th. Delivery on this product is predicated by the adoption of these proposed amendments.

Task #7: Adoption

This task includes providing public notice and notice to DLCD, preparation of the staff report and adoption of ordinances. This phase also includes legal review of the proposed TCLUO and TCLDO amendments. Copies of all proposed amendments have been provided to legal counsel for his review.

III. APPLICABLE STATE LAW, COUNTY ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS

1. Tillamook County Comprehensive Plan: The Planning Process (Statewide Planning Goal 1)
2. Tillamook County Comprehensive Plan: The Land Use Plan (Statewide Planning Goal 2)
3. Tillamook County Comprehensive Plan: Agricultural Lands (Statewide Planning Goal 3)
4. Tillamook County Comprehensive Plan: Forest Lands (Statewide Planning Goal 4)
5. Tillamook County Land Use Ordinance, Article IX, Amendment Process

IV. CITIZEN INVOLVEMENT

As mentioned earlier in this report, a Technical Advisory Committee (TAC) was formed to assist in review and evaluation of existing and proposed code provisions as well as to provide guidance for future ordinance modifications. The TAC was comprised of two Planning Commission members, one Citizen Advisory Committee (CAC) Chair, Planning Staff, and two DLCD staff members.

The TAC was formed in August 2014 and preliminary meetings were held with Department staff later that month. The initial kick-off meeting with the consultant was held in September 2014. The TAC has met regularly since August, at times on a bi-monthly basis. All four meetings with the consulting firm as required under Task #1 have been held.

In addition to the meetings with the TAC, planning staff have made Code Modernization Project presentations to the Barview/Twin Rocks/Watseco Citizen Advisory Committee, the Neskowin Citizen Advisory Committee, the Pacific City/Woods Citizen Advisory Committee, and are scheduled to make presentations at the Oceanside Neighborhood Association (Citizen Advisory Committee) at their next regularly scheduled meeting on April 4, 2015.

Three work sessions were also scheduled with the Tillamook County Planning Commission. The first work session took place in December of 2014 and two work sessions were held in

March 2015. The Planning Commission also received regular updates from the Department on a monthly basis during the Director's report at the end of each regularly scheduled Planning Commission meeting which takes place the second Thursday of each month.

Planning Staff also attended the February Board of Realtors meeting held in Tillamook, Oregon and gave a brief presentation of the Code Modernization Project.

Comments from the Pacific City/Woods Citizen Advisory Committee have been included as "Exhibit C". No additional comments have been received to date.

V. ANALYSIS

1. *Tillamook County Comprehensive Plan Goal 1 Element: The Planning Process.*

CITIZEN INVOLVEMENT POLICY. Tillamook County shall continue use of Citizen Advisory Committees and special advisory group to provide advice and recommendations on issues concerning maintenance, update and implementation of the Comprehensive Plan. The Tillamook County Planning Commission shall continue as the County's Committee for Citizen Involvement.

As stated previously, the Tillamook County Planning Commission as well as the County's Citizen Advisory Committees have had opportunities to provide advice and recommendations associated with this project and proposed amendments.

2. *Tillamook County Comprehensive Plan: Goal 2 Element: The Land Use Plan.*

MAINTENANCE OF THE COMPREHENSIVE PLAN: POLICY. The County shall review and provide necessary changes in this plan, including land use and zoning designations, within five years of the date of acknowledgment of this plan by the Land Conservation and Development Commission.

While the Department finds the proposed amendments do not conflict with the policies outlined in the Goal 2 element of the Comprehensive Plan, the policy above can be applied directly to this request. Statewide Planning Goal 2 is comprised of three parts: the first part being the establishment of a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions; the second part giving local jurisdictions the ability to adopt an exception to a goal; and the third part pertains to the use guidelines, requiring jurisdictions to review the guidelines set forth for the goals and either utilize these guidelines or develop alternative means that will achieve the goals. These guidelines include preparation of plans and implementation measures, regional, state and federal plan conformance to the comprehensive plans of cities and counties, that policies and other decisions set forth in the plan are factually based, the plan include specific elements that fit together and relate to one another for consistency, that plans be filed with the recorder and be available to the public as well as affected governmental units, to provide the public and affected agency an opportunity for review and comments for revisions or changes to the plan and implementation measures, the description of implementation measures, and the utilization of guidelines for the statewide planning goals so that implementation guidelines relate to the process of carrying out the

goals once they have been incorporated into the plan. All land-use plans must explain how the guidelines or alternative means achieve the goals.

Page 3 of the Goal 2 Element of the Tillamook County Comprehensive Plan lists the three legislative mandates that outline statutory requirements:

- ORS Chapter 215: Contains the original legislative authorization for County land use planning and regulations which are largely procedural in nature.
- ORS Chapter 92: Contains the legislative authorization for regulation of land subdivision and partitioning.
- ORS Chapter 197: Mandates the substance and effect of the Comprehensive Plan as described in Section 197.010 Policy.

The proposed revisions to update the Tillamook County Land Use Ordinance (TCLUO), specifically Article 10, and the Tillamook County Land Division Ordinance to be comply with these legislative mandates is consistent with the applicable policies of the Goal 2 Element of the Tillamook County Comprehensive Plan and Statewide Planning Goal 2.

3. Tillamook County Comprehensive Plan: Goal 3 Element: Agricultural Lands.

POLICY: Tillamook County will maintain its F-1 and SFW-20 Zones to protect farmland and farm practices from the unnecessary encroachment of nonfarm development. The County's Agricultural Lands Criteria will be used to establish priorities for the availability of farmland for conversion to nonfarm uses. Land will not be removed from the farm zones without appropriate consideration of need, consequences, alternatives and compatibility. Minimum lot size requirements will be enforced to help protect agricultural land from conversion to nonfarm use. The creation of parcels smaller than the prescribed minimum and/or the placement of dwellings on such parcels shall be permitted if approved by the County Planning Commission according to the criteria required by state law and following the procedures prescribed in the County's zoning ordinance.

While the Department finds the proposed amendments do not conflict with the policies outlined in the Goal 3 element of the Comprehensive Plan, the policy above can be applied directly to this request. The existing Farm (F-1) and Small Farm and Woodlot 20-Acre (SFW-20) zones are out of compliance with state law. As stated in the beginning of this report, the Farm (F-1) zone and Small Farm and Woodlot-20 (SFW-20) sections of the Tillamook County Land Use Ordinance have been amended to conform to current state statutes and administrative rules. While mixed farm/forest zones are recognized throughout the state, the SFW-20 zone is not consistent with state law due to the current minimum land size requirement of 80-Acres.

Due to the limited scope of work of the Code Modernization Project, the Department revised the SFW-20 zone language so that properties zoned SFW-20 now refer to the allowable uses and land division standards outlined in either Section 3.002: Farm (F-1) zone or Section 3.004: Forest (F) zone based predominant use of the property in 1993. The alternative to complying with state law would have been to re-zone all properties zoned SFW-20. The Department finds that code language revision was the most efficient and timely way to maintain consistency and compliance with Statewide Planning Goals 3 and 4 while also staying within the limited scope of work associated

with this project. The proposed code language supports the policies outlined in the Goal 3 Element of the Tillamook County Comprehensive Plan.

4. ***Tillamook County Comprehensive Plan: Goal 4 Element: Forest Lands.***

POLICY: Tillamook County will maintain its Forest zone (F) to retain forest land for forest use and to encourage the management of forest lands for the growing, harvesting and processing of forest crops consistent with the requirements of the Oregon Forest Practices Act. This zone will also continue to provide for other forest uses including watershed and soil protection, wildlife and fisheries habitat, outdoor recreation activities, open space and scenic preservation, and agricultural activities, free from the encroachment of conflicting nonforest uses and influences. All nonforest uses proposed for the Forest zone will be reviewed by the County Planning Commission to assure that they are compatible with forest and farm uses on adjacent and nearby land, and to assure that these uses meet all other criteria and standards described in the zoning ordinance. Before forest land is changed to another use, the productive capacity of the land in each use shall be evaluated. the County will not attempt to regulate actions on federal lands except to assure that those actions which significantly affect nonfederal lands are consistent with the County's comprehensive plan as provided for in Oregon's Coastal Zone Management Program and as required by the Federal Coastal Zone Management Act.

While the Department finds the proposed amendments do not conflict with the policies outlined in the Goal 4 element of the Comprehensive Plan, the policy above can be applied directly to this request. The existing Forest (F) zone is out of compliance with state law. As stated in the beginning of this report, the Forest (F) zone section of the Tillamook County Land Use Ordinance has been amended to conform to current state statutes and administrative rules. The proposed code language supports the policies outlined in the Goal 4 Element of the Tillamook County Comprehensive Plan.

5. ***Tillamook County Land Use Ordinance, Article IX, Amendment Process***

The Tillamook County Land Use Ordinance (TCLUO) Section 9.030, TEXT AMENDMENT PROCEDURE, subsection (3) requires notice of the proposed action to be provided according to the provisions of Land Use Ordinance, Section 10.060, NOTICE OF PUBLIC HEARING, subsection (3) (a) Legislative land Use Hearings to consider a Comprehensive Plan Amendment. This section requires publication in a newspaper of general circulation at least 10 days prior to the first meeting.

Notice of the public hearings scheduled before the Planning Commission and the Board of Commissioners on this matter were printed in the March 25, 2015 issue of the Headlight-Herald. In addition, notice of the proposed amendment was sent to the Department of Land Conservation and Development (DLCD) on March 4, 2015. No comments have been received from DLCD.

Article 9 also requires the Department and Commission consider the proposed amendments and the intent of the applicable Comprehensive Plan policies; the intent of the provisions being amended; the effect on the land use patterns in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed amendment.

The purpose of the Code Modernization Project is to update code provisions for conformance to current state statutes and administrative rules, update requirements and procedures to be consistent with current practices and to achieve desired outcomes, and to generally improve the structure and content of the Tillamook County Land Use Ordinance. It is not anticipated that there will be a significant impact on County administration or enforcement as a result of this request. There are no proposals to modify existing land use review application fees at this time. Should any fee amendments be considered in the future, those amendments shall be accomplished through a County Commission Board Order. The effects on productivity to resource lands in Tillamook County are not anticipated.

IV. RECOMMENDED CONCLUSIONS: Approval

Staff concludes that all criteria have been met for this request and based on the findings of fact and other relevant information contained within this report and exhibits, Staff recommends that the Planning Commission recommend approval of Ordinance Amendment request OA-15-01 to the Tillamook County Board of Commissioners.

EXHIBITS:

Exhibit A: Tillamook County Land Use Ordinance
Exhibit B: Tillamook County Land Division Ordinance
Exhibit C: Pacific City/Woods CAC email dated March 23, 2015
Exhibit D: Future Priorities Work List

(Links available on the Department of Community Development website http://www.co.tillamook.or.us/gov/ComDev/)

SECTION 3.006 SMALL FARM AND WOODLOT ZONE (SFW-20)

(1) PURPOSE

(a) The purpose of the SFW-20 zone is to protect and promote farm and forest uses much in the same way as do the Farm and Forest zones, on lands which have resource value, but which are not suited for the F-1 or the F zones because of smaller parcel size, conflicting adjacent uses, adverse physical features or other limiting factors.

(2) RESIDENTIAL SITING

(a) Pursuant to ORS 660-006-0050, the siting of a residential dwelling shall conform to either the standards contained in the Article 3.002 – Farm Zone (F-1), or the standards of Article 3.004 – Forest Zone (F), based on the predominant use of the tract on January 1, 1993.

(3) PERMITTED USES

(a) Permitted uses in the SFW-20 zone include those permitted in Article 3.002 – Farm (F-1) Zone and Article 3.004 – Forest Zone, subject to the conditions and review described therein.

(4) DEVELOPMENT STANDARDS

(a) The minimum lot width at the front building line for all uses except farm or forest uses shall be 100 feet.

(b) The minimum lot depth for all uses except farm or forest uses shall be 100 feet.

(c) The minimum front and rear yards shall be 20 feet.

(d) The minimum side yard shall be 10 feet where adjacent to land in the F-1, F or SFW-20 zones. Otherwise the minimum side yard shall be 20 feet, except on a contiguous ownership of two acres or less, where the yard requirements shall be the same as in the Rural Residential (RR) zone, and where Article 5 Section 040 (1) (b) shall apply.

(e) The maximum building height for all non-farm structures shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the variance provisions of Article 8.

(f) There are no restrictions on the location of livestock.

(5) LAND DIVISIONS

New land divisions shall conform to either the standards contained in Article 3.002 – Farm Zone (F-1), or the standards of Article 3.004 – Forest Zone (F), based on the predominant use of the tract on January 1, 1993.

SECTION 3.002 FARM ZONE (F-1)

Contents

(1) PURPOSE

The purpose of the Farm Zone (F-1) is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The Farm Zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county. It is also the purpose of the Farm Zone to qualify farms for farm use valuation under the provisions of ORS Chapter 308.

The Farm Zone has been applied to lands designated as Agriculture in the Comprehensive Plan. The provisions of the Farm Zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-033. The minimum parcel size and other standards established by this zone are intended to promote commercial agricultural operations.

(2) DEFINITIONS

For the purpose of this ordinance, unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

(a) ACCEPTED FARMING PRACTICE: A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

(b) ACCESSORY STRUCTURE: A detached structure, the use of which is customarily incidental to that of the primary structure or the primary use of the land and which is located on the same lot or parcel as the primary structure or use, and for which the owner files a restrictive covenant in the deed records of the county agreeing that the accessory structure will not be used as a residence or rental unit.

(c) ASSOCIATED TRANSMISSION LINES: Transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

(d) AGRICULTURAL BUILDING: Any structure that is considered to be an "agricultural building" under the State Building Code (Section 326) that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner (1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and (2) files a restrictive covenant in the deed records of the county agreeing that the agricultural building will not be used as a residence or rental unit.

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

(f) ARABLE LANDS: Lands that are cultivated or suitable for cultivation, including high-value farmland soils.

(g) BED AND BREAKFAST ENTERPRISE: An accessory use in a single-family dwelling in which lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. A bed and breakfast facility must be within the residence of the operator and be compliant with the requirements of ORS 333-170-0000(1) A bed and breakfast

facility may be reviewed as either a home occupation in a Farm Zone or Forest Zone or as a room and board operation in a Farm Zone.

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

(i) CONTIGUOUS: Connected in such a manner as to form a single block of land.

(j) 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.

(k) EVENT, TEMPORARY: A temporary event is one that has an expected attendance of no more than 3,000 people, that will not continue for more than three consecutive days, and that will be located in a rural or resource area. Temporary Events are permitted through a Type I process and are not considered "outdoor mass gatherings" as defined by ORS 433.735 or Agri-tourism events as provided for by ORS 215.283(4).

(l) FARM OPERATOR: A person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

(m) FARM OR RANCH OPERATION: means all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.

(n) FARM USE: As defined in ORS 215.203. As used in the definition of "farm use" in ORS 215.203 and in this ordinance:

1. "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and

2. "Products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

(o) FEE-BASED ACTIVITY TO PROMOTE THE SALE OF FARM CROPS OR LIVESTOCK (as applied to farm stands): An agri-tourism activity as defined in

Subsection (2) that is directly related to the sale of farm crops or livestock sold at the farm stand, and that meets the standards of Subsection (4)(g).

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

1. A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

2. A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

3. Non-regulation golf courses are not allowed. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.

(q) HEALTH HARDSHIP: "Health hardship" means a temporary circumstance caused by serious illness or infirmity, not to exceed two years in duration, and authorized by a licensed medical practitioner (Medical Doctor, Physician's Assistant or Nurse Practitioner).

(r) HIGH VALUE FARMLAND:

1. Land in a tract composed predominantly of soils that are:

   a. Irrigated and classified prime, unique, Class I or II; or

   b. Not irrigated and classified prime, unique, Class I or II.

2. In addition to that land described in paragraph 1, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa;

3. In addition to that land described in paragraph 1, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in paragraph 1 and the following soils:

   a. Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

   b. Subclassification IIIw, specifically, Brenner and Chitwood;

   c. Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and

   d. Subclassification IVw, specifically, Coquille.

4. In addition to that land described in paragraph 1, high-value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in paragraph 1 and the following soils:

   a. Subclassification IIIw, specifically, Ettersburg Silt Loam and Crofland Silty Clay Loam;

   b. Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and

   c. Subclassification IVw, specifically, Huffling Silty Clay Loam.

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

(t) IRRIGATED: Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this ordinance, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.

(u) LIVING HISTORY MUSEUM: A facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.

(v) LOT: A single unit of land that is created by a subdivision of land as provided in ORS 92.010.

(w) MINING, AGGREGATE: For purposes of this Article, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or non-surface impacts of underground mines.

(x) NET METERING POWER FACILITY: A facility for the production of energy that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;

2. Is intended to offset part of the customer-generator's requirements for energy;

3. Will operate in parallel with a utility's existing transmission and distribution facilities;

4. Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;

5. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

(y) NON-COMMERCIAL/STAND ALONE POWER GENERATING FACILITY: A facility for the production of energy that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;

2. Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to;

3. Operates as a standalone power generator not connected to a utility grid; and

4. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

(z) OPEN PLAY FIELD: A large, grassy area with no structural improvements intended for outdoor games and activities by park visitors. The term does not include developed ballfields, golf courses or courts for racquet sports.

(aa) OUTDOOR MASS GATHERING: A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4).

(bb) PRINCIPALLY ENGAGED IN FARM USE: As it refers to primary farm dwellings and accessory farm dwellings, a person is principally engaged in the farm use of the land when the amount of time that an occupant of the dwelling is engaged in farm use of the property is similar to the average number of hours that is typically required for a full- time employee of the relevant type of farm use, whether that person is employed off the farm or not. Only one resident of a household need meet the "principally engaged" test, or the test may be met collectively by more than one household member.

(cc) PARCEL: A single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).

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

(ee) PRIVATE PARK: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above, but does not include tracks

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

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

(hh) RELATIVE: As it applies to relative farm help dwellings and temporary health hardship dwellings, a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.

(ii) TEMPORARY STRUCTURE OR USE: A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.

(jj) TRACT: one or more contiguous lots or parcels under the same ownership.

(kk) UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE: Unless otherwise specified in this Article, any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.

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

(3) DEVELOPMENT STANDARDS

(a) Land divisions and development in the F-1 Zone shall conform to the following standards, unless more restrictive supplemental regulations apply:

1. Land divisions are subject to Subsection (14).

2. The minimum lot width at the front building line for all uses except farming shall be 100 feet.

3. The minimum lot depth for all uses except farming shall be 100 feet.

4. The minimum front and rear yards shall be 20 feet.

5. The minimum side yard shall be 10 feet where adjacent to land in the F-1 or SFW-20 zones. Otherwise the minimum side yard shall be 20 feet.

6. For accessory structures where there is contiguous ownership of two acres or less, where the yard requirements shall be the same as in the RR zone, and where Section 5.040 (1) (b) shall apply, the minimum rear yard shall be 3 feet.

7. The maximum building height for all nonfarm structures shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.

(4) USE STANDARDS

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

(b) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Subsection (2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary

in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

(c) To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm.

(d) A temporary health hardship dwelling is subject to the following:

1. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

    a. 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;

    b. The county shall review the permit authorizing such manufactured homes every two years.

    c. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.

2. A temporary residence approved under this section is not eligible for replacement per Table 1. Department of Environmental Quality review and removal requirements also apply.

3. As used in this section "hardship" means a health hardship or hardship for the care of an aged or infirm person or persons.

4. A temporary health hardship dwelling is subject to the Conditional Use Criteria as described in Subsection (5).

(e) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:

1. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and

2. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.

(f) A farm stand may be approved if:

1. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock.

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.

5. Farm Stand Development Standards

   a. Adequate off-street parking will be provided pursuant to provisions of Section 4.030.

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

   c. All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.

   d. No farm stand building or parking is permitted within the right-of-way.

e. Approval is required from the County Public Works Department regarding adequate egress and access. All egress and access points shall be clearly marked.

f. A Clear-Vision Area shall be maintained at street intersections pursuant to Section 4.010.

g. Signs are permitted consistent with Section 4.020

6. Permit approval is subject to compliance with the County On-Site Sanitation Division, Department of Agriculture requirements, County Public Works requirements and with the development standards of this zone.

(g) A destination resort is not permitted on high-value farmland except that existing destination resorts may be expanded subject to Subsection (4)(w).

(h) A home occupation.

1. A home occupation shall:

a. Be operated by a resident or employee of a resident of the property on which the business is located;

b. Employ on the site no more than five full-time or part-time persons at any given time;

c. Shall be operated substantially in:

i. The dwelling; or

ii. Other buildings normally associated with uses permitted in the zone in which the property is located, except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences;

d. Not unreasonably interfere with other uses permitted in the zone in which the property is located.

2. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery and is operated in association with the winery:

a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

b. The meals may be served at the bed and breakfast facility or at the winery.

3. The home occupation shall be accessory to an existing, permanent dwelling on the same parcel.

4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.

5. All off-street parking provided pursuant to Section 4.030 must be provided on the subject parcel where the home occupation is operated.

   a. Employees must use an approved off-street parking area.

   b. Customers visiting the home occupation must use an approved off-street parking area. No more than three vehicles from customers/visitors of the home occupation can be present at any given time on the subject parcel.

6. Signage is subject to the provisions of Section 4.020.

7. Retail sales shall be limited or accessory to a service.

8. Home occupations shall be subject to a conditional use permit process, pursuant to Subsection (5), unless all of the requirements of Subsection (9) can be met.

9. An in-home commercial activity is not considered a home occupation and does not require a land use permit where all of the following criteria can be met. The in-home activity:

   a. Meets the criteria under paragraphs 1.c and d; 3 and 4.

   b. Is conducted within a dwelling only by residents of the dwelling.

   c. Does not occupy more than 25 percent of the combined floor area of the dwelling including attached garage and one accessory structure.

   d. Does not serve clients or customers on-site.

   e. Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage.

f. Does not include the outside storage of materials, equipment or products.

(i) Facilities that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

(j) Mining , crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:

1. A land use permit is required for mining more than one thousand (1,000) cubic yards of martial or excavation preparatory to mining of a surface area of more than one (1) acre.

2. A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the comprehensive plan.

(k) A personal-use airport, as used in this Section, prohibits aircraft other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

(l) Land Application of Reclaimed or Process 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 a Farm Zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of 215.246, 215.247, 215.249 and 215.251.

(m) 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.

(n) A utility facility that is necessary for public service.

1. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:

   a. Show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

      i. Technical and engineering feasibility;

      ii. The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

      iii. Lack of available urban and nonresource lands;

      iv. Availability of existing rights of way;

      v. Public health and safety; and

      vi. Other requirements of state and federal agencies.

   b. Costs associated with any of the factors listed in subparagraph a of this paragraph may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

   c. The owner of a utility facility approved under paragraph (n)1 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

   d. The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant

change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

e. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use in Table 1 when project construction is complete. Off-site facilities allowed under this paragraph are subject to Subsection (5) Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

f. In addition to the provisions of subparagraphs 1.a to d of this paragraph, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.

g. The provisions of subparagraphs 1.a to d of this paragraph do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

2. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of subparagraph a or subparagraph b of this paragraph.

   a. An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

      i. The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

      ii. The associated transmission line is co-located with an existing transmission line;

      iii. The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

      iv. The associated transmission line is located within an existing right of way for a linear facility, such as a

transmission line, road or railroad,that is located above the surface of the ground.

b. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs 2.c and 2.d, two or more of the following criteria:

i. Technical and engineering feasibility;

ii. The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

iii. Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

iv. Public health and safety; or

v. Other requirements of state or federal agencies.

c. As pertains to paragraph 2.b, the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

d. The county may consider costs associated with any of the factors listed in subparagraph 2.b, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

(o) Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Table 1.

(p) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(q) A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.

(r) A community center may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(s) Public parks may include:

1. All uses allowed under Statewide Planning Goal 3;

2. The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:

    a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;

b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;

c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;

e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;

f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and

h. Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.

3. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:

a. Meeting halls not exceeding 2000 square feet of floor area;

b. Dining halls (not restaurants).

(t) Schools as formerly allowed pursuant to ORS 215.283(1)(a) that were established on or before January 1, 2009, may be expanded if:

1. The Conditional Use Review Criteria in Subsection (5) are met; and

2. The expansion occurs on the tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot that was owned by the applicant on January 1, 2009.

(u) Private Campgrounds. Private Campgrounds are subject to the following:

1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

2. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed by paragraph 3.

3. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

4. A campground shall be permitted as either a Recreation Campground or a Primitive Campground.

   a. Recreation Campgrounds are also subject to provisions in Section 4.060. Where the standards of this section conflict with the standards of Section 4.060, the more restrictive shall apply.

   b. Primitive Campgrounds are also subject to the provisions in Section 4.065. Where the standards of this section conflict with the standards of Section 4.065, the more restrictive shall apply.

(v) Accessory uses provided as part of a golf course shall be limited consistent with the following standards:

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

2. Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and

3. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

(w) General Standards

1. Three-mile setback. For uses subject to this subsection

   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 structures or group of enclosed structures described in paragraph 1 within a tract must be separated by at least one-half mile. For purposes of this Subsection, "tract" means a tract that is in existence as of June 17, 2010.

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 ordinance.

2. Single-family dwelling deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

3. Expansion standards. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Table 1 and Subsection (5).

(5) CONDITIONAL USE REVIEW CRITERIA

An applicant for a use permitted in Table 1 must demonstrate compliance with the following criteria and with the Conditional Use Criteria in Article 6 Subsection 040.

(a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(6) DWELLINGS CUSTOMARILY PROVIDED IN CONJUNCTION WITH FARM USE

(a) Large Tract Standards. On land not identified as high-value farmland as defined in Subsection (2), a dwelling may be considered customarily provided in conjunction with farm use if:

1. The parcel on which the dwelling will be located is at least 160 acres.

2. The subject tract is currently employed for farm use.

3. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

4. Except for an accessory dwelling, there is no other dwelling on the subject tract.

(b) Farm Capability Standards.

1. On land not identified as high-value farmland as defined in Subsection (2), a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least $10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile from the perimeter of the subject tract;

b. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subparagraph a;

c. The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subparagraph a;

d. The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;

e. Except for an accessory dwelling, there is no other dwelling on the subject tract;

f. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

g. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subparagraph (c).

2. In order to identify the commercial farm or ranch tracts to be used in subparagraph 1, the potential gross sales capability of each tract in the study area, including the subject tract, must be determined,

using the gross sales figures prepared by the county pursuant to OAR 660-033-0135(2)(c).

(c) Farm Income Standards (non-high value). On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

1. The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:

   a. At least $40,000 in gross annual income from the sale of farm products; or

   b. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon; and

2. Except for an accessory dwelling, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;

3. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1; and

4. In determining the gross income required by paragraph 1:

   a. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

   b. Only gross income from land owned, not leased or rented, shall be counted; and

   c. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(d) Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

1. The subject tract is currently employed for the farm use on which the farm operator earned at least $80,000 in gross annual income

from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and

2. Except for an accessory dwelling, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and

3. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1;

4. In determining the gross income required by paragraph 1:

   a. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

   b. Only gross income from land owned, not leased or rented, shall be counted; and

   c. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(e) Additional Farm Income Standards.

1. For the purpose of Subsections (c) or (d), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels may not be used to qualify a dwelling in the other part of the state.

2. Prior to the final approval for a dwelling authorized by Subsections (c) and (d) that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" to OAR chapter 660, division 33 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

   a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary health hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and

b. The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section;

6. The planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(f) Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm as defined in subparagraph g if:

1. The subject tract will be employed as a commercial dairy as defined in subparagraph g;

2. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;

3. Except for an accessory dwelling, there is no other dwelling on the subject tract;

4. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;

5. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

6. The Oregon Department of Agriculture has approved the following:

   a. A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

   b. A Producer License for the sale of dairy products under ORS 621.072.

(g) As used in this section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Paragraph (c) or (d), whichever is applicable, from the sale of fluid milk.

(h) Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:

1. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by paragraph (c) or (d), whichever is applicable;

2. The subject lot or parcel on which the dwelling will be located is:

   a. Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by paragraph (c) or (d), whichever is applicable; and

   b. At least the size of the applicable minimum lot size under Section (14);

3. Except for an accessory dwelling, there is no other dwelling on the subject tract;

4. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1; and

5. In determining the gross income required by paragraph 1 and subparagraph 2.a:

   a. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

b. Only gross income from land owned, not leased or rented, shall be counted.

(7) ACCESSORY FARM DWELLINGS

(a) Accessory farm dwellings as permitted by Section (7) may be considered customarily provided in conjunction with farm use if:

1. Each accessory farm dwelling meets all the following requirements:

a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;

b. The accessory farm dwelling will be located:

i. On the same lot or parcel as the primary farm dwelling;

ii. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;

iii. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;

iv. On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing"

shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

v. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

2. In addition to the requirements in paragraph 1, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:

i. At least $40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

b. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average

of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

c. It is located on a commercial dairy farm as defined in Section (6)(g); and

i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;

ii. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

iii. A Producer License for the sale of dairy products under ORS 621.072.

3. No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this ordinance, a parcel may be created consistent with the minimum parcel size requirements in (14)a.

4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Table 1.

5. For purposes of this Subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

6. No accessory farm dwelling unit may be occupied by a relative of the owner or operator of the farmworker housing. "Relative" means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.

(8) OWNERSHIP LOT OF RECORD DWELLINGS

A. Ownership of Record Dwelling

1. A dwelling may be approved on a pre-existing lot or parcel if:

a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph 5:

i. Since prior to January 1, 1985; or

ii. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

b. The tract on which the dwelling will be sited does not include a dwelling;

c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

e. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in paragraphs 3 and 4; and

f. When the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

3. Notwithstanding the requirements of subparagraph 1.e, a single-family dwelling may be sited on high-value farmland if:

a. It meets the other requirements of paragraphs 1 and 2;

The lot or parcel is protected as high-value farmland as defined in Section (2)(r)(1);

b. The Planning Director determines that:

i. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.

(a) For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use.

(b) Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms.

(c) A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

ii. The dwelling will comply with the provisions of Section (5); and

iii. The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (9)(a)1.

4. Notwithstanding the requirements of subparagraph 1.e, a single-family dwelling may be sited on high-value farmland if:

a. It meets the other requirements of paragraphs 1 and 2;

b. The tract on which the dwelling will be sited is:

i. Identified in Section (2)(r)(3);

ii. Not high-value farmland defined in Section (2)(r)(1); and

iii. Twenty-one acres or less in size; and

c. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

d. The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

e. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:

i. "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

ii. "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

5. For purposes of Subsection (A)(1), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

6. The county assessor shall be notified that the governing body intends to allow the dwelling.

7. An approved single-family dwelling under this section may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.

8. The county shall provide notice of all applications for ownership of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.

(9) DWELLINGS NOT IN CONJUNCTION WITH FARM USE

(a) Non-farm dwelling. A non-farm dwelling is subject to the following requirements:

1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

2. The following applies to a non-farm dwelling subject to Subsection (9):

a. The dwelling is situated upon a new parcel, or a portion of an existing lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

b. A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a new parcel or portion of an existing lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the new parcel or portion of the existing lot or parcel is not "generally unsuitable". A new parcel or portion of an existing lot or parcel is presumed to be suitable if is composed predominantly of Class I-IV soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

c. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and

size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in subparagraphs 3.a through c. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in subparagraphs 3.a through c.

   a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

   b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved

under Subsections A and Section 2.11, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and

c. Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

4. If a single-family dwelling is established on a lot of record as set forth in this ordinance, no additional dwelling may later be sited under the provisions of this section.

(10) ALTERATION, RESTORATION OR REPLACEMENT OF A LAWFULLY-ESTABLISHED DWELLING

(a) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:

1. The dwelling to be altered, restored or replaced has, or formerly had:

a. Intact exterior walls and roof structure;

b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

c. Interior wiring for interior lights;

d. A heating system; and

e. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.

2. Notwithstanding Subsection (a)1.e., if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

a. The destruction (i.e, by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or

b. The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

(b) For replacement of a lawfully established dwelling:

1. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

a. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

b. If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and

c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.

2. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

3. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm

use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

(c) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

1. The siting standards of paragraph 2 apply when a dwelling qualifies for replacement because the dwelling:

   a. Formerly had the features described in paragraph (a)1;

   b. Was removed from the tax roll as described in paragraph (a)3; or

   c. Had a permit that expired as described under paragraph (d)3.

2. The replacement dwelling must be sited on the same lot or parcel:

   a. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and

   b. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

3. Replacement dwellings that currently have the features described in paragraph (10)(a)1 and that have been on the tax roll as described in paragraph (10)(a)2 may be sited on any part of the same lot or parcel.

(d) A replacement dwelling permit that is issued under this ordinance:

1. Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:

a. Formerly had the features described in paragraph (10)(a)1; or

b. Was removed from the tax roll as described in paragraph (10)(a)3;

2. Is not subject to the time to act limits of ORS 215.417; and

3. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:

a. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and

b. Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished, or converted.

(11) WINERIES

(a) A winery may be established as a permitted use if the proposed winery will produce wine with a maximum annual production of:

1. Less than 50,000 gallons and the winery:

a. Owns an on-site vineyard of at least 15 acres;

b. Owns a contiguous vineyard of at least 15 acres;

c. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

d. Obtains grapes from any combination of subparagraph a, b or c; or

2. At least 50,000 gallons and the winery:

a. Owns an on-site vineyard of at least 40 acres;

b. Owns a contiguous vineyard of at least 40 acres;

c. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;

d. Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or

e. Obtains grapes from any combination of subparagraph a, b, c or d.

(b) In addition to producing and distributing wine, a winery established under this section may:

1. Market and sell wine produced in conjunction with the winery.

2. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

a. Wine tastings in a tasting room or other location on the premises occupied by the winery;

b. Wine club activities;

c. Winemaker luncheons and dinners;

d. Winery and vineyard tours;

e. Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

f. Winery staff activities;

g. Open house promotions of wine produced in conjunction with the winery; and

h. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

3. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:

a. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

b. Served in conjunction with an activity authorized by paragraph (b)2, 4 or 5.

4. Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to Subsection (e).

5. Host charitable activities for which the winery does not charge a facility rental fee.

(c) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection (b)3. Food and beverage services authorized under Subsection (b)3 may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.

(d) The gross income of the winery from the sale of incidental items or services provided pursuant to Subsection (b)3 to 5 may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of the county, the winery shall submit to the county a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

(e) A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery. If a winery conducts agri-tourism or other commercial events authorized under this Section, the winery may not conduct agri-tourism or other commercial events or activities authorized by (12)(a) to (d).

(f) A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.

(g) Prior to the issuance of a permit to establish a winery under Subsection (a), the applicant shall show that vineyards described in Subsection A have been planted or that the contract has been executed, as applicable.

(h) Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

1. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and

2. Provision of direct road access and internal circulation.

(i) In addition to a winery permitted in Subsections (a) to (l), a winery may be established if:

1. The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;

2. The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in paragraph (i)1; and

3. The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this subsection.

(j) In addition to producing and distributing wine, a winery described in Subsection (I) may:

1. Market and sell wine produced in conjunction with the winery;

2. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

a. Wine tastings in a tasting room or other location on the premises occupied by the winery;

b. Wine club activities;

c. Winemaker luncheons and dinners;

d. Winery and vineyard tours;

e. Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

f. Winery staff activities;

g. Open house promotions of wine produced in conjunction with the winery; and

h. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;

3. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:

a. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

b. Served in conjunction with an activity authorized by paragraph (b)2, 4 or 5;

4. Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:

a. Are directly related to the sale or promotion of wine produced in conjunction with the winery;

b. Are incidental to the retail sale of wine on-site; and

c. Are limited to 25 days or fewer in a calendar year; and

d. Host charitable activities for which the winery does not charge a facility rental fee.

(k) A winery's income from the sale of incidental items is subject to paragraphs 1 and 2.

1. The gross income of the winery from the sale of incidental items pursuant to paragraph (j)3 and services provided pursuant to paragraph (j)4 may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.

2. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant, that certifies compliance with paragraph 1 for the previous tax year.

(l) A winery permitted under Subsection (i):

1. Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.

2. May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.

(m) Additional Requirements.

1. A winery shall obtain a permit if the winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under Subsection (j)4 occurring on more than 25 days in a calendar year.

2. In addition to any other requirements, a local government may approve a permit application under this subsection if the local government finds that the authorized activity:

   a. Complies with the standards described in Subsections (5)(a) and (b);

   b. Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and

   c. Does not materially alter the stability of the land use pattern in the area.

3. If the local government issues a permit under this subsection for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.

(n) A person may not have a substantial ownership interest in more than one winery operating a restaurant under Subsection (l).

(o) Prior to the issuance of a permit to establish a winery under Subsection (l), the applicant shall show that vineyards described in Subsection (l) have been planted.

(p) A winery operating under Subsection (l) shall provide for:

1. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and

2. Direct road access and internal circulation.

(q) A winery operating under Subsection (l) may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the winery received a permit in similar circumstances before August 2, 2011.

(r) As used in this section:

1. "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

2. "On-site retail sale" includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

(12) AGRI-TOURISM AND OTHER COMMERCIAL EVENTS

The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established:

(a) A single agri-tourism or other commercial event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

1. The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

2. The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

3. The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

4. The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

5. The agri-tourism or other commercial event or activity complies with the standards described in Subsections (5)(a) and (b);

6. The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

7. The agri-tourism or other commercial event or activity complies with conditions established for:

   a. Planned hours of operation;

   b. Access, egress and parking;

   c. A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

   d. Sanitation and solid waste.

(b) In the alternative to Subsections (a) and (c), the county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or

transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

1. Must be incidental and subordinate to existing farm use on the tract;

2. May not begin before 6 a.m. or end after 10 p.m.;

3. May not involve more than 100 attendees or 50 vehicles;

4. May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

5. May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

6. Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

7. Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to Subsections (a) and (b), the county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

1. Must be incidental and subordinate to existing farm use on the tract;

2. May not, individually, exceed a duration of 72 consecutive hours;

3. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

4. Must comply with the standards described in Subsections (5)(a) and (b);

5. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

6. Must comply with conditions established for:

   a. The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

   b. The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

   c. The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

   d. Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

   e. Sanitation and solid waste.

7. A permit authorized by this subsection shall be valid for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of Subsection (c), any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(d) In addition to Subsections (a) and (c), the county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with Subsections (a) to (c) if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

1. Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

2. Comply with the requirements of (c)3 through (c)6;

3. Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

4. Do not exceed 18 events or activities in a calendar year.

(e) A holder of a permit authorized by a county under Subsection (d) must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

1. Provide public notice and an opportunity for public comment as part of the review process; and

2. Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Subsection (d).

(f) Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.

(g) The authorizations provided by section are in addition to other authorizations that may be provided by law, except that "outdoor mass gathering" and "other gathering," as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

(13) COMMERCIAL FACILITIES FOR GENERATING POWER

(a) Commercial Power Generating Facility. Permanent features of a power generation facility shall not preclude more than:

1. 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or

2. 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

3. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

(b) Wind Power Generation Facility.

1. For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.

    a. Temporary workforce housing described in Subsection (13)(b)1 must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.

    b. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

2. For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

    a. Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

        i. Technical and engineering feasibility;

        ii. Availability of existing rights of way; and

        iii. The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under subparagraph b;

    b. The long-term environmental, economic, social and energy consequences resulting from the wind power generation

facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

c. Costs associated with any of the factors listed in subparagraph (a) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

d. The owner of a wind power generation facility approved under paragraph 2 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and

e. The criteria of paragraph 3 are satisfied.

3. For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

a. The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;

b. The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved

plan shall be attached to the decision as a condition of approval;

c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and

d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

4. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of subparagraph 3.d are satisfied.

5. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in paragraphs 3 and 4, the approval criteria of paragraph 3 shall apply to the entire project.

(c) Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

1. "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

2. "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

3. "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

4. "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

5. "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

6. For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

    a. The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more

difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

b. The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

e. The project is not located on high-value farmland soils unless it can be demonstrated that:

    i. Non high-value farmland soils are not available on the subject tract;

    ii. Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

    iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract,

including those comprised of non high-value farmland soils; and

f. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

i. If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

ii. When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

7. For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

a. The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

i. Nonarable soils are not available on the subject tract;

ii. Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

iii. The proposed site is better suited to allow continuation of an existing commercial farm or

ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

b. No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;

c. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

i. If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

ii. When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

d. The requirements of subparagraphs 6.a, b, c and d are satisfied.

8. For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 250 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

a. The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

   i. Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

   ii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

b. No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

c. No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;

d. The requirements of subparagraph 6.d are satisfied;

e. If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

f. If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest

sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife species of concern as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

g. The provisions of paragraph f are repealed on January 1, 2022.

9. The project owner shall sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

10. Nothing in this section shall prevent the county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

(14) LAND DIVISIONS

(a) Minimum Parcel Size. The minimum size for creation of a new parcel shall be 80 acres.

(b) A division of land to accommodate a conditional use, except a residential use, smaller than the minimum parcel size provided in Subsection (a) may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

(c) A division of land to create up to two new parcels smaller than the minimum size established under Subsection (a), each to contain a dwelling not provided in conjunction with farm use, may be permitted if:

1. The nonfarm dwellings have been approved under paragraph (9);

2. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

3. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection (a);

4. The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection (a); and

5. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

(d) A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:

1. The nonfarm dwellings have been approved under paragraph (9);

2. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

3. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection (a) but equal to or larger than 40 acres;

4. The parcels for the nonfarm dwellings are:

   a. Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber; and

   b. Composed of at least 90 percent Class VI through VIII soils;

5. The parcels for the nonfarm dwellings do not have established water rights for irrigation; and

6. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree

species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

(e) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.

(f) This section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

(g) This section does not allow division of a lot or parcel identified in Table 1 as a family farm help dwelling or health hardship dwelling or non-farm dwelling.

(h) This section does not allow division of a lot or parcel that separates a processing facility from the farm operation specified.

(i) A division of land may be permitted to create a parcel with an existing dwelling to be used:

1. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section (9) and

2. For historic property that meets the requirements of an historic replacement dwelling.

(j) Additional Requirements.

1. Notwithstanding Subsection (a), a division of land may be approved provided:

   a. The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and

   b. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

2. A parcel created pursuant to this subsection that does not contain a dwelling:

   a. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

b. May not be considered in approving or denying an application for siting any other dwelling;

c. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

d. May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

(k) A division of land smaller than the minimum lot or parcel size in Subsection (a) may be approved provided:

1. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;

2. The church has been approved as a non-residential use under this ordinance;

3. The newly created lot or parcel is not larger than five acres; and

4. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection (a) either by itself or after it is consolidated with another lot or parcel.

(l) Notwithstanding the minimum lot or parcel size described Subsection (a), a division for fire service facilities providing rural fire protection services, if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

(m) The County may not approve a division of land for nonfarm use under subsection (b), (c), (d), (e), (f), (g), or (h) unless any additional tax imposed for the change in use has been paid.

(n) Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

(15) USE TABLE

(a) Table 1 identifies the uses permitted in the Farm Zone. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type 1, 2, or 3 review, unless otherwise specified on Table 1. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this ordinance.

(b) Permitted uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance.

Table 1: Use Table for Farm Zones

HV = High value farmland
A= Allowed 1 = Review Type 1 2 = Review Type 2 3 = Review Type 3
X = Prohibited

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Farm, Forest, and Natural Resource Uses			
Farm use.	A	A	
Other buildings customarily provided in conjunction with farm use.	A	A	
Propagation or harvesting of a forest product.	A	A	
Creation of, restoration of, or enhancement of wetlands.	A	A	
Composting limited to accepted farming practice in conjunction with and auxiliary to farm use on the subject tract.	A	A	
A facility for the processing of farm crops	1	1	(4)(a)
A facility for the processing of biofuel or poultry.	2	2	(4)(a), (5)
A facility for the primary processing of forest products.	2	2	(4)(b), (5)
The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.	2	2	(5)
Residential Uses			
Primary farm dwelling.	1	1	(6) (4)(w)
Relative farm help dwelling.	1	1	(4)(c) (4)(w)
Accessory farm dwelling.	1	1	(7) (4)(w)
Ownership of record dwelling.	1	1	(8) (4)(w)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Non-farm dwelling.	2	2	(9), (4)(w), (5)
Replacement dwelling for historic property.	1	1	(4)(w)
Replacement dwelling.	1	1	(10) (4)(w)
Temporary health hardship dwelling.	2	2	(4)(d), (5)
Residential home or facility as defined in ORS 197.660, in existing dwellings	2	2	(4)(w), (5)
Room and board arrangements for a maximum of five unrelated persons in existing residences.	2	2	(4)(w), (5)
Commercial Uses			
Dog training classes or testing trials.	2	2	(4)(e), (5)
Farm stand.	1	1	(4)(f)
Winery.	1	1	(11), (5)
Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, up to 6 events per year	1	1	(12)(a), (b) or (c)
Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, more than 6 events per year	2	2	(12)(d) & (e), (5)
Destination resort.	3	3	(4)(g), (5)
Parking of up to seven log trucks.	A	A	
Parking of more than seven log trucks	2	2	(5)
Home occupations.	2	2	(4)(h), (5)
Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Subsection (4)(e).	2	2	(5)
Aerial fireworks display business.	X	X	
A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.	2	2	(5)
Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Section (4)(a).	2	2	(5)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Mineral, Aggregate, Oil and Gas Uses			
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.	A	A	
Operations for the exploration for minerals as defined by ORS 517.750.	A	A	
Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.	3	3	(5)
Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	3	3	(5)
Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.	2	2	(4)(j), (5)
Processing of other mineral resources and other subsurface resources.	2	2	(5)
Transportation Uses			
Climbing and passing lanes within the right of way existing as of July 1, 1987.	A	A	
Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	A	A	
Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	A	A	
Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	A	A	
Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.	2	2	(5)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
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.	2	2	(5)
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.	2	2	(5)
Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.	2	2	(5)
Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.	2	2	(4)(k), (5)
Utility/Solid Waste Disposal Facilities			
Non-commercial/stand alone power generating facility associated with an approved use	A	A	
Net metering power facility associated with an approved use	A	A	
Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	2	2	(5)
Land application of reclaimed water, agricultural or industrial process water.	1	1	(4)(l)
Utility facility service lines.	1	1	(4)(m)
Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.	1	1	(4)(n)
Transmission towers over 200 feet in height.	2	2	(5)
Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities.	3	3	(13)(a), (5)
Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.	3	3	(13)(b), (5)
Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.	3	3	(13)(c), (5)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation not on high value farmland.	X	3	(4)(w), (5)
Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060.	X	3	(4)(o) (4)(w), (5)
Parks/Public/Quasi-public Uses			
Fire service facilities providing rural fire protection services.	A	A	
Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.	A	A	
A site for the takeoff and landing of model aircraft.	1	1	(4)(p)
Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	2	2	(5)
Living history museum as defined in (2)	2	2	(4)(w), (5)
Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.	2	2	(4)(r) (4)(w), (5)
Public parks and playgrounds.	2	2	(4)(s) (4)(w), (5)
A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1).	2	2	(5)
Operations for the extraction and bottling of water.	2	2	(5)
Churches and cemeteries in conjunction with churches.	X	3	(4)(w), (5)
Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	X	2	(4)(t) (4)(w) (5)
Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	X	2	(4)(u) (4)(w), (5)
Golf courses not on high-value farmland as defined in X.02 and ORS 195.300.	X	3	(4)(v) (4)(w), (5)
Outdoor Gatherings			
An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735.	1	1	

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763.	2	2	(5)

Red denotes changes recommended by the Planning Commission at the April 9, 2015 meeting

Blue denotes changes to 3.002(9) & (14) received from the DLCD Farm and Forest Lands Specialist after the April Planning Commission meeting.

SECTION 3.002 FARM ZONE (F-1)

Contents

(1) PURPOSE

The purpose of the Farm Zone (F-1) is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The Farm Zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county. It is also the purpose of the Farm Zone to qualify farms for farm use valuation under the provisions of ORS Chapter 308.

The Farm Zone has been applied to lands designated as Agriculture in the Comprehensive Plan. The provisions of the Farm Zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-033. The minimum parcel size and other standards established by this zone are intended to promote commercial agricultural operations.

(2) DEFINITIONS

For the purpose of this ordinance, unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

(a) ACCEPTED FARMING PRACTICE: A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

(b) ACCESSORY STRUCTURE: A detached structure, the use of which is customarily incidental to that of the primary structure or the primary use of the land and which is located on the same lot or parcel as the primary structure or use, and for which the owner files a restrictive covenant in the deed records of the county agreeing that the accessory structure will not be used as a residence or rental unit.

(c) ASSOCIATED TRANSMISSION LINES: Transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

(d) AGRICULTURAL BUILDING: Any structure that is considered to be an "agricultural building" under the State Building Code (Section 326) that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner (1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and (2) files a restrictive covenant in the deed records of the county agreeing that the agricultural building will not be used as a residence or rental unit.

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

(f) ARABLE LANDS: Lands that are cultivated or suitable for cultivation, including high-value farmland soils.

(g) BED AND BREAKFAST ENTERPRISE: An accessory use in a single-family dwelling in which lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. A bed and breakfast facility must be within the residence of the operator and be compliant with the requirements of ORS 333-170-0000(1) A bed and breakfast facility may be reviewed as either a home occupation in a Farm Zone or Forest Zone or as a room and board operation in a Farm Zone.

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

(i) CONTIGUOUS: Connected in such a manner as to form a single block of land.

(j) 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.

(k) EVENT, TEMPORARY: A temporary event is one ~~that is held primarily on or is using Public Property~~ that has an expected attendance of no more than 3,000 people, that will not continue for more than three consecutive days, and that will be located in a rural or resource area. Temporary Events are permitted through a Type I process and are not considered "outdoor mass gatherings" as defined by ORS 433.735 or Agri-tourism events as provided for by ORS 215.283(4).

(l) FARM OPERATOR: A person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

(m) FARM OR RANCH OPERATION: means all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.

(n) FARM USE: As defined in ORS 215.203. As used in the definition of "farm use" in ORS 215.203 and in this ordinance:

1. "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and

2. "Products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

(o) FEE-BASED ACTIVITY TO PROMOTE THE SALE OF FARM CROPS OR LIVESTOCK (as applied to farm stands): An agri-tourism activity as defined in Subsection (2) that is directly related to the sale of farm crops or livestock sold at the farm stand, and that meets the standards of Subsection (4)(g).

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

1. A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

2. A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

3. Non-regulation golf courses are not allowed. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.

(q) HEALTH HARDSHIP: "Health hardship" means a temporary circumstance caused by serious illness or infirmity, not to exceed two years in duration, and authorized by a licensed medical practitioner (Medical Doctor, Physician's Assistant or Nurse Practitioner).

(r) HIGH VALUE FARMLAND:

1. Land in a tract composed predominantly of soils that are:

   a. Irrigated and classified prime, unique, Class I or II; or

   b. Not irrigated and classified prime, unique, Class I or II.

2. In addition to that land described in paragraph 1, high-value farmland, if outside the Willamette Valley, includes tracts growing

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

3. In addition to that land described in paragraph 1, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in paragraph 1 and the following soils:

   a. Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

   b. Subclassification IIIw, specifically, Brenner and Chitwood;

   c. Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and

   d. Subclassification IVw, specifically, Coquille.

4. In addition to that land described in paragraph 1, high-value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in paragraph 1 and the following soils:

   a. Subclassification IIIw, specifically, Ettersburg Silt Loam and Crofland Silty Clay Loam;

   b. Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and

   c. Subclassification IVw, specifically, Huffling Silty Clay Loam.

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

(t) IRRIGATED: Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation,

including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this ordinance, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.

(u) LIVING HISTORY MUSEUM: A facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.

(v) LOT: A single unit of land that is created by a subdivision of land as provided in ORS 92.010.

(w) MINING, AGGREGATE: For purposes of this Article, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or non-surface impacts of underground mines.

(x) NET METERING POWER FACILITY: A facility for the production of energy that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;

2. Is intended to offset part of the customer-generator's requirements for energy;

3. Will operate in parallel with a utility's existing transmission and distribution facilities;

4. Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;

5. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

(y) NON-COMMERCIAL/STAND ALONE POWER GENERATING FACILITY: A facility for the production of energy that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;

2. Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to;

3. Operates as a standalone power generator not connected to a utility grid; and

4. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

(z) OPEN PLAY FIELD: A large, grassy area with no structural improvements intended for outdoor games and activities by park visitors. The term does not include developed ballfields, golf courses or courts for racquet sports.

(aa) OUTDOOR MASS GATHERING: A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4).

(bb) PRINCIPALLY ENGAGED IN FARM USE: As it refers to primary farm dwellings and accessory farm dwellings, a person is principally engaged in the farm use of the land when the amount of time that an occupant of the dwelling is engaged in farm use of the property is similar to the average number of hours that is typically required for a full- time employee of the relevant type of farm use, whether that person is employed off the farm or not. Only one

resident of a household need meet the "principally engaged" test, or the test may be met collectively by more than one household member.

(cc) PARCEL: A single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).

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

(ee) PRIVATE PARK: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above, but does not include tracks

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

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

(hh) RELATIVE: As it applies to relative farm help dwellings and temporary health hardship dwellings, a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.

(ii) TEMPORARY STRUCTURE OR USE: A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.

(jj) TRACT: one or more contiguous lots or parcels under the same ownership.

(kk) UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE: Unless otherwise specified in this Article, any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.

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

(3) DEVELOPMENT STANDARDS

(a) Land divisions and development in the F-1 Zone shall conform to the following standards, unless more restrictive supplemental regulations apply:

1. Land divisions are subject to Subsection (14).

2. The minimum lot width at the front building line for all uses except farming shall be 100 feet.

3. The minimum lot depth for all uses except farming shall be 100 feet.

4. The minimum front and rear yards shall be 20 feet.

5. The minimum side yard shall be 10 feet where adjacent to land in the F-1 or SFW-20 zones. Otherwise the minimum side yard shall be 20 feet.

6. For accessory structures where there is contiguous ownership of two acres or less, where the yard requirements shall be the same as in the RR zone, and where Section 5.040 (1) (b) shall apply, the minimum rear yard shall be 3 feet.

7. The maximum building height for all nonfarm structures shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.

(4) USE STANDARDS

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

(b) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Subsection (2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

(c) To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm.

(d) A temporary health hardship dwelling is subject to the following:

1. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

    a. 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;

    b. The county shall review the permit authorizing such manufactured homes every two years.

    c. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.

2. A temporary residence approved under this section is not eligible for replacement per Table 1. Department of Environmental Quality review and removal requirements also apply.

3. As used in this section "hardship" means a health hardship or hardship for the care of an aged or infirm person or persons.

4. A temporary health hardship dwelling is subject to the Conditional Use Criteria as described in Subsection (5).

(e) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:

1. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and

2. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.

(f) A farm stand may be approved if:

1. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock.

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, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located~~.

5. Farm Stand Development Standards

   a. Adequate off-street parking will be provided pursuant to provisions of Section 4.030.

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

c. All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.

d. No farm stand building or parking is permitted within the right-of-way.

e. Approval is required from the County Public Works Department regarding adequate egress and access. All egress and access points shall be clearly marked.

f. A Clear-Vision Area shall be maintained at street intersections pursuant to Section 4.010.

g. Signs are permitted consistent with Section 4.020

6. ~~or~~ Permit approval is subject to compliance with the County On-Site Sanitation Division, Department of Agriculture requirements, County Public Works requirements and with the development standards of this zone.

(g) A destination resort is not permitted on high-value farmland except that existing destination resorts may be expanded subject to Subsection (4)(w).

(h) A home occupation.

1. A home occupation shall:

a. Be operated by a resident or employee of a resident of the property on which the business is located;

b. Employ on the site no more than five full-time or part-time persons at any given time;

c. Shall be operated substantially in:

i. The dwelling; or

ii. Other buildings normally associated with uses permitted in the zone in which the property is located, except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences;

d. Not unreasonably interfere with other uses permitted in the zone in which the property is located.

2. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery and is operated in association with the winery:

   a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

   b. The meals may be served at the bed and breakfast facility or at the winery.

3. The home occupation shall be accessory to an existing, permanent dwelling on the same parcel.

4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.

5. All off-street parking provided pursuant to Section 4.030 must be provided on the subject parcel where the home occupation is operated.

   a. Employees must use an approved off-street parking area.

   b. Customers visiting the home occupation must use an approved off-street parking area. No more than three vehicles from customers/visitors of the home occupation can be present at any given time on the subject parcel.

6. Signage is subject to the provisions of Section 4.020.

7. Retail sales shall be limited or accessory to a service.

8. Home occupations shall be subject to a conditional use permit process, pursuant to Subsection (5), unless all of the requirements of Subsection (9) can be met.

9. An in-home commercial activity is not considered a home occupation and does not require a land use permit where all of the following criteria can be met. The in-home activity:

   a. Meets the criteria under paragraphs 1.c and d; 3 and 4.

   b. Is conducted within a dwelling only by residents of the dwelling.

c. Does not occupy more than 25 percent of the combined floor area of the dwelling including attached garage and one accessory structure.

d. Does not serve clients or customers on-site.

e. Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage.

f. Does not include the outside storage of materials, equipment or products.

(i) Facilities that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

(j) Mining , crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:

1. A land use permit is required for mining more than one thousand (1,000) cubic yards of martial or excavation preparatory to mining of a surface area of more than one (1) acre.

2. A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the comprehensive plan.

(k) A personal-use airport, as used in this Section, prohibits aircraft other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

(l) Land Application of Reclaimed or Process 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 a Farm Zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of 215.246, 215.247, 215.249 and 215.251.

(m) 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.

(n) A utility facility that is necessary for public service.

1. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:

   a. Show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

      i. Technical and engineering feasibility;

      ii. The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

      iii. Lack of available urban and nonresource lands;

      iv. Availability of existing rights of way;

      v. Public health and safety; and

      vi. Other requirements of state and federal agencies.

   b. Costs associated with any of the factors listed in subparagraph a of this paragraph may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

   c. The owner of a utility facility approved under paragraph (n)1 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the

facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

d. The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

e. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use in Table 1 when project construction is complete. Off-site facilities allowed under this paragraph are subject to Subsection (5) Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

f. In addition to the provisions of subparagraphs 1.a to d of this paragraph, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.

g. The provisions of subparagraphs 1.a to d of this paragraph do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

2. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of subparagraph a or subparagraph b of this paragraph.

a. An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

i. The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

ii. The associated transmission line is co-located with an existing transmission line;

iii. The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

iv. The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad,that is located above the surface of the ground.

b. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs 2.c and 2.d, two or more of the following criteria:

i. Technical and engineering feasibility;

ii. The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

iii. Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

iv. Public health and safety; or

v. Other requirements of state or federal agencies.

c. As pertains to paragraph 2.b, the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

d. The county may consider costs associated with any of the factors listed in subparagraph 2.b, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

(o) Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Table 1.

(p) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(q) A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.

(r) A community center may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(s) Public parks may include:

1. All uses allowed under Statewide Planning Goal 3;

2. The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:

   a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;

   b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;

   c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

   d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;

   e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;

   f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

   g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and

   h. Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.

3. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or

inns and the following associated uses in a state park retreat area only:

a. Meeting halls not exceeding 2000 square feet of floor area;

b. Dining halls (not restaurants).

(t) Schools as formerly allowed pursuant to ORS 215.283(1)(a) that were established on or before January 1, 2009, may be expanded if:

1. The Conditional Use Review Criteria in Subsection (5) are met; and

2. The expansion occurs on the tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot that was owned by the applicant on January 1, 2009.

(u) Private Campgrounds. Private Campgrounds are subject to the following:

1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

2. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed by paragraph 3.

3. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

4. A campground shall be permitted as either a Recreation Campground or a Primitive Campground.

a. Recreation Campgrounds are also subject to provisions in Section 4.060. Where the standards of this section conflict

with the standards of Section 4.060, the more restrictive shall apply.

b. Primitive Campgrounds are also subject to the provisions in Section 4.065. Where the standards of this section conflict with the standards of Section 4.065, the more restrictive shall apply.

(v) Accessory uses provided as part of a golf course shall be limited consistent with the following standards:

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

2. Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and

3. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

(w) General Standards

1. Three-mile setback. For uses subject to this subsection

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 structures or group of enclosed structures described in paragraph 1 within a tract must be separated by at least one-half mile. For purposes of this Subsection, "tract" means a tract that is in existence as of June 17, 2010.

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 ordinance.

2. Single-family dwelling deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

3. Expansion standards. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Table 1 and Subsection (5).

(5) CONDITIONAL USE REVIEW CRITERIA

An applicant for a use permitted in Table 1 must demonstrate compliance with the following criteria and with the Conditional Use Criteria in Article 6 Subsection 040.

(a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(6) DWELLINGS CUSTOMARILY PROVIDED IN CONJUNCTION WITH FARM USE

(a) Large Tract Standards. On land not identified as high-value farmland as defined in Subsection (2), a dwelling may be considered customarily provided in conjunction with farm use if:

1. The parcel on which the dwelling will be located is at least 160 acres.

2. The subject tract is currently employed for farm use.

3. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

4. Except for an accessory dwelling, there is no other dwelling on the subject tract.

(b) Farm Capability Standards.

1. On land not identified as high-value farmland as defined in Subsection (2), a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least $10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile from the perimeter of the subject tract;

b. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subparagraph a;

c. The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subparagraph a;

d. The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;

e. Except for an accessory dwelling, there is no other dwelling on the subject tract;

f. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such

as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

g. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subparagraph (c).

2. In order to identify the commercial farm or ranch tracts to be used in subparagraph 1, the potential gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the county pursuant to OAR 660-033-0135(2)(c).

(c) Farm Income Standards (non-high value). On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

1. The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:

a. At least $40,000 in gross annual income from the sale of farm products; or

b. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon; and

2. Except for an accessory dwelling, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;

3. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1; and

4. In determining the gross income required by paragraph 1:

a. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

b. Only gross income from land owned, not leased or rented, shall be counted; and

c. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(d) Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

1. The subject tract is currently employed for the farm use on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and

2. Except for an accessory dwelling, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and

3. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1;

4. In determining the gross income required by paragraph 1:

a. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

b. Only gross income from land owned, not leased or rented, shall be counted; and

c. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(e) Additional Farm Income Standards.

1. For the purpose of Subsections (c) or (d), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels may not be used to qualify a dwelling in the other part of the state.

2. Prior to the final approval for a dwelling authorized by Subsections (c) and (d) that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit

A" to OAR chapter 660, division 33 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary health hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and

b. The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section;

6. The planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(f) Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm as defined in subparagraph g if:

1. The subject tract will be employed as a commercial dairy as defined in subparagraph g;

2. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;

3. Except for an accessory dwelling, there is no other dwelling on the subject tract;

4. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;

5. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

6. The Oregon Department of Agriculture has approved the following:

   a. A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

   b. A Producer License for the sale of dairy products under ORS 621.072.

(g) As used in this section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Paragraph (c) or (d), whichever is applicable, from the sale of fluid milk.

(h) Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:

1. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by paragraph (c) or (d), whichever is applicable;

2. The subject lot or parcel on which the dwelling will be located is:

   a. Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by paragraph (c) or (d), whichever is applicable; and

   b. At least the size of the applicable minimum lot size under Section (14);

3. Except for an accessory dwelling, there is no other dwelling on the subject tract;

4. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1; and

5. In determining the gross income required by paragraph 1 and subparagraph 2.a:

   a. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

   b. Only gross income from land owned, not leased or rented, shall be counted.

(7) ACCESSORY FARM DWELLINGS

(a) Accessory farm dwellings as permitted by Section (7) may be considered customarily provided in conjunction with farm use if:

1. Each accessory farm dwelling meets all the following requirements:

   a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;

   b. The accessory farm dwelling will be located:

      i. On the same lot or parcel as the primary farm dwelling;

      ii. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;

      iii. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;

      iv. On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit

residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

v. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

2. In addition to the requirements in paragraph 1, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:

i. At least $40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture,

Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

b. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

c. It is located on a commercial dairy farm as defined in Section (6)(g); and

i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;

ii. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

iii. A Producer License for the sale of dairy products under ORS 621.072.

3. No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this ordinance, a parcel may be created consistent with the minimum parcel size requirements in (14)a.

4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Table 1.

5. For purposes of this Subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

6. No accessory farm dwelling unit may be occupied by a relative of the owner or operator of the farmworker housing. “Relative” means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.

(8) OWNERSHIP LOT OF RECORD DWELLINGS

A. Ownership of Record Dwelling

1. A dwelling may be approved on a pre-existing lot or parcel if:

   a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph 5:

      i. Since prior to January 1, 1985; or

      ii. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

   b. The tract on which the dwelling will be sited does not include a dwelling;

   c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

   d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

   e. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in paragraphs 3 and 4; and

   f. When the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

3. Notwithstanding the requirements of subparagraph 1.e, a single-family dwelling may be sited on high-value farmland if:

   a. It meets the other requirements of paragraphs 1 and 2;

The lot or parcel is protected as high-value farmland as defined in ~~OAR 660-033-0020(8)(a)~~ Section (2)(r)(1);

b. The Planning Director determines that:

i. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.

(a) For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use.

(b) Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms.

(c) A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

ii. The dwelling will comply with the provisions of Section (5); and

iii. The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (9)(a)1.

4. Notwithstanding the requirements of subparagraph 1.e, a single-family dwelling may be sited on high-value farmland if:

a. It meets the other requirements of paragraphs 1 and 2;

b. The tract on which the dwelling will be sited is:

i. Identified in ~~OAR 660-033-0020(8)(c) or (d)~~ Section (2)(r)(3);

ii. Not high-value farmland defined in Section (2)(r)(1); and

iii. Twenty-one acres or less in size; and

c. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

d. The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

e. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:

i. "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

ii. "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

5. For purposes of Subsection (A)(1), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild,

grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

6. The county assessor shall be notified that the governing body intends to allow the dwelling.

7. An approved single-family dwelling under this section may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.

8. The county shall provide notice of all applications for ownership of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.

(9) DWELLINGS NOT IN CONJUNCTION WITH FARM USE

(a) Non-farm dwelling. A non-farm dwelling ~~sited on a parcel created before January 1, 1993,~~ is subject to the following requirements:

1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

2. The following applies to a non-farm dwelling subject to Subsection (9):

a. The dwelling is situated upon a ~~lot or~~ new parcel, or a portion of ~~a lot or~~ an existing lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A ~~lot or~~ new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

b. A ~~lot or~~ new parcel or portion of ~~a lot~~ an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a ~~lot or~~ new parcel or portion of an existing lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the ~~lot or~~ new parcel or portion of the existing lot or parcel is not "generally unsuitable". A ~~lot or~~ new parcel or portion of an existing lot or parcel is presumed to be suitable

if is composed predominantly of Class I-IV soils. Just because a ~~lot or~~ new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

c. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in subparagraphs 3.a through c. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in subparagraphs 3.a through c.

a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct

the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections A and Section 2.11, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and

c. Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

4. If a single-family dwelling is established on a lot of record as set forth in this ordinance, no additional dwelling may later be sited under the provisions of this section.

~~(b) Non-farm dwelling. A non-farm dwelling sited on a parcel created after January 1, 1993, is subject to the following requirements:~~

~~1. The dwelling complies with paragraphs a through c.~~

~~a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices~~

~~that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;~~

~~b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections A and Section 2.11, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and~~

~~c. Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.~~

(10) ALTERATION, RESTORATION OR REPLACEMENT OF A LAWFULLY-ESTABLISHED DWELLING

(a) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:

1. The dwelling to be altered, restored or replaced has, or formerly had:

a. Intact exterior walls and roof structure;

b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

c. Interior wiring for interior lights;

d. A heating system; and

e. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.

2. Notwithstanding Subsection (a)1.e., if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

a. The destruction (i.e, by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or

b. The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

(b) For replacement of a lawfully established dwelling:

1. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

a. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

b. If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and

c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.

2. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

3. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

(c) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

1. The siting standards of paragraph 2 apply when a dwelling qualifies for replacement because the dwelling:

a. Formerly had the features described in paragraph (a)1;

b. Was removed from the tax roll as described in paragraph (a)3; or

c. Had a permit that expired as described under paragraph (d)3.

2. The replacement dwelling must be sited on the same lot or parcel:

a. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and

b. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

3. Replacement dwellings that currently have the features described in paragraph (10)(a)1 and that have been on the tax roll as described in paragraph (10)(a)2 may be sited on any part of the same lot or parcel.

(d) A replacement dwelling permit that is issued under this ordinance:

1. Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:

a. Formerly had the features described in paragraph (10)(a)1; or

b. Was removed from the tax roll as described in paragraph (10)(a)3;

2. Is not subject to the time to act limits of ORS 215.417; and

3. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:

a. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and

b. Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished, or converted.

(11) WINERIES

(a) A winery may be established as a permitted use if the proposed winery will produce wine with a maximum annual production of:

1. Less than 50,000 gallons and the winery:

a. Owns an on-site vineyard of at least 15 acres;

b. Owns a contiguous vineyard of at least 15 acres;

c. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

d. Obtains grapes from any combination of subparagraph a, b or c; or

2. At least 50,000 gallons and the winery:

a. Owns an on-site vineyard of at least 40 acres;

b. Owns a contiguous vineyard of at least 40 acres;

c. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;

d. Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or

e. Obtains grapes from any combination of subparagraph a, b, c or d.

(b) In addition to producing and distributing wine, a winery established under this section may:

1. Market and sell wine produced in conjunction with the winery.

2. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

a. Wine tastings in a tasting room or other location on the premises occupied by the winery;

b. Wine club activities;

c. Winemaker luncheons and dinners;

d. Winery and vineyard tours;

e. Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

f. Winery staff activities;

g. Open house promotions of wine produced in conjunction with the winery; and

h. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

3. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:

a. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

b. Served in conjunction with an activity authorized by paragraph (b)2, 4 or 5.

4. Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to Subsection (e).

5. Host charitable activities for which the winery does not charge a facility rental fee.

(c) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection (b)3. Food and beverage services authorized under Subsection (b)3 may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.

(d) The gross income of the winery from the sale of incidental items or services provided pursuant to Subsection (b)3 to 5 may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of the county, the winery shall submit to the county a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

(e) A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery. If a winery conducts agri-tourism or other commercial events authorized under this Section, the winery may not conduct agri-tourism or other commercial events or activities authorized by (12)(a) to (d).

(f) A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.

(g) Prior to the issuance of a permit to establish a winery under Subsection (a), the applicant shall show that vineyards described in Subsection A have been planted or that the contract has been executed, as applicable.

(h) Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

1. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local

government grants an adjustment or variance allowing a setback of less than 100 feet; and

2. Provision of direct road access and internal circulation.

(i) In addition to a winery permitted in Subsections (a) to (l), a winery may be established if:

1. The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;

2. The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in paragraph (i)1; and

3. The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this subsection.

(j) In addition to producing and distributing wine, a winery described in Subsection (l) may:

1. Market and sell wine produced in conjunction with the winery;

2. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

a. Wine tastings in a tasting room or other location on the premises occupied by the winery;

b. Wine club activities;

c. Winemaker luncheons and dinners;

d. Winery and vineyard tours;

e. Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

f. Winery staff activities;

g. Open house promotions of wine produced in conjunction with the winery; and

h. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;

3. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:

   a. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

   b. Served in conjunction with an activity authorized by paragraph (b)2, 4 or 5;

4. Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:

   a. Are directly related to the sale or promotion of wine produced in conjunction with the winery;

   b. Are incidental to the retail sale of wine on-site; and

   c. Are limited to 25 days or fewer in a calendar year; and

   d. Host charitable activities for which the winery does not charge a facility rental fee.

(k) A winery's income from the sale of incidental items is subject to paragraphs 1 and 2.

1. The gross income of the winery from the sale of incidental items pursuant to paragraph (j)3 and services provided pursuant to paragraph (j)4 may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.

2. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant, that certifies compliance with paragraph 1 for the previous tax year.

(l) A winery permitted under Subsection (i):

1. Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.

2. May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.

(m) Additional Requirements.

1. A winery shall obtain a permit if the winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under Subsection (j)4 occurring on more than 25 days in a calendar year.

2. In addition to any other requirements, a local government may approve a permit application under this subsection if the local government finds that the authorized activity:

   a. Complies with the standards described in Subsections (5)(a) and (b);

   b. Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and

   c. Does not materially alter the stability of the land use pattern in the area.

3. If the local government issues a permit under this subsection for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.

(n) A person may not have a substantial ownership interest in more than one winery operating a restaurant under Subsection (l).

(o) Prior to the issuance of a permit to establish a winery under Subsection (l), the applicant shall show that vineyards described in Subsection (l) have been planted.

(p) A winery operating under Subsection (l) shall provide for:

1. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and

2. Direct road access and internal circulation.

(q) A winery operating under Subsection (l) may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the winery received a permit in similar circumstances before August 2, 2011.

(r) As used in this section:

1. "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural,

health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

2. "On-site retail sale" includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

(12) AGRI-TOURISM AND OTHER COMMERCIAL EVENTS

The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established:

(a) A single agri-tourism or other commercial event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

1. The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

2. The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

3. The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

4. The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

5. The agri-tourism or other commercial event or activity complies with the standards described in Subsections (5)(a) and (b);

6. The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

7. The agri-tourism or other commercial event or activity complies with conditions established for:

a. Planned hours of operation;

b. Access, egress and parking;

c. A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

d. Sanitation and solid waste.

(b) In the alternative to Subsections (a) and (c), the county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

1. Must be incidental and subordinate to existing farm use on the tract;

2. May not begin before 6 a.m. or end after 10 p.m.;

3. May not involve more than 100 attendees or 50 vehicles;

4. May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

5. May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

6. Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

7. Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to Subsections (a) and (b), the county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

1. Must be incidental and subordinate to existing farm use on the tract;

2. May not, individually, exceed a duration of 72 consecutive hours;

3. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

4. Must comply with the standards described in Subsections (5)(a) and (b);

5. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

6. Must comply with conditions established for:

   a. The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

   b. The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

   c. The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

   d. Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

   e. Sanitation and solid waste.

7. A permit authorized by this subsection shall be valid for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of Subsection (c), any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(d) In addition to Subsections (a) and (c), the county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with Subsections (a) to (c) if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

1. Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

2. Comply with the requirements of (c)3 through (c)6;

3. Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

4. Do not exceed 18 events or activities in a calendar year.

(e) A holder of a permit authorized by a county under Subsection (d) must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

1. Provide public notice and an opportunity for public comment as part of the review process; and

2. Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Subsection (d).

(f) Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.

(g) The authorizations provided by section are in addition to other authorizations that may be provided by law, except that "outdoor mass gathering" and "other gathering," as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

(13) COMMERCIAL FACILITIES FOR GENERATING POWER

(a) Commercial Power Generating Facility. Permanent features of a power generation facility shall not preclude more than:

1. 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or

2. 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

3. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

(b) Wind Power Generation Facility.

1. For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.

   a. Temporary workforce housing described in Subsection (13)(b)1 must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.

   b. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

2. For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

   a. Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

i. Technical and engineering feasibility;

ii. Availability of existing rights of way; and

iii. The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under subparagraph b;

b. The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

c. Costs associated with any of the factors listed in subparagraph (a) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

d. The owner of a wind power generation facility approved under paragraph 2 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and

e. The criteria of paragraph 3 are satisfied.

3. For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

a. The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological

towers on lands in a manner that could disrupt common and accepted farming practices;

b. The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and

d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

4. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of subparagraph 3.d are satisfied.

5. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in paragraphs 3 and 4, the approval criteria of paragraph 3 shall apply to the entire project.

(c) Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

1. "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

2. "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

3. "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

4. "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

5. "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

6. For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

   a. The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

   b. The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

   c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

   d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

e. The project is not located on high-value farmland soils unless it can be demonstrated that:

i. Non high-value farmland soils are not available on the subject tract;

ii. Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

f. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

i. If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

ii. When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

7. For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial

agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

a. The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

   i. Nonarable soils are not available on the subject tract;

   ii. Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

   iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

b. No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;

c. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

   i. If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

   ii. When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water

rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

d. The requirements of subparagraphs 6.a, b, c and d are satisfied.

8. For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 250 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

a. The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

i. Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

ii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

b. No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

c. No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;

d. The requirements of subparagraph 6.d are satisfied;

e. If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource

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

f. If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife species of concern as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

g. The provisions of paragraph f are repealed on January 1, 2022.

9. The project owner shall sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

10. Nothing in this section shall prevent the county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

(14) LAND DIVISIONS

(a) Minimum Parcel Size. The minimum size for creation of a new parcel shall be 80 acres.

(b) A division of land to accommodate a conditional use, except a residential use, smaller than the minimum parcel size provided in Subsection (a) may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

(c) A division of land to create up to two new parcels smaller than the minimum size established under Subsection (a), each to contain a dwelling not provided in conjunction with farm use, may be permitted if:

1. The nonfarm dwellings have been approved under paragraph (9)~~(b)~~;

2. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

3. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection (a);

4. The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection (a); and

5. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

(d) A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:

1. The nonfarm dwellings have been approved under paragraph (9)~~(b)~~;

2. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

3. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection (a) but equal to or larger than 40 acres;

4. The parcels for the nonfarm dwellings are:

   a. Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber; and

   b. Composed of at least 90 percent Class VI through VIII soils;

5. The parcels for the nonfarm dwellings do not have established water rights for irrigation; and

6. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

(e) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.

(f) This section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

(g) This section does not allow division of a lot or parcel identified in Table 1 as a family farm help dwelling or health hardship dwelling or non-farm dwelling.

(h) This section does not allow division of a lot or parcel that separates a processing facility from the farm operation specified.

(i) A division of land may be permitted to create a parcel with an existing dwelling to be used:

1. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section (9) and

2. For historic property that meets the requirements of an historic replacement dwelling.

(j) Additional Requirements.

1. Notwithstanding Subsection (a), a division of land may be approved provided:

   a. The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land

conservation organization, to purchase at least one of the resulting parcels; and

b. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

2. A parcel created pursuant to this subsection that does not contain a dwelling:

a. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

b. May not be considered in approving or denying an application for siting any other dwelling;

c. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

d. May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

(k) A division of land smaller than the minimum lot or parcel size in Subsection (a) may be approved provided:

1. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;

2. The church has been approved as a non-residential use under this ordinance;

3. The newly created lot or parcel is not larger than five acres; and

4. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection (a) either by itself or after it is consolidated with another lot or parcel.

(l) Notwithstanding the minimum lot or parcel size described Subsection (a), a division for fire service facilities providing rural fire protection services, if the

parcel for the nonfarm use is not larger than the minimum size necessary for the use.

(m) The County may not approve a division of land for nonfarm use under subsection (b), (c), (d), (e), (f), (g), or (h) unless any additional tax imposed for the change in use has been paid.

(n) Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

(15) USE TABLE

(a) Table 1 identifies the uses permitted in the Farm Zone. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type 1, 2, or 3 review, unless otherwise specified on Table 1. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this ordinance.

(b) Permitted uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance.

Table 1: Use Table for Farm Zones

HV = High value farmland
A= Allowed 1 = Review Type 1 2 = Review Type 2 3 = Review Type 3
X = Prohibited

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Farm, Forest, and Natural Resource Uses			
Farm use.	A	A	
Other buildings customarily provided in conjunction with farm use.	A	A	
Propagation or harvesting of a forest product.	A	A	
Creation of, restoration of, or enhancement of wetlands.	A	A	
Composting limited to accepted farming practice in conjunction with and auxiliary to farm use on the subject tract.	A	A	
A facility for the processing of farm crops	1	1	(4)(a)
A facility for the processing of biofuel or poultry.	2	2	(4)(a), (5)
A facility for the primary processing of forest products.	2	2	(4)(b), (5)
The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.	2	2	(5)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Residential Uses			
Primary farm dwelling.	1	1	(6) (4)(w)
Relative farm help dwelling.	1	1	(4)(c) (4)(w)
Accessory farm dwelling.	1	1	(7) (4)(w)
Ownership of record dwelling.	1	1	(8) (4)(w)
Non-farm dwelling.	2	2	(9), (4)(w), (5)
Replacement dwelling for historic property.	1	1	(4)(w)
Replacement dwelling.	1	1	(10) (4)(w)
Temporary health hardship dwelling.	2	2	(4)(d), (5)
Residential home or facility as defined in ORS 197.660, in existing dwellings	2	2	(4)(w), (5)
Room and board arrangements for a maximum of five unrelated persons in existing residences.	2	2	(4)(w), (5)
Commercial Uses			
Dog training classes or testing trials.	2	2	(4)(e), (5)
Farm stand.	1	1	(4)(f)
Winery.	1	1	(11), (5)
Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, up to 6 events per year	1	1	(12)(a), (b) or (c)
Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, more than 6 events per year	2	2	(12)(d) & (e), (5)
Destination resort.	3	3	(4)(g), (5)
Parking of up to seven log trucks.	A	A	
Parking of more than seven log trucks	2	2	(5)
Home occupations.	2	2	(4)(h), (5)
Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Subsection (4)(e).	2	2	(5)
Aerial fireworks display business.	X	X	

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.	2	2	(5)
Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Section (4)(a).	2	2	(5)
Mineral, Aggregate, Oil and Gas Uses			
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.	A	A	
Operations for the exploration for minerals as defined by ORS 517.750.	A	A	
Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.	3	3	(5)
Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	3	3	(5)
Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.	2	2	(4)(j), (5)
Processing of other mineral resources and other subsurface resources.	2	2	(5)
Transportation Uses			
Climbing and passing lanes within the right of way existing as of July 1, 1987.	A	A	
Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	A	A	
Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	A	A	

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	A	A	
Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.	2	2	(5)
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.	2	2	(5)
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.	2	2	(5)
Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.	2	2	(5)
Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.	2	2	(4)(k), (5)
Utility/Solid Waste Disposal Facilities			
Non-commercial/stand alone power generating facility associated with an approved use	A	A	
Net metering power facility associated with an approved use	A	A	
Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	2	2	(5)
Land application of reclaimed water, agricultural or industrial process water.	1	1	(4)(l)
Utility facility service lines.	1	1	(4)(m)
Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.	1	1	(4)(n)
Transmission towers over 200 feet in height.	2	2	(5)
Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities.	3	3	(13)(a), (5)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.	3	3	(13)(b), (5)
Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.	3	3	(13)(c), (5)
A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation not on high value farmland.	X	3	(4)(w), (5)
Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060.	X	3	(4)(o) (4)(w), (5)
Parks/Public/Quasi-public Uses			
Fire service facilities providing rural fire protection services.	A	A	
Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.	A	A	
A site for the takeoff and landing of model aircraft.	1	1	(4)(p)
Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	2	2	(5)
Living history museum as defined in (2)	2	2	(4)(w), (5)
Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.	2	2	(4)(r) (4)(w), (5)
Public parks and playgrounds.	2	2	(4)(s) (4)(w), (5)
A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1).	2	2	(5)
Operations for the extraction and bottling of water.	2	2	(5)
Churches and cemeteries in conjunction with churches.	X	3	(4)(w), (5)
Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	X	2	(4)(t) (4)(w) (5)
Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	X	2	(4)(u) (4)(w), (5)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Golf courses not on high-value farmland as defined in X.02 and ORS 195.300.	X	3	(4)(v) (4)(w), (5)
Outdoor Gatherings			
An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735.	1	1	
Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763.	2	2	(5)

SECTION 3.004 FOREST ZONE (F)

Contents

(1) PURPOSE

(a) The purpose of the Forest (F) Zone is to protect and maintain forest lands for grazing, and rangeland use and forest use, consistent with existing and future needs for agricultural and forest products. The F zone is also intended to allow other uses that are compatible with agricultural and forest activities, to protect scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.

(b) The F zone has been applied to lands designated as Forest in the Comprehensive Plan. The provisions of the F zone reflect the forest land policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-006. The minimum parcel size and other standards established by this zone are intended to promote commercial forest operations.

(2) DEFINITIONS

Words used in the present tense include the future; the singular number includes the plural; and the word "shall" is mandatory and not directory. Whenever the term "this ordinance" is used herewith, it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted.

For the purpose of this zone, the following definitions apply:

(a) Definitions contained in ORS 197.015 and the Statewide Planning Goals.

(b) ACCESSORY STRUCTURE OR BUILDING: A detached structure, the use of which is customarily incidental to that of the primary structure or the primary use of the land and which is located on the same lot or parcel as the primary structure or use, and for which the owner files a restrictive covenant in the deed records of the county agreeing that the accessory structure will not be used as a residence or rental unit.

(c) AGRICULTURAL BUILDING: Any structure that is considered to be an "agricultural building" under the State Building Code (Section 326) that is on a parcel of at least 10 acres in size , that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner (1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and (2) files a restrictive covenant in the deed records of the County agreeing that the agricultural building will not be used as a residence or rental unit.

(d) AUXILIARY: A use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(e) BED AND BREAKFAST ENTERPRISE: an accessory use in a single-family dwelling in which lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. A bed and breakfast facility must be within the residence of the operator and be compliant with the requirements of ORS 333-170-0000(1) A bed and breakfast facility may be reviewed as a home occupation in the Forest Zone.

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

(g) COMMERCIAL POWER GENERATING FACILITY: A facility for the production of energy and its related or supporting facilities that:

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

in all zones that allow "Farm Use" and 215.283(1)(r) and 215.283(2)(a) in the EFU zone;

2. Is intended to provide energy for sale; and

3. Does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

(h) COMMERCIAL TREE SPECIES: Trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.

(i) CONTIGUOUS: Lots, parcels or lots and parcels that have a common boundary. "Contiguous" includes, but is not limited to, lots, parcels, or lots and parcels separated only by an alley, street, or other right-of-way.

(j) CUBIC FOOT PER ACRE PER YEAR: The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(k) CUBIC FOOT PER TRACT PER YEAR: The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(l) 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.

(m) EVENT, TEMPORARY: A temporary event is one that has an expected attendance of no more than 3,000 people, that will not continue for more than three consecutive days, and that will be located in a rural or resource area. Temporary Events are permitted through a Type I process and are not considered "outdoor mass gatherings" as defined by ORS 433.735 or Agri-tourism events as provided for by ORS 215.283(4).

(n) FOREST OPERATION: Any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620(6).

(o) GOVERNING BODY: A city council, county board of commissioners, or county court or its designate, including planning director, hearings officer, planning commission or as provided by Oregon law.

(p) HEALTH HARDSHIP: A temporary circumstance caused by serious illness or infirmity, not to exceed two years in duration, and authorized by a licensed medical practitioner (Medical Doctor, Physicians Assistant or Nurse Practitioner)

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

(r) LOT: A single unit of land that is created by a subdivision of land as provided in ORS 92.010.

(s) MINING, AGGREGATE: For purposes of this Section, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.

(t) NET METERING POWER FACILITY: A facility for the production of energy that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel;

2. Is intended to offset part of the customer-generator's requirements for energy;

3. Will operate in parallel with a utility's existing transmission and distribution facilities;

4. Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;

5. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

(u) NON-COMMERCIAL/STAND ALONE POWER GENERATING FACILITY: A facility for the production of energy that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel;

2. Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to;

3. Operates as a standalone power generator not connected to a utility grid; and

4. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

(v) OUTDOOR MASS GATHERING: A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4) and do not include a Temporary Event or Outdoor Event reviewed under Article 5 Section 150.

(w) PARCEL: A single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).

(x) PRIVATE PARK: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above, but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.

(y) PUBLIC PARK: A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, state or federal agency, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance.

(z) RELATIVE: means a spouse, child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.

(aa) STORAGE STRUCTURES FOR EMERGENCY SUPPLIES: Structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.

(bb) TEMPORARY STRUCTURE OR USE: A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.

(cc) TRACT: One or more contiguous lots or parcels in the same ownership.

(dd) UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE: Unless otherwise specified in this Article, any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, dams & and other hydroelectric facilities, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.

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

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

(3) DEVELOPMENT STANDARDS

(a) Land divisions and development in the F-1 Zone shall conform to the following standards, unless more restrictive supplemental regulations apply:

1. The minimum lot width and minimum lot depth shall be 100 feet.

2. The minimum front, rear, and side yards shall all be 30 feet.

3. The height of residential structures shall not exceed 35 feet.

(4) RESIDENTIAL USE STANDARDS:

(a) A large tract forest dwelling authorized under ORS 215.740 may be allowed on land zoned for forest use if it complies with other provisions of law and is sited on a tract that does not include a dwelling:

1. of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to paragraph 3 for all tracts that are used to meet the acreage requirements of this subsection.

2. A tract shall not be considered to consist of less than 160 acres because it is crossed by a public road or a waterway.

3. Covenants, Conditions, and Restrictions

   a. Where one or more lots or parcels are required to meet minimum acreage requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as Exhibit A in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

   b. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(b) Ownership of record dwelling

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph 4:

   a. Since prior to January 1, 1985; or

   b. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

2. The tract on which the dwelling will be sited does not include a dwelling;

3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

4. For purposes of this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

5. The dwelling must be located on a tract that is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

    a. A United States Bureau of Land Management road; or

    b. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

6. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and

7. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

8. Covenants, Conditions, and Restrictions

    a. Where one or more lots or parcels are required to meet minimum acreage requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as Exhibit A in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

    b. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized

representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(c) A single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

1. Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:

    a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

    b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

2. Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

    a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

    b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

3. Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

    a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

    b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

4. Lots or parcels within urban growth boundaries shall not be used to satisfy eligibility requirements.

5. A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.

6. Except as provided by paragraph 7, if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

7. If a tract 60 acres or larger abuts a road or perennial stream, the measurement shall be made in accordance with paragraph 6. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

    a. Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

    b. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.

8. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

9. A proposed "template" dwelling under this ordinance is not allowed:

    a. If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;

    b. Unless it complies with the requirements of (9) Siting Standards for Dwellings and Structures in Forest Zones, and (10) Fire-Siting Standards for Dwellings and Structures.

    c. Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (a)3 for the other lots or parcels that make up the tract are met; or

    d. If the tract on which the dwelling will be sited includes a dwelling.

(d) Alteration, restoration or replacement of a lawfully established dwelling, where paragraphs (a) or (b) apply:

1. Alteration or restoration of a lawfully established dwelling that:

    a. Has intact exterior walls and roof structures;

    b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

    c. Has interior wiring for interior lights; and

d. Has a heating system;

2. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(e) A temporary health hardship dwelling is subject to the following:

1. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

a. 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;

b. The county shall review the permit authorizing such manufactured homes every two years; and

c. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.

2. A temporary residence approved under this section is not eligible for replacement under Table 1. Department of Environmental Quality review and removal requirements also apply.

3. As used in this section "hardship" means a health hardship or hardship for the care of an aged or infirm person or persons.

4. A temporary health hardship dwelling is also subject to the Conditional Use Criteria found in Section (8).

(f) For single-family dwellings, the landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(5) COMMERCIAL USE STANDARDS

(a) A home occupation.

1. A home occupation shall:

    a. Be operated by a resident or employee of a resident of the property on which the business is located;

    b. Employ on the site no more than five full-time or part-time persons at any given time;

    c. Shall be operated substantially in:

        i. The dwelling; or

        ii. Other buildings normally associated with uses permitted in the zone in which the property is located, except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences.

    d. Not unreasonably interfere with other uses permitted in the zone in which the property is located.

2. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery and is operated in association with the winery:

    a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

    b. The meals may be served at the bed and breakfast facility or at the winery.

3. The home occupation shall be accessory to an existing, permanent dwelling on the same parcel.

4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.

5. All off-street parking must be provided pursuant to Section 4.030 on the subject parcel where the home occupation is operated.

    a. Employees must use an approved off-street parking area.

    b. Customers visiting the home occupation must use an approved off-street parking area. No more than three vehicles from customers/visitors of the home occupation can be present at any given time on the subject parcel.

6. Signage is subject to the provisions of Section 4.020.

7. Retail sales shall be limited or accessory to a service.

8. Home Occupations shall be subject to a Conditional Use Permit process, pursuant to Subsection (8), unless all of the requirements of Subsection (9) can be met.

9. An in-home commercial activity is not considered a home occupation and does not require a land use permit where all of the following criteria can be met. The in-home activity:

    a. Meets the criteria under 1.c and d; 3 and 4.

    b. Is conducted within a dwelling only by residents of the dwelling.

    c. Does not occupy more than 25 percent of the combined floor area of the dwelling including attached garage and one accessory structure.

    d. Does not serve clients or customers on-site.

    e. Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage.

    f. Does not include the outside storage of materials, equipment or products.

(b) Private seasonal accommodations for fee hunting operations are subject to the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

2. Only minor incidental and accessory retail sales are permitted;

3. Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and

(c) Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:

1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

2. Only minor incidental and accessory retail sales are permitted;

3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

4. Accommodations must be located within one-quarter mile of fish-bearing Class I waters; and

(6) UTILITY, POWER GENERATION, SOLID WASTE USES

(a) A Commercial Utility Facility for the purpose of generating power shall not preclude more than 10 acres from use as a commercial forest operation.

(7) PUBLIC AND QUASI-PUBLIC USES

(a) Storage structures for emergency supplies are subject to the following requirements:

1. Areas within an urban growth boundary cannot reasonably accommodate the structures;

2. The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction;

3. Sites where the structures could be co-located with an existing use approved under this subsection are given preference for consideration;

4. The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;

5. The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and

6. Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.

(b) Public parks may include:

1. All uses allowed under Statewide Planning Goal 3;

2. The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:

a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;

b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;

c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;

e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;

f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and

h. Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.

i. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:

    i. Meeting halls not exceeding 2000 square feet of floor area;

    ii. Dining halls (not restaurants).

(c) Campgrounds.

1. Campgrounds may be permitted, subject to the following.

    a. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

    b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

    c. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

    d. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any six-month period.

2. Campsites within campgrounds meeting the requirement of (7)(c)1 and permitted pursuant to Section (8) must comply with the following:

    a. Allowed uses include tent, travel trailer or recreational vehicle; yurts are also allowed uses, subject to paragraph 2.c.

    b. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts.

3. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

4. A campground shall be permitted as either a Recreation Campground or a Primitive Campground.

    a. Recreation Campgrounds are also subject to provisions in Section 4.060. Where the standards of this section conflict with the standards of Section 4.060, the more restrictive shall apply.

    b. Primitive Campgrounds are also subject to the provisions in Section 4.065. Where the standards of this section conflict with the standards of Section 4.065, the more restrictive shall apply.

(8) CONDITIONAL USE REVIEW CRITERIA:

A use authorized as a conditional use under this zone may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands. Conditional uses are also subject to Article 6, Section 040.

1. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.

2. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

3. A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-006-0025(5)(c).

(9) SITING STANDARDS FOR DWELLINGS AND STRUCTURES IN FOREST ZONES

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest zones. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. The County shall consider the criteria in this section together with the requirements of Section (10) to identify the building site:

(a) The minimum lot width and minimum lot depth shall be 100 feet.

(b) The minimum front, rear, and side yards shall all be 30 feet.

(c) The height of residential structures shall not exceed 35 feet.

(d) Dwellings and structures shall be sited on the parcel so that:

1. They have the least impact on nearby or adjoining forest or agricultural lands;

2. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

3. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and

4. The risks associated with wildfire are minimized.

(e) Siting criteria satisfying Subsection (d) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

(f) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:

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

2. A water use permit issued by the Water Resources Department for the use described in the application; or

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

(g) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

(h) Approval of a dwelling shall be subject to the following requirements:

1. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules;

2. The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

3. If the lot or parcel is more than 10 acres the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;

4. Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the

Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and

5. The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(10) FIRE-SITING STANDARDS FOR DWELLINGS AND STRUCTURES:

The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest zone:

(a) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards that shall comply with the following:

1. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;

2. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;

3. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and

4. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

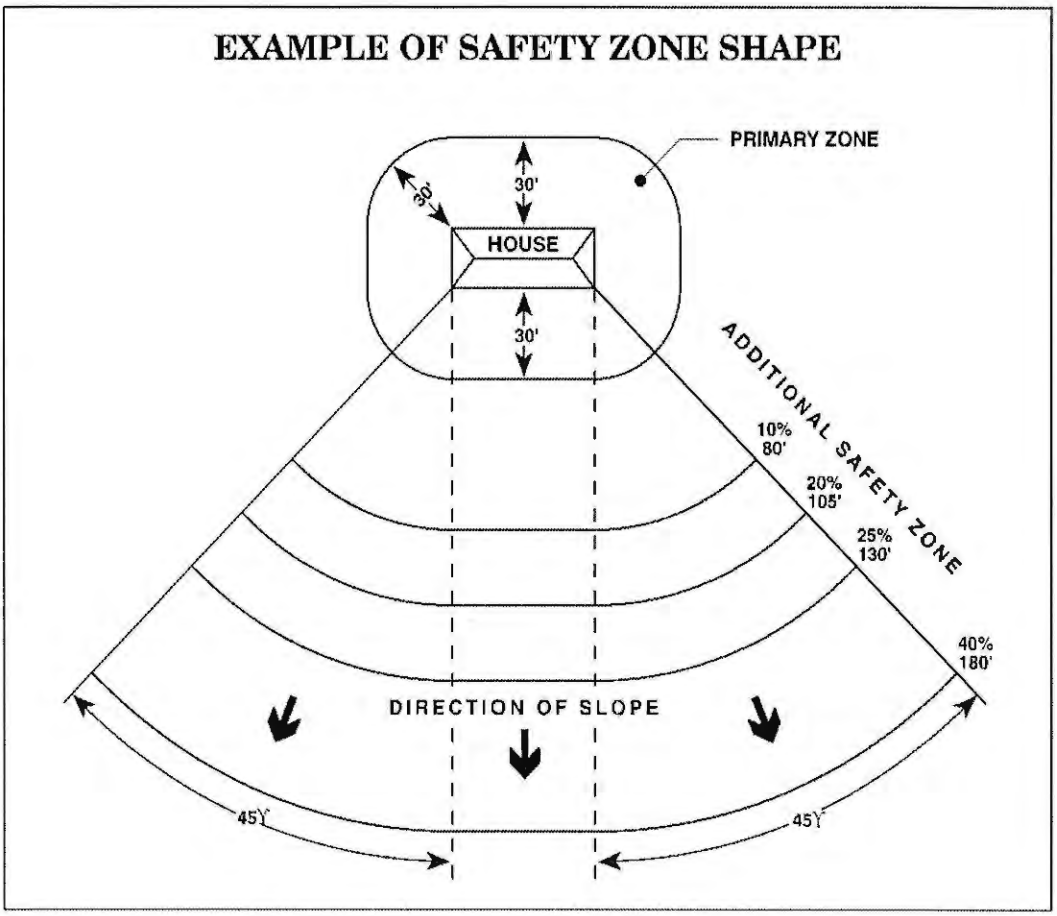
(b) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

(c) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry and shall demonstrate compliance with Table (10)(c)1

Table (1)(c)1 Minimum Primary Safety Zone

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

Figure (10)(c)1 – Example safety zone



(d) The dwelling shall have a fire retardant roof.

(e) The dwelling shall not be sited on a slope of greater than 40 percent.

(f) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

(11) YOUTH CAMPS

(a) The purpose of this section is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.

(b) Changes to or expansions of youth camps established prior to the effective date of this section shall be subject to the provisions of ORS 215.130.

(c) An application for a proposed youth camp shall comply with the following:

1. The number of overnight camp participants that may be accommodated shall be determined by the County based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (c)2 a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.

2. The governing body, or its designated may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under paragraph (c)1.

3. Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.

4. The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.

5. A campground as described in Subsection (7)(c) shall not be established in conjunction with a youth camp.

6. A youth camp shall not be allowed in conjunction with an existing golf course.

7. A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.

(d) The youth camp shall be located on a lawful parcel that is:

1. Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. A youth camp shall be located on a parcel of at least 40 acres.

2. Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the County sets a different setback based upon the following criteria that may be applied on a case-by-case basis:

a. The proposed setback will prevent conflicts with commercial resource management practices;

b. The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and

c. The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.

3. Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate shall verify that a proposed youth camp will not result in the need for a sewer system.

(e) A youth camp may provide for the following facilities:

1. Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.

2. Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.

3. Bathing and laundry facilities except that they shall not be provided in the same building as sleeping quarters.

4. Up to three camp activity buildings, not including primary cooking and eating facilities.

5. Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.

6. Covered areas that are not fully enclosed.

7. Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.

8. An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).

9. A caretaker's residence may be established in conjunction with a youth camp prior to or after June 14, 2000, if no other dwelling exists on the subject property.

(f) A proposed youth camp shall comply with the following fire safety requirements:

1. The fire siting standards in Section (10);

2. A fire safety protection plan shall be developed for each youth camp that includes the following:

    a. Fire prevention measures;

    b. On site pre-suppression and suppression measures; and

    c. The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.

3. Except as determined under paragraph 4, a youth camp's on-site fire suppression capability shall at least include:

    a. A 1000 gallon mobile water supply that can access all areas of the camp;

    b. A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;

    c. A sufficient number of fire-fighting hand tools; and

    d. Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

4. An equivalent level of fire suppression facilities may be determined by the County. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and

consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.

5. The provisions of paragraph (f)4 may be waived by the County, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.

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

(12) LAND DIVISIONS

(a) The minimum parcel size for new forest parcels is 80 (eighty) acres.

(b) New land divisions less than the parcel size in Subsection (a) may be approved for any of the following circumstances:

1. For the uses listed in 1.a through r below, provided that such uses have been approved pursuant to Section (8) and the parcel created from the division is the minimum size necessary for the use.

a. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.

b. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.

c. Destination resorts.

d. Log scaling and weigh stations.

e. Permanent facility for the primary processing of forest products.

f. Permanent logging equipment repair and storage.

g. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise

permitted under this ordinance (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.

h. Television, microwave and radio communication facilities and transmission towers.

i. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

j. Reservoirs and water impoundments.

k. Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

l. Commercial utility facilities for the purpose of generating power.

m. Aids to navigation and aviation.

n. Firearms training facility.

o. Fire stations for rural fire protection.

p. Cemeteries.

q. Public parks.

r. Private parks and campgrounds.

2. For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

a. The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres; and

b. The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

i. Meets the minimum land division standards of the zone; or

ii. Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.

c. The minimum tract eligible under Subsection (2) is 40 acres.

d. The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321.

e. The remainder of the tract does not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

3. To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection (a). Approvals shall be based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection (a) in order to conduct the forest practice. Parcels created pursuant to this paragraph:

a. Are not eligible for siting of a new dwelling;

b. May not serve as the justification for the siting of a future dwelling on other lots or parcels;

c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

i. Facilitate an exchange of lands involving a governmental agency; or

ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.

4. To allow a division of a lot or parcel zoned for forest use if:

a. At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

b. Each dwelling complies with the criteria for a replacement dwelling;

c. Except for one parcel, each parcel created under this paragraph is between two and five acres in size;

d. At least one dwelling is located on each parcel created under this paragraph; and

e. The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

5. To allow a proposed division of land to preserve open space or parks as provided in ORS 215.783.

(c) A lot or parcel may not be divided under paragraph (b)4 if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel

(d) Restrictions

1. An applicant for the creation of a parcel pursuant to paragraph (b)2 shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection (b).

2. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.

(e) A landowner allowed a land division under Subsection (b) shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(13) USE TABLE

Table 1 identifies the uses permitted in the F zone. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type 1, 2, or 3 review, unless otherwise specified on Table 1. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this ordinance.

(a) As used in Table 1:

1. The "Subject To" column identifies any specific provisions of to which the use is subject.

2. "N" means the use is not allowed.

3. "Permitted uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance.

Table 1: Use Table for Forest Zones

A= Allowed 1 = Review Type 1 2 = Review Type 2 3 = Review Type 3

N= Prohibited

USE	REVIEW	SUBJECT TO 3.004
Forest, Farm and Natural Resource Uses		
Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash.	A	
Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	A	
Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.	A	
Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.	A	
Farm use as defined in ORS 215.203.	A	
Uninhabitable structures accessory to fish and wildlife enhancement.	A	

USE	REVIEW	SUBJECT TO 3.004
An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building to another use.	A	
Log scaling and weigh stations.	2	(8)
Forest management research and experimentation facilities that require a Building Permit.	2	(8)
Residential Uses		
Caretaker residences for public parks and public fish hatcheries.	A	(4)(f)
Large tract forest dwelling	1	(4)(a) (4)(f)
Ownership of record dwelling	1	(4)(b) (4)(f)
Template dwelling.	1	(4)(c) (4)(f)
Alteration, restoration or replacement of a lawfully established dwelling.	1	(4)(d) (4)(f)
Temporary health hardship dwelling	2	(4)(e) (8)
Commercial Uses		
Temporary portable facility for the primary processing of forest products.	A	
Temporary forest labor camps.	A	
Private hunting and fishing operations without any lodging accommodations.	A	
Destination resort.	3	
Parking of up to seven dump trucks and trailers.	A	
Parking of more than seven dump trucks and trailers.	2	(8)
Home occupations.	2	(5)(a) (8)
Permanent facility for the primary processing of forest products.	3	(8)
Permanent logging equipment repair and storage.	2	(8)
Private seasonal accommodations for fee hunting operations.	3	(5)(b) (8)
Private accommodations for fishing occupied on a temporary basis.	2	(5)(c) (8)
Mineral, Aggregate, Oil and Gas Uses		
Exploration for mineral and aggregate resources as defined in ORS chapter 517.	A	

USE	REVIEW	SUBJECT TO 3.004
Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.	A	
Mining and processing of oil, gas or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted (e.g. compressors, separators and storage servicing multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517.	3	(8)
Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	2	(8)
Transportation Uses		
Widening of roads within existing rights-of-way in conformance with the transportation element of the comprehensive plans and public road and highway projects	A	
Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.	2	(8)
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.	2	(8)
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.	2	(8)
Expansion of existing airports.	3	(8)
Utility, Power Generation, Solid Waste Uses		
Local distribution lines (e.g. electric, telephone, natural gas) & accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.	A	
Water intake facilities, canals and distribution lines for farm irrigation and ponds.	A	
Non-commercial/stand alone power generating facility associated with an approved use	A	
Net metering power facility associated with an approved use	A	
Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation	1	

USE	REVIEW	SUBJECT TO 3.004
Television, microwave and radio communication facilities and transmission towers.	2	(8)
New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210.	2	(8)
New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) resulting in the acquisition of rights-of-way 50 feet or less in width.	2	(8)
Water intake facilities, related treatment facilities, pumping stations and distribution lines.	2	(8)
Reservoirs and water impoundments.	2	(8)
Disposal site for solid waste approved by the governing body and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.	3	(8)
Commercial utility facilities for the purpose of generating power.	2	(6) (8)
Public and Quasi-public Uses		
Towers and fire stations for forest fire protection	A	
Youth camps	2	(11) (8)
Aids to navigation and aviation	2	(8)
Firearms training facility.	2	(8)
Fire stations for rural fire protection.	A	(8)
Cemeteries.	2	(8)
Storage structures for emergency supplies.	2	(7)(a) (8)
Public parks and campgrounds.	2	(7)(b) (8)
Private parks and campgrounds.	2	(7)(c) (8)
Outdoor Gatherings		
An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735.	1	
Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period.	2	(8)

Red denotes changes recommended by the Planning Commission at the April 9, 2015 meeting

SECTION 3.004 FOREST ZONE (F)

Contents

(1) PURPOSE

(a) The purpose of the Forest (F) Zone is to protect and maintain forest lands for grazing, and rangeland use and forest use, consistent with existing and future needs for agricultural and forest products. The F zone is also intended to allow other uses that are compatible with agricultural and forest activities, to protect scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.

(b) The F zone has been applied to lands designated as Forest in the Comprehensive Plan. The provisions of the F zone reflect the forest land policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-006. The minimum parcel size and other standards established by this zone are intended to promote commercial forest operations.

(2) DEFINITIONS

Words used in the present tense include the future; the singular number includes the plural; and the word "shall" is mandatory and not directory. Whenever the term "this

ordinance" is used herewith, it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted.

For the purpose of this zone, the following definitions apply:

(a) Definitions contained in ORS 197.015 and the Statewide Planning Goals.

(b) ACCESSORY STRUCTURE OR BUILDING: A detached structure, the use of which is customarily incidental to that of the primary structure or the primary use of the land and which is located on the same lot or parcel as the primary structure or use, and for which the owner files a restrictive covenant in the deed records of the county agreeing that the accessory structure will not be used as a residence or rental unit.

(c) AGRICULTURAL BUILDING: Any structure that is considered to be an "agricultural building" under the State Building Code (Section 326) that is on a parcel of at least 10 acres in size , that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner (1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and (2) files a restrictive covenant in the deed records of the County agreeing that the agricultural building will not be used as a residence or rental unit.

(d) AUXILIARY: A use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(e) BED AND BREAKFAST ENTERPRISE: an accessory use in a single-family dwelling in which lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. A bed and breakfast facility must be within the residence of the operator and be compliant with the requirements of ORS 333-170-0000(1) A bed and breakfast facility may be reviewed as a home occupation in the Forest Zone.

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

(g) COMMERCIAL POWER GENERATING FACILITY: A facility for the production of energy and its related or supporting facilities that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, thermal power, geothermal power, landfill gas, digester gas, waste, dedicated energy

crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones that allow "Farm Use" and 215.283(1)(r) and 215.283(2)(a) in the EFU zone;

2. Is intended to provide energy for sale; and

3. Does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

(h) COMMERCIAL TREE SPECIES: Trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.

(i) CONTIGUOUS: Lots, parcels or lots and parcels that have a common boundary. "Contiguous" includes, but is not limited to, lots, parcels, or lots and parcels separated only by an alley, street, or other right-of-way.

(j) CUBIC FOOT PER ACRE PER YEAR: The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(k) CUBIC FOOT PER TRACT PER YEAR: The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(l) 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.

(m) EVENT, TEMPORARY: A temporary event is one that ~~is held primarily on or is using Public Property that~~ has an expected attendance of no more than 3,000 people, that will not continue for more than three consecutive days, and that will be located in a rural or resource area. Temporary Events are permitted through a Type I process and are not considered "outdoor mass gatherings" as defined by ORS 433.735 or Agri-tourism events as provided for by ORS 215.283(4).

(n) FOREST OPERATION: Any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620(6).

(o) GOVERNING BODY: A city council, county board of commissioners, or county court or its designate, including planning director, hearings officer, planning commission or as provided by Oregon law.

(p) HEALTH HARDSHIP: A temporary circumstance caused by serious illness or infirmity, not to exceed two years in duration, and authorized by a licensed medical practitioner (Medical Doctor, Physicians Assistant or Nurse Practitioner)

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

(r) LOT: A single unit of land that is created by a subdivision of land as provided in ORS 92.010.

(s) MINING, AGGREGATE: For purposes of this Section, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.

(t) NET METERING POWER FACILITY: A facility for the production of energy that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel;

2. Is intended to offset part of the customer-generator's requirements for energy;

3. Will operate in parallel with a utility's existing transmission and distribution facilities;

4. Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;

5. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

(u) NON-COMMERCIAL/STAND ALONE POWER GENERATING FACILITY: A facility for the production of energy that:

1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel;

2. Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to;

3. Operates as a standalone power generator not connected to a utility grid; and

4. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

(v) OUTDOOR MASS GATHERING: A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4) and do not include a Temporary Event or Outdoor Event reviewed under Article 5 Section 150.

(w) PARCEL: A single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).

(x) PRIVATE PARK: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above, but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.

(y) PUBLIC PARK: A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, state or federal agency, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance.

(z) RELATIVE: means a spouse, child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.

(aa) STORAGE STRUCTURES FOR EMERGENCY SUPPLIES: Structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.

(bb) TEMPORARY STRUCTURE OR USE: A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.

(cc) TRACT: One or more contiguous lots or parcels in the same ownership.

(dd) UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE: Unless otherwise specified in this Article, any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, dams & and other hydroelectric facilities, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.

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

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

(3) DEVELOPMENT STANDARDS

(a) Land divisions and development in the F-1 Zone shall conform to the following standards, unless more restrictive supplemental regulations apply:

1. The minimum lot width and minimum lot depth shall be 100 feet.

2. The minimum front, rear, and side yards shall all be 30 feet.

3. The height of residential structures shall not exceed 35 feet.

(4) RESIDENTIAL USE STANDARDS:

(a) A large tract forest dwelling authorized under ORS 215.740 may be allowed on land zoned for forest use if it complies with other provisions of law and is sited on a tract that does not include a dwelling:

1. of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to paragraph 3 for all tracts that are used to meet the acreage requirements of this subsection.

2. A tract shall not be considered to consist of less than 160 acres because it is crossed by a public road or a waterway.

3. Covenants, Conditions, and Restrictions

a. Where one or more lots or parcels are required to meet minimum acreage requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as Exhibit A in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

b. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(b) Ownership of record dwelling

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph 4:

a. Since prior to January 1, 1985; or

b. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

2. The tract on which the dwelling will be sited does not include a dwelling;

3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

4. For purposes of this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

5. The dwelling must be located on a tract that is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

    a. A United States Bureau of Land Management road; or

    b. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

6. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and

7. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

8. Covenants, Conditions, and Restrictions

    a. Where one or more lots or parcels are required to meet minimum acreage requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as Exhibit A in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

b. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(c) A single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

1. Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:

   a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

   b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

2. Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

   a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

   b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

3. Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

   a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

   b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

4. Lots or parcels within urban growth boundaries shall not be used to satisfy eligibility requirements.

5. A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.

6. Except as provided by paragraph 7, if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the

center of the subject tract and that is to the maximum extent possible, aligned with the road.

7. If a tract 60 acres or larger abuts a road or perennial stream, the measurement shall be made in accordance with paragraph 6. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

    a. Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

    b. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.

8. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

9. A proposed "template" dwelling under this ordinance is not allowed:

    a. If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;

    b. Unless it complies with the requirements of (9) Siting Standards for Dwellings and Structures in Forest Zones, and (10) Fire-Siting Standards for Dwellings and Structures.

    c. Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (a)3 for the other lots or parcels that make up the tract are met; or

    d. If the tract on which the dwelling will be sited includes a dwelling.

(d) Alteration, restoration or replacement of a lawfully established dwelling, where paragraphs (a) or (b) apply:

1. Alteration or restoration of a lawfully established dwelling that:

    a. Has intact exterior walls and roof structures;

b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

c. Has interior wiring for interior lights; and

d. Has a heating system;

2. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(e) A temporary health hardship dwelling is subject to the following:

1. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

a. 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;

b. The county shall review the permit authorizing such manufactured homes every two years; and

c. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.

2. A temporary residence approved under this section is not eligible for replacement under Table 1. Department of Environmental Quality review and removal requirements also apply.

3. As used in this section "hardship" means a health hardship or hardship for the care of an aged or infirm person or persons.

4. A temporary health hardship dwelling is also subject to the Conditional Use Criteria found in Section (8).

(f) For single-family dwellings, the landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or

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

(5) COMMERCIAL USE STANDARDS

(a) A home occupation.

1. A home occupation shall:

   a. Be operated by a resident or employee of a resident of the property on which the business is located;

   b. Employ on the site no more than five full-time or part-time persons at any given time;

   c. Shall be operated substantially in:

      i. The dwelling; or

      ii. Other buildings normally associated with uses permitted in the zone in which the property is located, except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences.

   d. Not unreasonably interfere with other uses permitted in the zone in which the property is located.

2. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery and is operated in association with the winery:

   a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

   b. The meals may be served at the bed and breakfast facility or at the winery.

3. The home occupation shall be accessory to an existing, permanent dwelling on the same parcel.

4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.

5. All off-street parking must be provided pursuant to Section 4.030 on the subject parcel where the home occupation is operated.

a. Employees must use an approved off-street parking area.

b. Customers visiting the home occupation must use an approved off-street parking area. No more than three vehicles from customers/visitors of the home occupation can be present at any given time on the subject parcel.

6. Signage is subject to the provisions of Section 4.020.

7. Retail sales shall be limited or accessory to a service.

8. Home Occupations shall be subject to a Conditional Use Permit process, pursuant to Subsection (8), unless all of the requirements of Subsection (9) can be met.

9. An in-home commercial activity is not considered a home occupation and does not require a land use permit where all of the following criteria can be met. The in-home activity:

a. Meets the criteria under 1.c and d; 3 and 4.

b. Is conducted within a dwelling only by residents of the dwelling.

c. Does not occupy more than 25 percent of the combined floor area of the dwelling including attached garage and one accessory structure.

d. Does not serve clients or customers on-site.

e. Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage.

f. Does not include the outside storage of materials, equipment or products.

(b) Private seasonal accommodations for fee hunting operations are subject to the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

2. Only minor incidental and accessory retail sales are permitted;

3. Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and

(c) Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:

1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

2. Only minor incidental and accessory retail sales are permitted;

3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

4. Accommodations must be located within one-quarter mile of fish-bearing Class I waters; and

~~(d) A Destination Resort is not permitted on high value farmland.~~

(6) UTILITY, POWER GENERATION, SOLID WASTE USES

(a) A Commercial Utility Facility for the purpose of generating power shall not preclude more than 10 acres from use as a commercial forest operation.

(7) PUBLIC AND QUASI-PUBLIC USES

(a) Storage structures for emergency supplies are subject to the following requirements:

1. Areas within an urban growth boundary cannot reasonably accommodate the structures;

2. The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction;

3. Sites where the structures could be co-located with an existing use approved under this subsection are given preference for consideration;

4. The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;

5. The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and

6. Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.

(b) Public parks may include:

1. All uses allowed under Statewide Planning Goal 3;

2. The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:

   a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;

   b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;

   c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

   d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;

   e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;

   f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

   g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and

   h. Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.

   i. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:

i. Meeting halls not exceeding 2000 square feet of floor area;

ii. Dining halls (not restaurants).

(c) Campgrounds.

1. Campgrounds may be permitted, subject to the following.

a. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

c. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

d. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any ~~consecutive~~ six-month period.

2. Campsites within campgrounds meeting the requirement of (7)(c)1 and permitted pursuant to Section (8) must comply with the following:

a. Allowed uses include tent, travel trailer or recreational vehicle; yurts are also allowed uses, subject to paragraph 2.c.

b. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts.

3. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

4. A campground shall be permitted as either a Recreation Campground or a Primitive Campground.

a. Recreation Campgrounds are also subject to provisions in Section 4.060. Where the standards of this section conflict with the standards of Section 4.060, the more restrictive shall apply.

b. Primitive Campgrounds are also subject to the provisions in Section 4.065. Where the standards of this section conflict with the standards of Section 4.065, the more restrictive shall apply.

(8) CONDITIONAL USE REVIEW CRITERIA:

A use authorized as a conditional use under this zone may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands. Conditional uses are also subject to Article 6, Section 040.

1. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.

2. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

3. A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-006-0025(5)(c).

(9) SITING STANDARDS FOR DWELLINGS AND STRUCTURES IN FOREST ZONES

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest zones. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. The County shall consider the criteria in this section together with the requirements of Section (10) to identify the building site:

(a) The minimum lot width and minimum lot depth shall be 100 feet.

(b) The minimum front, rear, and side yards shall all be 30 feet.

(c) The height of residential structures shall not exceed 35 feet.

(d) Dwellings and structures shall be sited on the parcel so that:

1. They have the least impact on nearby or adjoining forest or agricultural lands;

2. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

3. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and

4. The risks associated with wildfire are minimized.

(e) Siting criteria satisfying Subsection (d) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

(f) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:

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

2. A water use permit issued by the Water Resources Department for the use described in the application; or

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

(g) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

(h) Approval of a dwelling shall be subject to the following requirements:

1. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in ~~d~~Department of Forestry administrative rules;

2. The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

3. If the lot or parcel is more than 10 acres the property owner shall submit a stocking survey report to the county assessor and the assessor will verify

that the minimum stocking requirements have been met by the time required by Department of Forestry rules;

4. Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and

5. The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(10) FIRE-SITING STANDARDS FOR DWELLINGS AND STRUCTURES:

The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest zone:

(a) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards that shall comply with the following:

1. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;

2. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;

3. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and

4. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

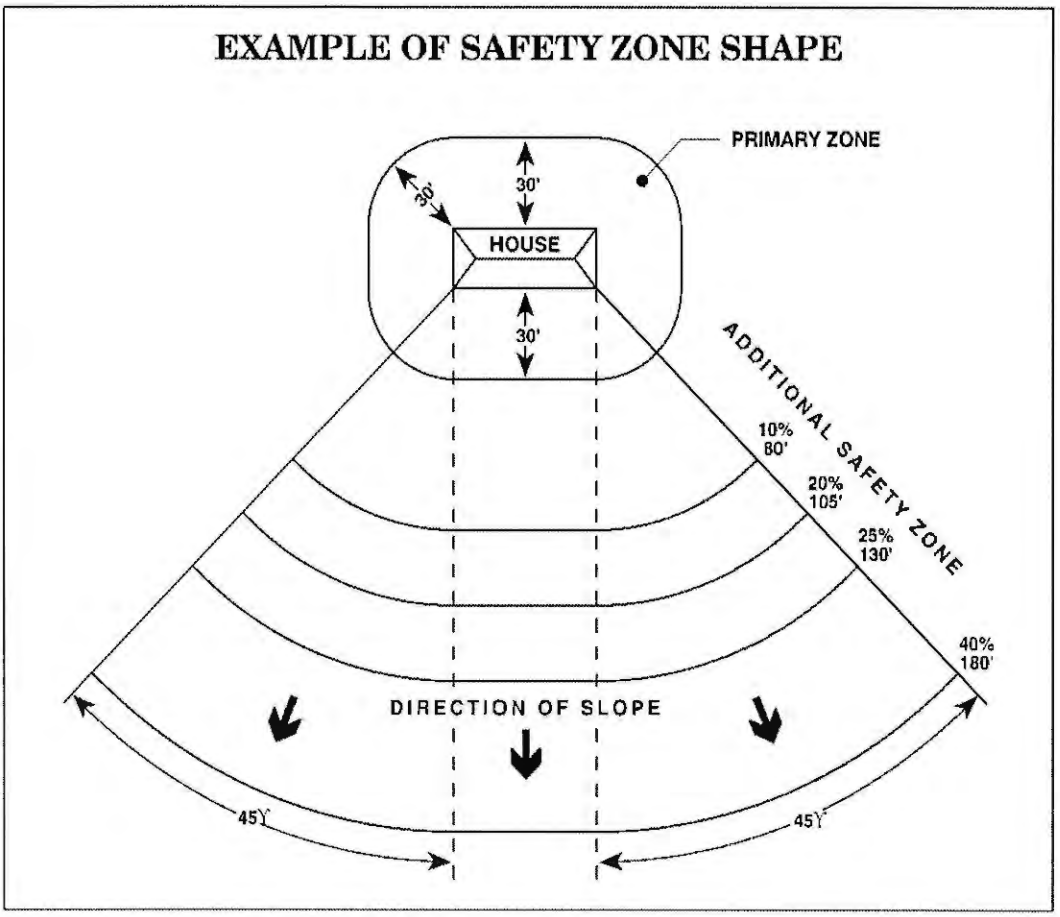
(b) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

(c) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry and shall demonstrate compliance with Table (10)(c)1

Table (1)(c)1 Minimum Primary Safety Zone

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

Figure (10)(c)1 – Example safety zone



(d) The dwelling shall have a fire retardant roof.

(e) The dwelling shall not be sited on a slope of greater than 40 percent.

(f) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

(11) YOUTH CAMPS

(a) The purpose of this section is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.

(b) Changes to or expansions of youth camps established prior to the effective date of this section shall be subject to the provisions of ORS 215.130.

(c) An application for a proposed youth camp shall comply with the following:

1. The number of overnight camp participants that may be accommodated shall be determined by the County based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (c)2 a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.

2. The governing body, or its designated may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under paragraph (c)1.

3. Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.

4. The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.

5. A campground as described in Subsection (7)(c) shall not be established in conjunction with a youth camp.

6. A youth camp shall not be allowed in conjunction with an existing golf course.

7. A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.

(d) The youth camp shall be located on a lawful parcel that is:

1. Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. A youth camp shall be located on a parcel of at least 40 acres.

2. Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the County sets a different setback based upon the following criteria that may be applied on a case-by-case basis:

a. The proposed setback will prevent conflicts with commercial resource management practices;

b. The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and

c. The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.

3. Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate shall verify that a proposed youth camp will not result in the need for a sewer system.

(e) A youth camp may provide for the following facilities:

1. Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.

2. Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.

3. Bathing and laundry facilities except that they shall not be provided in the same building as sleeping quarters.

4. Up to three camp activity buildings, not including primary cooking and eating facilities.

5. Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.

6. Covered areas that are not fully enclosed.

7. Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.

8. An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).

9. A caretaker's residence may be established in conjunction with a youth camp prior to or after June 14, 2000, if no other dwelling exists on the subject property.

(f) A proposed youth camp shall comply with the following fire safety requirements:

1. The fire siting standards in Section (10);

2. A fire safety protection plan shall be developed for each youth camp that includes the following:

   a. Fire prevention measures;

   b. On site pre-suppression and suppression measures; and

   c. The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.

3. Except as determined under paragraph 4, a youth camp's on-site fire suppression capability shall at least include:

   a. A 1000 gallon mobile water supply that can access all areas of the camp;

   b. A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;

   c. A sufficient number of fire-fighting hand tools; and

   d. Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

4. An equivalent level of fire suppression facilities may be determined by the County. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and

consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.

5. The provisions of paragraph (f)4 may be waived by the County, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.

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

(12) LAND DIVISIONS

(a) The minimum parcel size for new forest parcels is 80 (eighty) acres.

(b) New land divisions less than the parcel size in Subsection (a) may be approved for any of the following circumstances:

1. For the uses listed in 1.a through r below, provided that such uses have been approved pursuant to Section (8) and the parcel created from the division is the minimum size necessary for the use.

a. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.

b. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.

c. Destination resorts.

d. Log scaling and weigh stations.

e. Permanent facility for the primary processing of forest products.

f. Permanent logging equipment repair and storage.

g. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise

permitted under this ordinance (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.

h. Television, microwave and radio communication facilities and transmission towers.

i. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

j. Reservoirs and water impoundments.

k. Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

l. Commercial utility facilities for the purpose of generating power.

m. Aids to navigation and aviation.

n. Firearms training facility.

o. Fire stations for rural fire protection.

p. Cemeteries.

q. Public parks.

r. Private parks and campgrounds.

2. For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

a. The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres; and

b. The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

i. Meets the minimum land division standards of the zone; or

ii. Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.

c. The minimum tract eligible under Subsection (2) is 40 acres.

d. The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321.

e. The remainder of the tract does not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

3. To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection (a). Approvals shall be based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection (a) in order to conduct the forest practice. Parcels created pursuant to this paragraph:

a. Are not eligible for siting of a new dwelling;

b. May not serve as the justification for the siting of a future dwelling on other lots or parcels;

c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

i. Facilitate an exchange of lands involving a governmental agency; or

ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.

4. To allow a division of a lot or parcel zoned for forest use if:

a. At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

b. Each dwelling complies with the criteria for a replacement dwelling;

c. Except for one parcel, each parcel created under this paragraph is between two and five acres in size;

d. At least one dwelling is located on each parcel created under this paragraph; and

e. The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

5. To allow a proposed division of land to preserve open space or parks as provided in ORS 215.783.

(c) A lot or parcel may not be divided under paragraph (b)4 if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel

(d) Restrictions

1. An applicant for the creation of a parcel pursuant to paragraph (b)2 shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection (b).

2. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.

(e) A landowner allowed a land division under Subsection (b) shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(13) USE TABLE

Table 1 identifies the uses permitted in the F zone. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type 1, 2, or 3 review, unless otherwise specified on Table 1. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this ordinance.

(a) As used in Table 1:

1. The "Subject To" column identifies any specific provisions of to which the use is subject.

2. "N" means the use is not allowed.

3. "Permitted uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance.

Table 1: Use Table for Forest Zones

A= Allowed 1 = Review Type 1 2 = Review Type 2 3 = Review Type 3

N= Prohibited

USE	REVIEW	SUBJECT TO 3.004
Forest, Farm and Natural Resource Uses		
Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash.	A	
Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	A	
Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.	A	
Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.	A	
Farm use as defined in ORS 215.203.	A	
Uninhabitable structures accessory to fish and wildlife enhancement.	A	

USE	REVIEW	SUBJECT TO 3.004
An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building to another use.	A	
Log scaling and weigh stations.	2	(8)
Forest management research and experimentation facilities ~~as defined by ORS 526.215~~ that require a Building Permit.	2	(8)
Residential Uses		
Caretaker residences for public parks and public fish hatcheries.	A	(4)(f)
Large tract forest dwelling	1	(4)(a) (4)(f)
Ownership of record dwelling	1	(4)(b) (4)(f)
Template dwelling.	1	(4)(c) (4)(f)
Alteration, restoration or replacement of a lawfully established dwelling.	1	(4)(d) (4)(f)
Temporary health hardship dwelling	2	(4)(e) (8)
Commercial Uses		
Temporary portable facility for the primary processing of forest products.	A	
Temporary forest labor camps.	A	
Private hunting and fishing operations without any lodging accommodations.	A	
Destination resort.	3	~~(5)(d)~~
Parking of up to seven dump trucks and trailers.	A	
Parking of more than seven dump trucks and trailers.	2	(8)
Home occupations.	2	(5)(a) (8)
Permanent facility for the primary processing of forest products.	3	(8)
Permanent logging equipment repair and storage.	2	(8)
Private seasonal accommodations for fee hunting operations.	3	(5)(b) (8)
Private accommodations for fishing occupied on a temporary basis.	2	(5)(c) (8)
Mineral, Aggregate, Oil and Gas Uses		
Exploration for mineral and aggregate resources as defined in ORS chapter 517.	A	

USE	REVIEW	SUBJECT TO 3.004
Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.	A	
Mining and processing of oil, gas or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted (e.g. compressors, separators and storage servicing multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517.	3	(8)
Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	2	(8)
Transportation Uses		
Widening of roads within existing rights-of-way in conformance with the transportation element of the comprehensive plans and public road and highway projects	A	
Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.	2	(8)
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.	2	(8)
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.	2	(8)
Expansion of existing airports.	3	(8)
Utility, Power Generation, Solid Waste Uses		
Local distribution lines (e.g. electric, telephone, natural gas) & accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.	A	
Water intake facilities, canals and distribution lines for farm irrigation and ponds.	A	
Non-commercial/stand alone power generating facility associated with an approved use	A	
Net metering power facility associated with an approved use	A	
Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation	1	

USE	REVIEW	SUBJECT TO 3.004
Television, microwave and radio communication facilities and transmission towers.	2	(8)
New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210.	2	(8)
New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) resulting in the acquisition of rights-of-way 50 feet or less in width.	2	(8)
Water intake facilities, related treatment facilities, pumping stations and distribution lines.	2	(8)
Reservoirs and water impoundments.	2	(8)
Disposal site for solid waste approved by the governing body and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.	3	(8)
Commercial utility facilities for the purpose of generating power.	2	(6) (8)
Public and Quasi-public Uses		
Towers and fire stations for forest fire protection	A	
Youth camps	2	(11) (8)
Aids to navigation and aviation	2	(8)
Firearms training facility.	2	(8)
Fire stations for rural fire protection.	A	(8)
Cemeteries.	2	(8)
Storage structures for emergency supplies.	2	(7)(a) (8)
Public parks and campgrounds.	2	(7)(b) (8)
Private parks and campgrounds.	2	(7)(c) (8)
Outdoor Gatherings		
An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735.	1	
Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period.	2	(8)

Land Use Ordinance Article 1 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 1	NOTES
~~INTRODUCTORY PROVISIONS~~ INTRODUCTION AND GENERAL PROVISIONS	Proposed title is more inclusive and accommodates information moved from Article 11 (Compliance and Penalties) and Article 12 (Miscellaneous Provisions).
SECTION 1.010: TITLE	
This Ordinance shall be known as the TILLAMOOK COUNTY LAND USE ORDINANCE of 1981.	
SECTION 1.020: PURPOSE	
The purposes of this Ordinance are to encourage the orderly development of land in the County; to promote appropriate uses of land; to preserve and stabilize the value of property; to aid in the provision of fire and police protection; to preserve access to adequate light and air; to minimize traffic congestion; to prevent undue concentration of population; to facilitate the provision of community services such as water supply and sewage treatment; to encourage the conservation of non-renewable energy resources and provide for the use of renewable energy resources; to protect and enhance the appearance of the landscape; and in general to protect and promote the public health, safety, convenience and general welfare.	
SECTION 1.030: ~~DEFINITIONS~~ COMPLIANCE WITH ORDINANCE PROVISIONS	Definitions moved to Article 11. "Compliance with Ordinance Provisions" moved from Article 11.
(1) No application made under the provisions of this Ordinance shall be approved unless COMPLIANCE can be shown with all applicable local, State, and Federal laws. A lot or parcel may be used, and a structure or part of a structure constructed, reconstructed, altered, occupied, or used, only in accordance with the requirements of this ordinance.	Moved from Section 11.010

DRAFT LUO ARTICLE 1	NOTES
(2) Any application or any decisions based upon any State or local regulation administered by the Director, the Department, the Commission, or the Board, shall constitute an application or a decision pursuant to this Ordinance.	Moved from Section 11.010
(3) The requirements of this Ordinance apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons' successors in interest	New text.
(4) The transfer of development standards is prohibited. Except as otherwise specifically authorized by this Ordinance, no lot area, landscaping, or open space that is used to satisfy a requirement of this Ordinance for one use shall be used to satisfy the same requirement of another use.	New text.
SECTION 1.040: PENALTIES Any use of land contrary to the County's Comprehensive Plan or this Ordinance is prohibited. Any person violating any of the provisions of this Ordinance shall be subject to the provisions of ORS 203.065 and 215.185, or as they may be subsequently amended or replaced, and to any County Ordinance which provides for enforcement of this Ordinance. A violation of this Ordinance shall be considered a separate offense for each day the violation continues.	New Section number; text moved from Section 11.020
SECTION 1.050: RULES OF CODE CONSTRUCTION	New section heading.
(1) Provisions of this Code Declared to be Minimum Requirements. The provisions of this Ordinance, in their interpretation and application, are minimum requirements, adopted for the protection of the public health, safety, and general welfare.	New text.
(2) Where any requirement of this Ordinance is less restrictive than comparable requirements of this Ordinance or of any other Ordinance, resolution, or regulation, the provisions which are more restrictive shall govern.	New numbering; text moved from Section 12.010
SECTION 1.060: ORDINANCE INTERPRETATIONS Some terms or phrases within this Ordinance may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Ordinance text.	New Section 1.060.

DRAFT LUO ARTICLE 1	NOTES
(1) Authorization of Similar Uses. Where a proposed use is not specifically identified by this Ordinance, or the Ordinance is unclear as to whether the use is allowed in a particular zone, the Director may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Ordinance accordingly. However, uses and activities that this Ordinance specifically prohibits in the subject zone, and uses and activities that the Director finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of County officials shall be processed following the Type II procedure of Article 10. The Director may refer a request for a similar use determination to the Planning Commission for its review and decision.	
(2) Ordinance Interpretation Procedure. Requests for Ordinance interpretations, including but not limited to similar use determinations, shall be made in writing to the Director and shall be processed as follows: (a) The Director, within 10 days of the inquiry, shall advise the person making the inquiry in writing as to whether the County will make a formal interpretation. (b) Where an interpretation does not involve the exercise of discretion, the Director shall advise the person making the inquiry of his or her decision within a reasonable timeframe and without public notice. (c) Where an interpretation requires discretion, the Director shall inform the person making the request that an application for code interpretation is required and advise the applicant on how to make the request. At a minimum, an application for code interpretation shall include a letter citing the nature and reasons for the request, and, as required, a County fee. The Director then shall review relevant background information, including but not limited to other relevant Ordinance sections and previous County land use decisions, and follow the Type II review and decision making procedures in Article 10.	
(3) Written Interpretation. Following the close of the public comment period on an application for a code interpretation, the Director shall mail or deliver the County's decision in writing to the person requesting it and to all parties who received review notice. The decision shall become effective when the appeal period for the decision expires.	

DRAFT LUO ARTICLE 1	NOTES
(4) Referral to Board of Commissioners. Where a code interpretation may have significant countywide policy implications, the Director may bypass the procedure in Subsection 1.060(2) and refer the request directly to the Board of Commissioners for its legislative review in a public hearing; such public hearings shall be conducted following Type IV procedure of Article 10.	
(5) Interpretations On File. The County shall keep on file a record of its Ordinance interpretations.	
SECTION 1.070: SEVERABILITY The provisions of this Ordinance are severable. If any Section, sentence, clause, or phrase of this Ordinance is adjudged by a Court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.	New Section number; text moved from Section 12.020
SECTION 1.080: REPEALER Tillamook County Ordinances No. [...] and all Amendments thereto are hereby REPEALED	New Section number; text moved from Section 12.030
SECTION 1.090: ADOPTION This Ordinance shall be in full force and effect ninety days after its adoption. Adopted this ~~30th day of December, 1981.~~ Amended May 27, 2015	New Section number; text moved from Section 12.040 [County Staff to update.]
BOARD OF COUNTY COMMISSIONERS OF TILLAMOOK COUNTY, OREGON ~~By s/Gerald Woodward, Chairman~~ Tim Josi, Chairman ~~By s/F. E. Knight, Commissioner~~ Mark Labhart, Commissioner ~~By s/Carol Williams, Commissioner~~ Bill Baertlein, Commissioner APPROVED AS TO FORM: ~~Lynn Rosik, County Counsel~~ William Sargent, County Counsel RECORDING SECRETARY: ~~Nina Gallino~~ Sue Becraft, Board Secretary	Moved from Section 12 [County Staff to update.]

Land Use Ordinance Article 2 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 2	NOTES
PROVISIONS FOR ZONES	
SECTION 2.010: ESTABLISHMENT OF ZONES	
For the purpose of this Ordinance the following zones are hereby established in Tillamook County:	
MAP DESIGNATION ZONE **Resource Zones** 3.002 F-1* Farm* 3.004 F* Forest* 3.006 SFW-20* Small Farm Woodlot -20* 3.008 SFW-10 Small Farm and Woodlot-10 acre **Residential Zones** 3.010 RR-2, RR-10 Rural Residential 2 Acre and Rural Residential 10 Acre 3.011 CSFR Community Single Family Residential 3.012 CR-1 Community Low Density Urban Residential 3.014 CR-2 Community Medium Density Urban Residential 3.016 CR-3 Community High Density Urban Residential 3.018 RMH Residential Mobile Home **Commercial Zones** 3.020 RC Rural Commercial 3.022 CC Community Commercial 3.024 CP Community Public Use **Industrial Zones** 3.030 RI Rural Industrial 3.031 CI Community Industrial 3.032 M-1 General Industrial **Recreational/Resort Zones** ~~3.034 UFO Utilities Facilities Overlay~~ 3.040 RM Recreation Management 3.042 RN Recreation Natural 3.044 RD Recreation Development 3.045 PDR Planned Destination Resort 3.050 WDD Water-Dependent Development ~~3.060 FH Flood Hazard Overlay~~	Added headings for groupings of zones. Removed asterisks from resource zones. The footnoted language will no longer be necessary upon adoption of new F-1, F, and SFW-20 zones. Current note associated with the resource zones: *This page will contain information pertaining to Tillamook County's Resource Zones Codification effort. The County's adopted Farm (F-1), Forest (F), and Small Farm & Woodlot-20 (SFW-20) zones do not conform to current state law. Work is underway to align Tillamook County's ordinances with state law. In the meantime the Department is using state law in combination with the Land Use Ordinance in order to guide development on resource lands. This does not affect the Small Farm & Woodlot-10 (SFW-10) zone.*

DRAFT LUO ARTICLE 2			NOTES
~~3.080~~	~~PD~~	~~Planned Development Overlay~~	
~~3.082~~	~~CR~~	~~Coast Resort Overlay~~	
~~3.084~~	~~PDR~~	~~Planned Destination Resort~~	
~~3.085~~	~~BD~~	~~Beach and Dune Overlay~~	
~~3.090~~	~~SH~~	~~Shoreland Overlay~~	
~~3.092~~	~~FW~~	~~Freshwater Wetlands Overlay~~	
~~3.094~~	~~MAO~~	~~Mineral and Aggregate~~	Moved UFO to overlay zone section
Estuary Zones			
3.100		Estuary Zones	
3.102	EN	Estuary Natural	Moved 3.060 – 3.094 to Overlay Zone section at end of Article 3
3.104	ECA	Estuary Conservation Aquaculture	
3.106	EC1	Estuary Conservation 1	
3.108	EC2	Estuary Conservation 2	
3.110	ED	Estuary Development	
3.120		Regulated Activities and Impact Assessments	
3.140		Estuary Development Standards	
~~3.200~~	~~TAO~~	~~Tillamook Airport Obstruction 1~~	
~~3.210~~	~~PAO~~	~~Pacific City Airport Obstruction Overlay Zone~~	
Unincorporated Community Zones			
3.300	NKN	Neahkahnie Urban Residential Zones	
3.310	ROS	Residential Oceanside Zone	
3.312	COS	Commercial Oceanside Zone	
3.314	POS	Park Oceanside Zone	
3.320	Nesk RR	Neskowin Rural Residential	
3.322	Nesk R- I	Neskowin Low Density Residential	
3.324	Nesk R-3	Neskowin High Density Urban Residential	
3.326	Nesk C	Neskowin Commercial	
3.328	Nesk RM	Neskowin Recreation Management	Moved airport zones to Overlay Zones section.
~~3.329~~	~~NESK-CH~~	~~Neskowin Coastal Hazards Overlay~~	
3.330	PCW-P	Pacific City/ Woods Park Zone	
3.331	PCW-RR	Pacific City/ Woods Rural Residential	
3.332	PCW-R2	Pacific City/ Woods Medium Density Residential	
3.334	PCW-R3	Pacific City/ Woods High Density Residential	
3.335	PCW-AP	Pacific City/ Woods Airpark Zone	
3.337	PCW-C1	Pacific City/ Woods Neighborhood Commercial	
3.338	PCW-C2	Pacific City/ Woods Community Commercial	
3.340	NT-R2	Netarts Medium Density Urban Residential	
3.342	NT-R3	Netarts High Density Urban Residential	
3.344	NT-RMD	Netarts Residential Manufactured Dwelling	
3.346	NT-PRD	Planned Residential Development Overlay Zone	
3.348	NT-C1	Netarts Neighborhood Commercial	
Overlay Zones			
3.500		Overlay Zones	
3.505	UFO	Utilities Facility Overlay	
3.510	FH	Flood Hazard Overlay	
3.515	SWO	Scenic Waterway Overlay	
3.520	PD	Planned Development Overlay	
3.525	CR	Coast Resort Overlay	
3.530	BD	Beach and Dune Overlay	

DRAFT LUO ARTICLE 2	NOTES
3.545 SH Shoreland Overlay 3.550 FW Freshwater Wetlands Overlay 3.555 MA Mineral and Aggregate Resources Overlay 3.560 TAO Tillamook Airport Obstruction 3.565 PAO Pacific City Airport Obstruction Overlay Zone 3.570 Nesk-CH Neskowin Coastal Hazards Overlay Zone 3.575 NT-PRD Netarts Planned Residential Development Overlay Zone	New Chapter numbering; moved Overlay Zones to end of Article 3.
SECTION 2.020: LOCATION OF ZONES	
~~Except for FH zones, the boundaries for the zones listed in this Ordinance are shown on maps entitled "Zoning Map of Tillamook County, Oregon", which are a part of this Ordinance. Maps shall be adopted on the date of adoption of this Ordinance. The boundaries of zones shall be modified only in accordance with zoning map amendments adopted according to procedures in Article 9 of this Ordinance.~~ Zoning designations are as depicted on the Tillamook County Zoning Map, unless otherwise stated in the text of the zone. In some cases, the boundaries as depicted on the zoning map are illustrative in nature. The boundaries of these zones may be modified in accordance with the provisions in Article 10. The Planning Director maintains official copies of the Zoning Map. All real property in Tillamook County is subject to the zoning regulations of Article 3. Certain types of land uses are also subject to the Special Use Standards and Regulations in Article 5. In addition, some properties are subject to both the general ("base zone") regulations as well as applicable overlay zone regulations. Property owners, realtors, project proponents, and others are advised to verify the regulations that apply to a particular property before beginning a new project, purchasing real estate, or marketing a property for sale.	New text.
~~The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study, for Tillamook County", dated September 28, 1990, and any amendment thereto, with accompanying Flood Insurance Rate Maps (FIRM) and Flood boundary and Floodway Maps, issued by the Federal Emergency Management Agency (FEMA), are declared to be a part of this Ordinance and shall be known as FH zones.~~	This section is no longer needed with proposed changes to Article 3, where the flood overlay is clearly established and its boundaries addressed.
~~SECTION 2.030: ZONING MAPS~~ ~~A Zoning Map or Zoning Map Amendment adopted by Section 2.020 of this Ordinance or by an Amendment to the Section shall be prepared by authority of the County Planning Commission or be a modification by the Board of County Commissioners of a Map or Map Amendment so prepared. The Map or Map Amendment shall be dated with the effective date of the Ordinance or resolution that adopts the Map Amendment. A print of the adopted Map or Map Amendment shall be maintained without charge in the~~	Existing language is antiquated and map amendments are addressed in (new) Article 10.

DRAFT LUO ARTICLE 2	NOTES
~~Planning Department as long as this Ordinance remains in effect, and a second set of prints of all such maps shall be maintained in a fire-proof depository separate from the Tillamook County Department of Community Development.~~	
SECTION 2.030 ZONE BOUNDARIES Where due to the scale, lack of scale, lack of detail or illegibility of the Zoning Map, or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of a zoning district boundary, the Director or, upon referral, the Planning Commission, shall determine the boundary as follows: (1) Rights-of-way. Boundaries that approximately follow the centerlines of a street, highway, alley, bridge, railroad, or other right-of-way shall be construed to follow such centerlines. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same zoning district designation that is applicable to lands abutting the vacated areas. In cases where the right-of-way formerly served as a zoning district boundary, the vacated lands within the former right-of-way shall be allocated proportionately to the abutting zoning districts; (2) Parcel, lot, tract. Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries. If a ~~ZONE BOUNDARY~~ zone boundary divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot~~st~~ lies, provided that the distance from the ~~ZONE BOUNDARY~~ zone boundary to the property boundary does not exceed 20 feet; (3) Jurisdiction boundary. Boundaries indicated as approximately following a City or County boundary, or the Urban Growth Boundary, shall be construed as following said boundary; and (4) Natural features. Boundaries indicated as approximately following a river, stream, topographic contour, or similar feature not corresponding to any feature listed in subsection (1)-(3), above, shall be construed as following such feature.	New text; original text in Subsection (2) moved from Section 5.010: Zone Boundaries. Note: New Subsection (4) describes how estuary zones are established.
SECTION 2.040 AUTHORIZATION OF SIMILAR USES The Director may permit a use not listed in a particular zone, provided that it is of the same general character, or has similar impacts on nearby properties, as do other uses permitted in the zone.	New Section numbering; text moved from SECTION 5.020: AUTHORIZATION OF SIMILAR USES

Land Use Ordinance Article 3 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 3	NOTES
Resource Zones	Chapter heading Room for introduction describing the purpose of resource zones. Can also simply be an organizational tool for Table of Contents.
3.002 Farm Zone (F-1)	Modifications shown in separate document
3.004 Forest Zone (F)	Modifications shown in separate document
3.006 Small Farm and Woodlot-20 (SFW-20)	Modifications shown in separate document
3.008 Small Farm and Woodlot-10 (SFW-10)	Modifications shown in separate document
Residential Zones	Chapter Heading
3.010 Rural Residential 2 Acre and 10 acre (RR-2, RR-10)	No changes
3.011 Community Single Family Residential (CSFR)	No changes
3.012 Community Low Density Urban Residential (CR-1)	No changes
3.014 Community Medium Density Urban Residential (CR-2)	No changes
3.016 Community High Density Urban Residential (CR-3)	No changes
3.018 Residential Mobile Home (RMH)	No changes
Commercial Zones	Chapter Heading
3.020 Rural Commercial (RC)	No changes

DRAFT LUO ARTICLE 3	NOTES
3.022 Community Commercial (CC)	No changes
3.024 Community Public Use (CP)	No changes
Industrial Zones	Chapter Heading
3.030 Rural Industrial (RI)	No changes
3.031 Community Industrial (CI)	No changes
3.032 General Industrial (M-1)	No changes
~~3.034: Utilities Facilities Overlay Zone (UFO)~~	Moved to 3.505 – Overlay Zones
Recreational/Resort Zones	Chapter Heading
3.040 Recreation Management (RM)	No changes
3.042 Recreation Natural (RN)	No changes
3.044 Recreation Development (RD)	No changes
3.045 Planned Destination Resort	New numbering; text moved from 3.084
3.046 Water-Dependent Development (WDD)	New numbering; text moved from 3.050. Renumbered to group with Recreation/Resort zones
~~3.060 Flood Hazard Overlay (FH)~~	Moved to 3.510 – Overlay Zones
~~3.070 Scenic Waterway Overlay Zone (SWO)~~	Moved to 3.515 – Overlay Zones
~~3.080 Planned Development Overlay (PD)~~	Moved to 3.520 – Overlay Zones
~~3.082 Coast Resort Overlay (CR)~~	Moved to 3.525 – Overlay Zones
~~3.084 Planned Destination Resort (PDR)~~	Moved to 3.045 – Recreational/Resort Zones

DRAFT LUO ARTICLE 3	NOTES
~~3.085 Beach and Dune Overlay (BD)~~	Moved to 3.530 – Overlay Zones
~~3.090 Shoreland Overlay (SH)~~	Moved to 3.545 – Overlay Zones
~~3.092 Freshwater Wetlands Overlay (FW)~~	Moved to 3.550 – Overlay Zones
~~3.094 Mineral and Agregate~~	Moved to 3.555 – Overlay Zones
3.100 Estuary Zones (1) GENERAL USE PRIORITIES AND AREAS INCLUDED: General priorities, from highest to lowest, for uses within all ESTUARY ZONES shall be: (a) Uses which maintain the integrity of the estuarine ecosystem. (b) Water-dependent uses requiring an estuarine location, as consistent with the overall Oregon Estuarine Classification. (c) Water-related uses which do not degrade or reduce the natural estuarine resources and values. (d) Non-dependent, non-related uses which do not alter, reduce or degrade the estuarine resources and values. ESTUARY ZONES shall be applied to all estuarine waters, intertidal areas, submerged and submersible lands and tidal wetlands up to the line of non-aquatic vegetation or the Mean Higher High Water (MHHW) line, whichever is most landward. The application of a particular type of ESTUARY ZONE within a given estuary is dependent upon the classification of the estuary under L.C.D.C Rule No. OAR 660-17-010, and the criteria outlined in individual zone descriptions in Section 3.102 to 3.110. <u>The Estuary Zones indicated on Tillamook County Zoning Maps are illustrative in nature and only approximate the zone boundaries.</u> Estuary Classification: Development. Estuaries: Nehalem, Tillamook. Permitted Zones: Estuary Development (ED), Estuary Conservation 2 (EC2), Estuary Conservation 1 (EC1), Estuary Conservation Aquaculture (ECA) and Estuary Natural (EN). Estuary Classification: Conservation. Estuaries: Nestucca, Netarts, Neskowin Creek, Sutton Creek. Permitted Zones: Estuary Conservation 2 (EC2), Estuary Conservation 1 (EC1), Estuary Conservation Aquaculture (ECA) and Estuary Natural (EN). *[No further changes to this section]*	Added language indicating that Estuary Zone maps are approximations of the boundaries and that the applicability text of each zone governs.

DRAFT LUO ARTICLE 3	NOTES
3.102 Estuary Natural (EN)	No changes
3.104 Estuary Conservation Acuaculture (ECA)	No changes
3.106 Estuary Conservation 1 (EC1)	No changes
3.108 Estuary Conservation 2 (EC2)	No changes
3.110 Estuary Development (ED)	No changes
3.120 Regulated Activities and Impact Assessments	No changes
3.140 Estuary Development Standards	No changes
~~3.200 Tillamook Airport Obstruction (TAO)~~	Moved to 3.560 – Overlay Zones
~~3.210 Pacific City Airport Obstruction Overlay Zone (PAO)~~	Moved to 3.565 – Overlay Zones
Unincorporated Community Zones	Chapter Heading
3.300 Neahkahnie Urban Residential Zone (NK-7.5, NK-15, NK-30)	
(1) PURPOSE: The purpose of the NK-7.5, NK-15 and NK-30 zones is to designate area within the Neahkahnie Community Growth Boundary for relatively low-density, single-family, urban area has public sewer and water services. The permitted uses are those that appear most suitable for a coastal community that wished to maintain a primarily single-family residential character. The only differences in the three zoning designations are density provisions for the creation of new lots. These varying densities are designed to be consistent with physical constraints within the Neahkahnie Community.	
(2) USES PERMITTED OUTRIGHT: In the NK-7.5, NK-15 and NK-30 zones, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance. (a) Single-family dwellings. (b) Farm and forest uses. (c) Public park and recreation areas. (d) Utility lines. (e) Utility structures that are less than 120 square feet in size.	

DRAFT LUO ARTICLE 3	NOTES
(f) Mobile homes or recreational vehicles used for a period of no more than 12 months during the construction of a use for which a building permit has been issued. (g) Signs, subject to Section 4.020. (h) Home occupations within a residence or accessory structure which may employ no more than two persons who do not live within the home, provided that there are no external manifestations of a business and that an additional off-street parking site be provided for each non-resident employee.	
(3) USES PERMITTED CONDITIONALLY: In the NK-7.5, NK-15 and NK-30 zones, the following uses and their accessory uses are permitted subject to the provisions of Article VI and all applicable supplementary regulations contained in this ordinance. (a) Planned developments subject to Section 3.080. (b) Churches and schools. (c) Nonprofit community meeting buildings and associated facilities. (d) Utility substations. (e) Fire station. (f) Ambulance station. (g) Sewage collection system appurtenances larger than 120 square feet. (h) Structures for water supply and treatment that are larger than 120 square feet. (i) Communication structures that serve more than one residence. (j) Bed and breakfast facilities within an owner-occupied primary residence which provide for no more than two guest rooms. (k) Accessory apartment within a residence or accessory structure. Such a unit must be subordinate in size, location and appearance to the primary residence, and shall not be larger than 800 square feet. (l) Temporary subdivision sales office located within an approved subdivision which shall sell only properties within that subdivision.	
(4) STANDARDS: Land divisions in the NK-7.5, NK-15 and NK-30 zones shall conform to the following standards, unless more restrictive supplementary	

DRAFT LUO ARTICLE 3	NOTES
regulations apply: (a) The minimum size for the creation of new lots or parcels shall be 7,500 square feet in the NK-7.5 zone; 15,000 square feet in the NK-15 zone and 30,000 square feet in the NK-30 zone with the following exceptions: 1. The provisions of the "cluster subdivision" section of the Land Division Ordinance or of the PD Overlay zone in the Land Use Ordinance may be used to concentrate development on a portion of a contiguous ownership except that no lots shall be created that are less than 7,500 square feet. 2. In the Neahkahnie Special Hazard Area, the minimum lot size shall be determined in accord with the requirements of Section 4.070 of the Land Use Ordinance, but such lots shall not be smaller than the minimums provided in the NK-7.5, NK-15 and NK-30 zones. (b) The minimum lot width shall be 60 feet. (c) The minimum lot depth shall be 75 feet. (d) The minimum front yard setback shall be 20 feet. (e) The minimum side yard setback shall be 5 feet, except on the street side of a corner lot where it shall be 15 feet. (f) The minimum rear yard shall be 20 feet, except on a street corner lot where it shall be 5 feet. (g) The maximum building height shall be 17 feet west of the line shown on the zoning maps and 24 feet east of that line. (That line is approximately 500 feet east of the Beach Zone Line.) (h) Livestock may be located no closer than 100 feet to a residential building on an adjacent lot.	
(5) Building Heights within the Neah-Kah-Nie Community Growth Boundary Within the Neah-Kah-Nie Community Growth Boundary, all buildings within five hundred (500) feet of the State Beach Zone Line shall be limited in height to seventeen (17) feet, and to twenty-four (24) feet otherwise. When the five hundred (500) foot measurement line divides a lot, the entire lot is subject to the seventeen (17) foot limitations. Higher buildings may be permitted only according to the provisions of Article 8.	Added and renumbered from Article 5. Previously Section 5.140.
(6) ~~SECTION 5.100~~: Special Drainage Enhancement Area Provisions for the South Neahkahnie Area	Added and renumbered from Article 5. Previously

DRAFT LUO ARTICLE 3	NOTES
Section 2.9 of the Goal VII Element of the County Comprehensive Plan identifies a special drainage enhancement area in Neah-Kah-Nie south and east of Nehalem Road at its junction with Beach Street. Section 2.9 of the Goal VII Element also identifies, within the southwest portion of this area, a "potential development area" upon which one dwelling unit may be placed. These areas are further described in the Plan and are identified on the County's Zoning Map. Subject to the following exceptions, development, including fill, will be prohibited within this drainage enhancement area: (a~~1~~) Ditching and tiling that improve drainage into or out of the Drainage Enhancement Area shall be permitted. (b~~2~~) Activities such as landscaping and gardening, which do not include placement of structures, dikes, levees, or berms, or filling, grading or paving, and which will not restrict drainage into or out of the Drainage Enhancement Area, shall be permitted. (c~~3~~) A pond may be created if it can be shown through the flood hazard area development permit process of Section ~~3.060~~ 3.510 of the County's Land Use Ordinance that it will not adversely affect drainage in the area. (d4) One dwelling unit, including necessary fill, shall be permitted within the "potential development area" portion of the Drainage Enhancement Area, providing that the area subject to development for this purpose is contiguous and does not exceed one-half the area of the "potential development areas".	Section 5.170
Oceanside Zones	Chapter Heading
3.310 Residential Oceanside Zone (ROS)	No changes
3.312 Commercial Oceanside Zone (COS)	No changes
3.314 Park Oceanside Zone (POS)	No changes
Neskowin Zones	Chapter Heading
3.320 Neskowin Rural Residential Zone (NeskRR)	No changes
3.322 Neskowin Low Density Rural Residential Zone (NeskR-1)	No changes
3.324 Neskowin High Density Rural Residential Zone (NeskR-3)	No changes
3.326 Neskowin Commercial Zone (NeskC)	No changes
3.328 Neskowin Recreation Management Zone (NeskRM)	No changes

DRAFT LUO ARTICLE 3	NOTES
~~3.329 Neskowin Coastal Hazards Overlay Zone (Nesk CH)~~	Moved to 3.570 – Overlay Zones
Pacific City/Woods Zones	Chapter Heading
3.330 Pacific City/Woods Park Zone (PCW-P)	No changes
3.331 Pacific City/Woods Rural Residential (PCW-RR)	No changes
3.332 Pacific City/Woods Low Density Residential (PCW-R1)	No changes
3.333 Pacific City/Woods Medium Density Residential (PCW-R2)	No changes
3.334 Pacific City/Woods High Density Residential (PCW-R3)	No changes
3.335 Pacific City/Woods Airpark Zone (PCW-AP)	No changes
3.337 Pacific City/Woods Neighborhood Commercial (PCW-C1)	No changes
3.338 Pacific City/Woods Community Commercial (PCW-C2)	No changes
Netarts Zones	Chapter Heading
3.340 Netarts Medium Density Urban Residential Zone (NT-R2)	No changes
3.342 Netarts High Density Urban Residential Zone (NT-R3)	No changes
3.344 Netarts Residential Manufactured Dwelling Zone (NT-RMD)	No changes
~~3.346 Planned Residential Development Overlay Zone (NT-PRD)~~	Moved to 3.575 – Overlay Zones
3.348 Netarts Neighborhood Commercial Zone (NT-C1)	No changes
3.500 Overlay Zones	New introductory section
An Overlay Zone is a supplementary zoning designation placing special restrictions or allowing special uses of land beyond those required or allowed in the Base Zone. The Tillamook County Land Use Ordinance contains the following Overlay Zones. 3.505 Utilities Facility Overlay (UFO) 3.510 Flood Hazard Overlay (FH) 3.515 Scenic Waterway Overlay (SWO) 3.520 Planned Development Overlay (PD) 3.525 Coast Resort Overlay (CR) 3.530 Beach and Dune Overlay (BD) 3.545 Shoreland Overlay (SH)	New introductory section describes the relationship between overlay zones and base zones, lists overlay zones, and provides information about the zone boundaries. This section could also be located in Article 2 – Provisions for Zones.

DRAFT LUO ARTICLE 3	NOTES
3.550 Freshwater Wetlands Overlay (FW) 3.555 Mineral and Aggregate Resources Overlay Zone (MA) 3.560 Tillamook Airport Obstruction (TAO) 3.565 Pacific City Airport Obstruction Overlay Zone (PAO) 3.570 Neskowin Coastal Hazards Overlay Zone (Nesk-CH) 3.575 Netarts Planned Residential Development Overlay Zone (NT-PRD) The boundaries of these overlay zones are generally indicated on the Tillamook County Zoning Map. Further information about the exact boundaries can be found within each overlay zone chapter. Properties within overlay zones are subject to the provisions and standards of both the overlay zone and base zone. Where the standards of the base zone and overlay zone conflict, the more restrictive provisions shall apply unless otherwise stated.	
SECTION 3.505 UTILITIES FACILITIES OVERLAY (UFO)	New numbering; text moved from Section 3.034 Consider allowing the use outright or conditionally in appropriate base zone districts and moving requirements ("special use standards") to Article 5.
SECTION 3.510: FLOOD HAZARD OVERLAY ZONE (FH)	New numbering; text moved from 3.060
(1) PURPOSE: It is the purpose of the FH zone to promote the public health, safety and general welfare and to minimize public and private losses or damages due to flood conditions in specific areas by provisions designed to: (a) Protect human life and health; (b) Minimize expenditure of public money for costly flood control projects; (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public; (d) Minimize prolonged business interruptions; (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards; (f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;	No Changes

DRAFT LUO ARTICLE 3	NOTES
(g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and (h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (i) Maintain the functions and values associated with Special Flood Hazard Areas which reduce the risk of flooding.	
(2) APPLICABILITY: The FH zone is shown generally on the Tillamook County Floodplain Map, available at the County Planning Office and online. In cases where the boundary is unclear or disputed, the latest FEMA Flood Insurance Rate Map (FIRM) shall govern.	Added (2) APPLICABILITY section, describing that the zone is indicated on the County Floodplain Map but regulated by the latest FEMA Flood Insurance Rate Map Article 2 Section 020 stated: The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study, for Tillamook County", dated September 28, 1990, and any amendment thereto, with accompanying Flood Insurance Rate Maps (FIRM) and Flood boundary and Floodway Maps, issued by the Federal Emergency Management Agency (FEMA), are declared to be a part of this Ordinance and shall be known as FH zones. This language is replaced by 3.510(2)
(3) CONTENT: …	Updated numbering

DRAFT LUO ARTICLE 3	NOTES
(4) DEFINITIONS: …	Updated numbering and internal references.
(5) GENERAL STANDARDS: …	Updated numbering
(6) SPECIFIC STANDARDS FO NUMBERED A ZONES (A1-A30)…	Updated numbering
(7) RECREATIONAL VEHICLES: …	Updated numbering
(8) SPECIFIC STANDARDS FOR FLOODWAYS: … (b) If Subsection 6 (c) (1) is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of Section 3.510 (4) and (5).	Updated numbering and internal references.
(9) SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD AREAS (V ZONES): …	Updated numbering
(10) SPECIFIC STANDARDS FOR AREAS OF SHALLOW FLOODING (A0 ZONE): … (c) New construction and substantial improvements of nonresidential structures within A0 zones shall either: (1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified): or (2) Together with attendant utility and sanitary facilities, be completely floodproofed to one foot above the depth number specified on the FIRM so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Subsection (6) (3) (3) of this Section.	Updated numbering and internal references.
(11) WARNING AND DISCLAIMER OF LIABILITY: …	Updated numbering
(12) SPECIAL ADMINISTRATIVE PROVISIONS FOR FH ZONE: … (b) Duties of the Planning Director shall include, but not be limited to: … (9) When base flood elevation had not been provided, the Planning director shall obtain, review and reasonably utilize any base	Updated numbering and internal references.

DRAFT LUO ARTICLE 3	NOTES
flood data and floodway available from federal, state, or other source in order to administer the provisions of Section 3.510.	
(13) DEVELOPMENT PERMIT PROCEDURES: … (a) Application for a development permit shall be made on forms furnished by the Planning Director and shall include but not necessarily be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required and Development Permits required under this Section are subject to the Review Criteria put forth in Section 3.510 (13)(b): … (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Subsection (5) (c) of this Section; and (c) Before approving a development permit application for other than a building, the Planning Director may determine that a public hearing should be held on the application. Such hearing shall be held before the Planning Commission and a decision made by the Planning Commission in accordance with the provisions of Section 3.510 (12).	Updated numbering and internal references.
(14) APPEALS, REDUCTIONS AND VARIANCES: … (a) An appeal of the ruling of the Planning Director regarding a requirement of this Section may be made to the Tillamook County Planning Commission pursuant to Section 10.020. (b) Reductions of the "3 feet above base flood elevation" standard may be granted by the Planning Director, upon findings that: (1) Strict application of the three-foot standard would produce an unreasonable or inequitable result; and (2) A lesser elevation requirement will not result in an appreciable increase in flood damage. Reductions to below 1 foot above base flood elevation require a Variance as described in (c), below. The intent of this provision is to limit this application of the Director's discretion to those rare and unusual circumstances where the three-foot standard would result in unnecessary and burdensome development requirements.	Updated numbering and internal references.

DRAFT LUO ARTICLE 3	NOTES
(c) Variances to the standards contained in Section 3.510 shall be issued only in accordance with Section 1910.9 of the Federal Regulations governing flood insurance (Title 24 CFR) and any amendment thereto. (d) The procedures for reviewing and taking action on a variance under the provisions of this Section shall be pursuant to the procedures provided in Article 8.	
(15) PROVISIONS: The provisions of Section 3.510 shall take precedence over all prior resolutions or orders of the Board of County Commissioners relating to Flood Plain Management.	Updated numbering and internal references.
SECTION 3.515: SCENIC WATERWAY OVERLAY ZONE (SWO)	New numbering; text moved from 3.070
(1) PURPOSE AND AREAS INCLUDED: The purpose of this zone is to facilitate implementation of the Oregon Park and Recreation Commission's management plan for the Nestucca River Scenic Waterway, and thereby to protect and preserve the natural setting and water quality of waterways possessing outstanding scenic, fish, wildlife, geological, botanical, historic, archaeologic, and outdoor recreation values. The zone comprises all land within one-fourth mile of the top of bank of the Nestucca River from the County line downstream to its confluence with Moon Creek (approximately river mile 24.5, in Blaine). The boundaries of this zone are governed by the Tillamook County Scenic Waterway Overlay Zone Map, available at the County Planning Office and on the County website.	Added text describing overlay map. Changed "bank" to "top of bank" to be clearer. Is this how the overlay has been defined to date?
(2) USES PERMITTED: (a) Any development activity, mining operation, timber harvesting, or other landscape alteration activity permitted in the underlying zone may be allowed, provided the activity is approved by the Oregon Parks and Recreation Department, or otherwise complies with the Scenic Waterway Notification procedures described in OAR-736-040-0080.	No changes
SECTION 3.520: PLANNED DEVELOPMENT OVERLAY (PD)	New numbering; text moved from 3.080
SECTION 3.525: COAST RESORT OVERLAY (CR)	New numbering; text moved from 3.082
SECTION 3.530 BEACH AND DUNE OVERLAY (BD) (1) PURPOSE: The purpose of the Beach and Dune Overlay Zone is to regulate development and other activities in a manner that conserves, protects and, where appropriate, restores the natural resources, benefits, and values of coastal beach and dune areas, and reduces the hazard to human life and property from natural events or human-induced actions associated with these areas. The Overlay Zone	New numbering; text moved from 3.085 Changed applicability section to include reference to Zoning Map. This edit assumes that Beaches and Dunes identified on Zoning

DRAFT LUO ARTICLE 3	NOTES
establishes guidelines and criteria for the assessment of hazards resulting from beach and dune processes and development activities in beach and dune areas. (2) ~~AREAS INCLUDED~~ APPLICABILITY: (a) The BD zone applies to dune areas identified in the Goal 18 (Beaches and Dunes) Element of the Comprehensive Plan and indicated on the Tillamook County Zoning Map. These areas were identified ~~is~~ based on information contained in the inventory of beach and dune landforms of Tillamook County, prepared by the Soil Conservation Service (SCS, now known as the Natural Resource Conservation Service) and published in their 1975 report, Beaches and Dunes of the Oregon Coast. ~~The dune areas mapped in the inventory are identified in the Goal 18 (Beaches and Dunes) Element of the Comprehensive Plan.~~	Map and Comprehensive Plan map are the same.
SECTION 3.545: SHORELAND OVERLAY (SH)	New numbering; text moved from 3.090
SECTION 3.550: FRESHWATER WETLANDS OVERLAY (FW)	New numbering; text moved from 3.092
SECTION 3.555: MINERAL AND AGGREGATE OVERLAY (MA)	New numbering; text moved from 3.094
SECTION 3.560: TILLAMOOK AIRPORT OBSTRUCTION (TAO)	New numbering; text moved from 3.200
SECTION 3.565: PACIFIC CITY AIRPORT OBSTRUCTION OVERLAY ZONE (PAO)	New numbering; text moved from 3.210
SECTION 3.570: NESKOWIN COASTAL HAZARDS OVERLAY ZONE (NESK-CH)	New numbering; text moved from 3.329
SECTION 3.575: NETARTS PLANNED RESIDENTIAL DEVELOPMENT OVERLAY ZONE (NT-PRD)	New numbering; text moved from 3.346

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
1.010 Title	No Change
1.020 Purpose	No Change
1.030 Definitions	Moved to Article 11
2.010 Establishment of Zones	No Change
2.020 Location of Zones	No Change
2.030 Zoning Maps	No Change
3.002 Farm Zone (F-1)	No Change
3.004 Forest Zone (F)	No Change
3.006 Small Farm and Woodlot-20 (SFW-20)	No Change
3.008 Small Farm and Woodlot-10 (SFW-10)	No Change
3.010 Rural Residential 2-Acre (RR-2)	No Change
3.011 Community Single Family Residential (CSFR)	No Change
3.012 Community Low Density Residential (CR-1)	No Change
3.014 Community Medium Density Urban Residential (CR-2)	No Change
3.016 Community High Density Urban Residential (CR-3)	No Change
3.018 Residential Mobile Home (RMH)	No Change
3.020 Rural Commercial (RC)	No Change
3.022 Community Commercial (CC)	No Change
3.024 Community Public Use (CP)	No Change
3.030 Rural Industrial (RI)	No Change
3.031 Community Industrial (CI)	No Change
3.032 General Industrial (M-1)	No Change

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
3.034 Utilities Facilities Overlay (UFO)	Moved to Section 3.505
3.040 Recreation Management (RM)	No Change
3.042 Recreation Natural (RN)	No Change
3.044 Recreation Development (RD)	No Change
3.050 Water-Dependent Development (WDD)	No Change
3.060 Flood Hazard Overlay (FH) Zone	Moved to Section 3.510
3.070 Scenic Waterway Overlay (SWO)Zone	Moved to Section 3.515
3.080 Planned Development Overlay (PD) Zone	Moved to Section 3.520
3.082 Coast Resort Overlay (CR) Zone	Moved to Section 3.525
3.084 Planned Destination Resort Overlay (PDR) Zone	Moved to Section 3.045
3.085 Beach and Dune Hazard Overlay (BD) Zone	Moved to Section 3.530
3.090 Shoreland Overlay (SH) Zone	Moved to Section 3.545
3.092 Freshwater Wetlands Overlay (FW) Zone	Moved to Section 3.550
3.094 Mineral and Aggregate Overlay Zone	Moved to Section 3.555
3.100 Estuary Zones	No Change
3.102 Estuary Natural (EN)	No Change
3.104 Estuary Conservation Aquaculture (ECA)	No Change
3.106 Estuary Conservation 2 (EC1)	No Change
3.108 Estuary Conservation 2 (EC2)	No Change
3.110 Estuary Development (ED)	No Change
3.120 Regulated Activities and Impact Assessments	No Change
3.140 Estuary Development Standards	No Change

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
3.200 Tillamook Airport Obstruction (TAO) Zone	Moved to Section 3.560
3.210 Pacific City Airport Obstruction Overlay (PAO) Zone	Moved to Section 3.565
3.300 Neahkahnie Urban Residential Zone	No Change
3.310 Residential Oceanside Zone (ROS)	No Change
3.312 Commercial Oceanside Zone (COS)	No Change
3.314 Park Oceanside Zone (POS)	No Change
3.320 Neskowin Rural Residential Zone (NESK-RR)	No Change
3.322 Neskowin Low Density Residential Zone (Nesk-R1)	No Change
3.324 Neskowin High Density Residential Zone (NESK-R3)	No Change
3.326 Neskowin Commercial Zone (NESK-C)	No Change
3.328 Neskowin Recreation Management Zone (NESK-RM)	No Change
3.329 Neskowin Coastal Hazards Overlay Zone (NESK-CH)	Moved to Section 3.570
3.330 Pacific City/Woods Park Zone (PCW-P)	No Change
3.331 Pacific City/Woods Rural Residential Zone (PCW-RR)	No Change
3.332 Pacific City/Woods Low Density Zone (PCW-R1)	No Change
3.333 Pacific City/Woods Medium Density Residential (PCW-R2)	No Change
3.334 Pacific City/Woods High Density Residential (PCW-R3)	No Change
3.335 Pacific City/Woods Airpark Zone (PCW-AP)	No Change

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
3.337 Pacific City/Woods Neighborhood Commercial (PCW-C1)	No Change
3.338 Pacific City/Woods Community Commercial (PCW-C2)	No Change
3.340 Netarts Medium Density Urban Residential Zone (NT-R2)	No Change
3.342 Netarts High Density Urban Residential Zone (NT-R3)	No Change
3.344 Netarts Residential Manufactured Dwelling Zone (NT-RMD)	No Change
3.346 Planned Residential Development Overlay Zone (NT-PRD)	Moved to Section 3.575
3.348 Netarts Neighborhood Commercial Zone (NT-C1)	No Change
4.005 Residential and Commercial Zone Standards	No Change
4.010 Clear Vision Areas	No Change
4.020 Signs	No Change
4.021 Off-Site Advertising Sign Standards	No Change
4.030 Off-Street Parking and Off-Street Loading Requirements	No Change
4.040 Mobile Home/Manufactured Home/Recreation Vehicle Siting Criteria	Moved to Section 5.010
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4.050 Mobile and Manufactured Home Park Standards	Moved to Section 5.020
4.060 Recreational Campground Standards	Moved to Section 5.030
4.065 Primitive Campground Standards	Moved to Section 5.040

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
4.070 Development Requirements for Geologic Hazard Areas	Moved to Section 4.130
4.080 Requirements for Water Quality and Streambank Stabilization	Moved to Section 4.140
4.100 Demotions or Alterations of Historic Structures	Moved to Section 4.150
4.110 Protection of Archeological Sites	Moved to Section 4.160
4.130 Mixed Use Development	Moved to Section 4.170
4.140 Home Occupation Performance Standards	Moved to Section 4.180
4.150 Neskowin Erosion and Stormwater Management	Moved to Section 5.100
5.010 Zone Boundaries	Moved to Section 2.030
5.020 Authorization of Similar Uses	Moved to Section 2.040
5.030 Maintenance of Minimum Ordinance Requirements	Moved to Section 4.000 and renamed to General Requirements
5.040 General Provisions Regarding Accessory Uses	Moved to Section 4.040
5.060 Access	Moved to Section 4.060
5.070 Dual Use of Required Open Space	Moved to Section 4.070
5.080 Distance Between Buildings	Moved to Section 4.080
5.100 General Exception to Lot Size Requirements	Moved to Section 4.100
5.110 Exceptions to Yard Setback Requirements	Moved to Section 4.110
5.120 General Exceptions to Building Height Limitations	Moved to Section 4.120
5.130 General Exception for the Location of Recreational Vehicles and Mobile Homes	Moved to Section 5.050

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
5.140 Building Heights within Neahkahnie Community Growth Boundary	Moved to Section 3.300(5)
5.150 Temporary Uses	Moved to Section 5.070
5.151 Garage Sales	Moved to Section 5.080
5.160 Special Requirements for Mobile Homes	Moved to Section 5.090
5.170 Special Drainage Enhancement Area Provisions for the South Neahkahnie Area	Moved to Section 3.300(6)
6.010 Purpose	No Change
6.020 Procedure	Moved to Article 10
6.030 General Requirements	No Change
6.040 Review Criteria	No Change
6.050 Health Hardship Provision	No Change
6.060 Conditions of Approval	No Change
6.070 Compliance with Conditions	No Change
6.080 Time Limit	No Change
Article 7: Non-Conforming Uses and Structures	No Change in Section Numbering
Article 8: Variances	No Change in Section Numbering * New Subsections Added
Article 9: Amendment	No Change in Section Numbering * New Subsections Added
Article 10: Administrative Provisions	New Article 10: Development Approval Procedures
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10.110 Maintenance of Land Use Ordinance Text and Zone Maps	New Language in Articles 1 and 2
11.010 Compliance with Ordinance Provisions	Moved to Section 1.030

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
11.020 Penalties	Moved to Section 1.040
12.010 Interpretation	Moved to Section 1.060
12.020 Severability	Moved to Section 1.070
12.030 Repealer	Moved to Section 1.080
12.040 Adoption	Moved to Section 1.090

Land Use Ordinance Article 4 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 4	NOTES
~~SUPPLEMENTARY REGULATIONS~~ DEVELOPMENT STANDARDS	Proposed title indicates that this Article includes broadly applicable standards; special use standards have been moved to Article 5.
SECTION 4.000: GENERAL REQUIREMENTS No lot or parcel area, dimension, required setback or yard, or off-street parking or loading area that exists on or is created after the effective date of this Ordinance shall be reduced below the applicable standards required by this Ordinance.	New Section; text moved from SECTION 5.030
SECTION 4.005: RESIDENTIAL AND COMMERCIAL ZONE STANDARDS PURPOSE: In all RESIDENTIAL AND COMMERCIAL ZONES, the purpose of land use standards are the following: (1) To ensure the availability of private open space; (2) To ensure that adequate light and air are available to residential and commercial structures; (3) To adequately separate structures for emergency access; (4) To enhance privacy for occupants of residences; (5) To ensure that all private land uses that can be reasonably expected to occur on private land can be entirely accommodated on private land, including but not limited to dwellings, shops, garages, driveways, parking, areas for maneuvering vehicles for safe access to common roads, alternative energy facilities, and private open spaces; (6) To ensure that driver visibility on adjacent roads will not be obstructed; (7) To ensure safe access to and from common roads;	

DRAFT LUO ARTICLE 4	NOTES
(8) To ensure that pleasing views are neither unreasonably obstructed nor obtained; (9) To separate potentially incompatible land uses; (10) To ensure access to solar radiation for the purpose of alternative energy production.	
SECTION 4.010: CLEAR-VISION AREAS (1) PURPOSE: The purpose of a CLEAR-VISION AREA is to ensure safe sight distance for drivers approaching street intersections.	
(2) A CLEAR-VISION AREA shall be maintained on the corners of all properties located at the intersection of two streets or private ways or a street or private way and a railroad.	
(3) A CLEAR-VISION AREA is a triangular area consisting of two equidistant sides which are lot lines measured from the point of intersection of the lot lines abutting streets; or, where the lot lines have rounded corners, such lines extended straight to their point of intersection, and then so measured; and a line joining the two non-intersecting ends at a distance from their intersection specified in Subsection (5) below.	
(4) A CLEAR-VISION AREA shall contain no planting, fence, wall, structure, parked cars, or other temporary or permanent obstructions exceeding thirty inches in height, measured from the top of the highest curb in the CLEAR-VISION AREA or, where no curb exists, from the highest established street center line grade adjacent to the CLEAR-VISION AREA. Trees exceeding this height may be located in this area, provided that all branches and foliage are removed to a height of eight feet above the specified grade.	
(5) The following measurements shall establish CLEAR-VISION AREAS: (a) In agricultural or residential zones, the minimum distance shall be 25 feet or, at intersections including an alley, 10 feet. (b) In all other zones, the minimum distance shall be 15 feet or, at intersections including an alley, 10 feet. When the angle of intersection between streets is 30 degrees or less, the distance shall be 25 feet.	

DRAFT LUO ARTICLE 4	NOTES
SECTION 4.020: SIGNS (1) PURPOSE: The purpose of these supplemental regulations governing signs is to promote scenic values; to prevent unsafe driver distraction; to provide orientation and directions to visitors; to facilitate emergency response; and in general to provide for the placement of necessary SIGNS in appropriate areas. These provisions shall not be construed to preclude the placement of street address SIGNS in locations that can be readily seen by operators of emergency vehicles, provided that such placement does not impair efforts to maintain roads, drainage ways, or brush-free road right-of-ways. No SIGN shall be constructed within a required yard that will impair the use of an existing solar energy system on adjoining property.	
(2) No SIGN shall be placed in or extend over a required non-street side yard or street right-of-way, or within 10 feet of the front property line in a required front yard.	
(3) Any lighting for SIGN purposes shall be directed away from any adjacent residential use.	
(4) No flashing or moving SIGNS shall be located within 100 feet of a traffic control signal. No SIGN lighting shall present a traffic hazard.	
(5) In the F-1, SFW-20, SFW-10, RR, CSFR, CR-1, CR-2, CR-3, RMH, NT-RMD, RC, CC, and those unincorporated communities with adopted boundaries, RM and WDD zones, SIGNS, other than off-site advertising SIGNS, shall be limited to the following kinds, which may be directed towards each facing street or located at needed points of vehicular access where such access points are over 200 feet apart: (a) A name plate or SIGN not exceeding two square feet for each dwelling. (b) A temporary SIGN not exceeding eight square feet pertaining either to the lease, rental, or sale of the property upon which the SIGN is located, or to a construction project. (c) A SIGN not exceeding 64 square feet advertising a subdivision. (d) A SIGN not exceeding 150 square feet, identifying a multi-family dwelling or motel in the CR-3 zone and those zones with adopted unicorporated community boundaries. (e) A SIGN not exceeding 50 square feet identifying a non-residential use such as the sale of farm produce, a golf course, or a church. (f) A SIGN not exceeding 24 square feet identifying a cottage industry.	

DRAFT LUO ARTICLE 4	NOTES
(g) A SIGN not exceeding 50 square feet identifying a rural or light industry in the SFW-10 zone. (h) A SIGN not exceeding 24 square feet directing traffic to places of interest to the public, such as tourist accommodations and recreation sites, which would otherwise be difficult to find. Such SIGNS shall be located within 600 feet of the intersecting roadway which provides access from the highway to the place of interest. (i) SIGNS not exceeding a total area of 200 square feet for each commercial establishment in a RC, CC, commercial zones within unincorporated community boundaries where permitted, or WDD zone. (j) A SIGN identifying a home occupation up to 12 square feet in size. (k) A SIGN or SIGNS not exceeding a total of 200 square feet identifying a mobile home park, recreational campground, primitive campground, commercial farm, or community identification. (l) A SIGN not exceeding 16 square feet for a bed & breakfast enterprise. SIGNS for bed & breakfast enterprises, which are greater than 16 square feet but less than 24 square feet may be approved according to the provisions of Article VI.	
(6) In the F zone, the following SIGNS are permitted: (a) SIGNS pertaining solely to uses permitted and conducted within the F (FOREST) zone. (b) Road identification SIGNS. (c) Intermittent flashing lights are only permitted where necessary to provide warning for a traffic hazard. (d) SIGNS allowed in a FOREST zone shall not be located in, or extend over, a public right-of-way except for road identification SIGNS and highway regulatory SIGNS.	

DRAFT LUO ARTICLE 4	NOTES
(7) In the EC-1, EC-2 and ED zones, the following SIGNS are permitted: (a) SIGNS pertaining solely to uses permitted and conducted in the zone in which the SIGNS are located. (b) Placement of SIGNS shall not involve any regulated activities. (c) A temporary SIGN not exceeding eight square feet in area pertaining either to the lease, rental or sale of the property or to a construction project. (d) A SIGN exceeding 100 square feet for each recreational use in the EC-1 zone. (e) A SIGN not exceeding 200 square feet for each recreational, commercial or industrial use in the EC-2 or ED zones.	
(8) SIGNS larger than those permitted by this Section may be allowed only after consideration according to the provisions of Article VI.	
SECTION 4.021: OFF-SITE ADVERTISING SIGN STANDARDS (1) PURPOSE: The purpose of the supplemental regulations for OFF-SITE ADVERTISING SIGNS is to provide standards to safeguard property and public welfare, to preserve locally recognized values of community appearance, and to reduce hazards to motorists and pedestrians traveling on public streets.	
(2) General Requirements: (a) No OFF-SITE ADVERTISING SIGN shall exceed 600 square feet in size. (b) All required setback of the underlying zone shall be maintained. A SIGN may be located within a clear-vision area if the bottom of the SIGN is not located less than 8 feet above the existing grade, and the SIGN support is not obstructive. (c) The maximum height of the SIGN structure, including any protrusions, shall be 24 feet measured from the existing grade. (d) No person shall erect, construct, or maintain any SIGN upon property or building without the consent of the owner of the property or building if any, or their authorized representatives. (e) SIGNS may only be illuminated by a concealed light source, and shall not flash, blink, fluctuate, or produce glare.	

DRAFT LUO ARTICLE 4	NOTES
SECTION 4.030: OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS (1) PURPOSE: The purpose of requirements for off-street parking and loading areas is to relieve traffic congestion; to ensure customer convenience and safety; to provide safe access to parked vehicles; and to help ensure safe and timely response of emergency vehicles.	
(2) PARKING SPACE: A single parking space shall be at least 8 feet by 20 feet in size.	
(3) TIMING OF COMPLIANCE: At the time any structure or use is erected or enlarged, or the use of any parcel or structure is changed, all required off-street parking spaces and loading areas provided in conjunction with an existing use shall not be reduced below the minimum requirements of this Ordinance.	
(4) PARKING FOR MULTIPLE USES: In the event several uses occupy a single structure or parcel of land, the total parking requirements shall be the sum of the requirements of the several uses computed separately. Joint use of the same parking and loading spaces by more than one use may be permitted, provided that the hours of operation of the separate uses do not overlap, and that satisfactory legal evidence is presented to the Department to establish the joint uses.	
(5) USE OF REQUIRED PARKING AREAS: Parking areas required by this Section are designated for the operable vehicles of residents and their guests, and the owner, customer, patrons, and employees of commercial or industrial activities only. Vehicle or material storage, or the parking of vehicles used to conduct an activity, shall require additional parking areas.	
(6) DRAINAGE: Areas used for standing and maneuvering of vehicles shall have a surface that is suitable for all-weather use, and shall be drained so as to avoid the flow of water across public sidewalks and streets.	
(7) BUFFERING NON-RESIDENTIAL PARKING AREAS: Non-residential parking and loading areas adjacent to a residential use shall be enclosed along the residential use by a sight-obscuring fence that is from five to six feet in height, except where vision clearance is required.	
(8) CURBING: Parking spaces along the boundaries of a lot shall be contained by a curb or bumper rail that is at least four inches high and is set back at least four and one-half feet from the property line.	
(9) LIGHTING: Artificial lighting shall not create or reflect substantial glare into any adjacent residential zone or use.	

DRAFT LUO ARTICLE 4	NOTES
(10) PROXIMITY TO TRAFFIC: Parking areas for four or more vehicles shall be of sufficient size to allow the backing and maneuvering of vehicles entirely out of the flow of traffic.	
(11) SCHOOL DRIVEWAY: A one-way driveway for loading and unloading children shall be located on the site of any school having a capacity of more than 25 students.	
(12) OFF-STREET LOADING AREAS: Activities that receive or distribute materials or merchandise by truck shall install and utilize loading docks in sufficient numbers and size to accommodate loading requirements without the disruption of nearby traffic. Parking areas required by this Ordinance may only be used for loading operations during periods of the day when not required for patron or customer parking.	
(13) PARKING SPACE REQUIREMENTS: Requirements for types of building and uses not specifically listed herein shall be determined by the Department, based upon the requirements for comparable uses either listed below or active elsewhere in the county.	
(13) PARKING SPACE REQUIREMENTS: Requirements for types of building and uses not specifically listed herein shall be determined by the Department, based upon the requirements for comparable uses either listed below or active elsewhere in the county. (a) RESIDENTIAL: Two spaces for the first dwelling unit, and one space for each additional dwelling unit. (b) BOARDING, LODGING, OR ROOMING HOUSE: One space for each guest accommodation. (c) MOTEL, HOTEL OR GROUP COTTAGES: One space for every unit. (d) HOSPITAL, NURSING HOME OR SIMILAR INSTITUTION: One space for every three beds. (e) CHURCH, CLUB, OR SIMILAR PLACE OF ASSEMBLY: One space for every six seats, or one space for every 50 square feet of floor area used for assembly. (f) LIBRARY: One space for every 300 square feet of floor area. (g) DANCE HALL OR SKATING RINK: One space for every 100 square feet of floor area. (h) BOWLING ALLEY: Five spaces for each lane.	

DRAFT LUO ARTICLE 4	NOTES
(i) EATING AND DRINKING ESTABLISHMENT: One space for every 150 square feet of floor area. (j) SERVICE OR REPAIR SHOP, RETAIL STORE HANDLING BULKY MERCHANDISE SUCH AS AUTOMOBILES AND FURNITURE: One space for each 600 square feet of floor area. (k) BANK, OFFICE: One space for each 500 square feet of floor area. (l) RETAIL STORES OR MEDICAL OR DENTAL CLINIC: One space for each 200 square feet of floor area. (m) WAREHOUSE, STORAGE AND WHOLESALE BUSINESS: One space for each 2,000 square feet of floor or storage area. (n) MANUFACTURING ESTABLISHMENT: One space for each 1,000 square feet of floor area.	
SECTION 4.040: GENERAL PROVISIONS REGARDING ACCESSORY USES (1) An ACCESSORY USE shall comply with all requirements for a principal use, except as this Ordinance specifically allows to the contrary, and shall comply with the following limitations: (a) A guest house may be maintained as a dwelling, provided it contains no cooking facilities. (b) An ACCESSORY STRUCTURE that is separate from the main building may be located in the required rear and side yard, except in the required street side yard of a corner lot, provided that it is at no point located closer than three feet to a property line. (c) Storage of recreation vehicles, boats, and utility trailers is permitted as an accessory use in any zone when stored in accordance with Section ~~5.040~~ 4.040 (1) (b).	New numbering; text moved from SECTION 5.010
(2) An ACCESSORY STRUCTURE may be constructed on a lot or parcel that is neither the site of a primary residential use, nor contiguous with the site of the primary use, provided that the owner of the primary use secures approval for an ACCESSORY STRUCTURE or use according to the provisions of Article VI.	

DRAFT LUO ARTICLE 4	NOTES
SECTION 4.060: ACCESS Every lot and parcel shall abut a street other than an alley, an approved private way, or an approved private ACCESS easement, for at least 25 feet.	New numbering; text moved from SECTION 5.060
SECTION 4.070: DUAL USE OF REQUIRED OPEN SPACE No lot area, yard, or off-street parking or loading area which is required by this Ordinance for one use shall be a required lot area, yard, or off-street parking or loading area for another use, unless otherwise specifically allowed by this Ordinance.	New numbering; text moved from SECTION 5.070
SECTION 4.080: DISTANCE BETWEEN BUILDINGS A minimum distance of six feet shall be maintained between a building designed for dwelling purposes and any other freestanding buildings located on the same property.	New numbering; text moved from SECTION 5.080
SECTION 4.100: GENERAL EXCEPTION TO LOT SIZE REQUIREMENTS A lot or parcel, as recorded in the office of the County Clerk prior to the adoption of this Ordinance, which complies with the standards then in effect, but which does not now meet the dimensional lot standards of the zone in which the property is located, may nevertheless be occupied by a one-family dwelling if the lot or parcel meets all other applicable Ordinance requirements, including setbacks, provided that lots smaller than 3,000 square feet meet the following additional requirements.	New numbering; text moved from SECTION 5.100
(1) A property survey of the lot shall be performed and all corners shall be monumented by a registered surveyor prior to submittal of a permit for construction/location and a copy of the survey shall be submitted with the application and other required material.	

DRAFT LUO ARTICLE 4	NOTES
(2) Prior to the County's issuance of any permits affecting the use of real property, an applicant owning a small lot shall combine all or part of an adjacent property with the small lot for any consideration of any applicable County permit or land use law. For purposes of this Section, the following definitions apply: (a) "Applicant" means any legal person (or persons) who: i. Owns a small lot in fee simple, and ii. Also owns real property adjacent to the small lot. (b) "Small lot" means any real property less than 3,000 square feet. (c) This Section shall be interpreted liberally to carry its intent to require proposed buildable lots to meet as nearly as possible or exceed a particular zone's minimum lot size requirement based upon identical owners of adjacent real properties.	
(3) Not more than 50% of the lot area shall be covered with any structure of any height.	
(4) Front and rear setbacks in combination must be at least 30 feet, with each minimum of 10 feet.	
(5) No portion of a structure shall be located closer than six (6) feet to any structure on an adjacent lot.	
(6) The permitted living space as determined by the Building Official shall be no more than 50% of the square footage of the lot or 1,200 square feet, whichever is larger. Additionally, up to 600 square feet is permitted for an enclosed garage or storage area. This garage or storage area may be enlarged if there is an equivalent reduction in living space.	
(7) An approved Road Approach Permit must be obtained from the Tillamook County Public Works Department.	
(8) The proposed structure shall meet all other requirements of the County's Land Use Ordinances, including off-street parking; except where contradicted by other provisions of this Section.	
SECTION 4.110: EXCEPTIONS TO YARD SETBACK REQUIREMENTS	New numbering; text moved from SECTION 5.110
(1) PURPOSE: The purpose of the EXCEPTIONS described in this Section is to provide~~ed~~ a measure of ministerial relief from the requirements for yards in certain areas or zones when those requirements are unnecessarily restrictive.	

DRAFT LUO ARTICLE 4	NOTES
(2) AVERAGING FRONT YARDS: The following EXCEPTIONS to the front yard requirement for a dwelling, mobile home or recreation vehicle are authorized for a lot or parcel in any zone. The required front yard for a dwelling need not exceed: (a) The average depth of the front yards of all dwellings within 100 feet of both sides of the proposed dwelling; or (b) The average of the depth of the front yard of the nearest dwelling within 100 feet on either side of the proposed dwelling, and the required front yard of the zone.	
(3) SIDE YARDS TEN PERCENT OF LOT WIDTH: The required width of a non-street side yard may be reduced to 10 percent of the width of the lot, but not to less than 3 feet, unless a Variance for a lesser distance is approved.	
(4) HAWK CREEK HILLS: Front yards in the Hawk Creek Hills and the First Addition to Hawk Creek Hills Subdivisions need not exceed 5 feet.	
(5) SMALL LOT EXCEPTIONS: In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel: (a) The parcel is 7500 square feet or less in size. (b) At least one side yard is ten feet or more wide. (c) Required off-street parking is provided. (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department. (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.	
	[Article Sub-section (6) not in original documents]
(7) PROJECTIONS FROM BUILDINGS: Architectural features such as cornices, eaves, canopies, gutters, signs, chimneys, and flues shall not project more than 18 inches into a required yard unless evidence is presented to the Department that such projections increase the energy efficiency of the building, either by the capture of solar radiation of by providing shading for cooling, in which case they shall not project more	

DRAFT LUO ARTICLE 4	NOTES
than 24 inches into a required yard.	
(8) DECKS, PORCHES, AND STEPS: (a) Decks may be constructed within setback areas provided that the intruding portion: i. Of the floor does not exceed 30 inches in height above finished grade, and ii. Any fixed benches, railings or other attachments do not exceed 40 inches above finished grade, and iii. Maintains a minimum of half the required front yard setback, a minimum of 10 foot street side yard setback on a corner lot, and a minimum of 3 feet for rear yard and non street side yard setbacks. (b) All other uncovered decks, porches, or steps shall not project more than 24 inches into a required yard. (c) Decks which extend into the required setbacks shall not be enclosed, nor covered, without using the procedures set forth in Article VIII. The existence of a deck within the required setbacks shall not be used as justification to extend a building into the required setbacks.	
(9) ZERO TO THREE FOOT SETBACK: Where a side or rear yard is not required, and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.	
(10) OCEANFRONT SETBACKS - See Section 3.085 (4) (a) (ib).	Section reference updated to reflect new location
(11) WATER QUALITY SETBACKS - See Section ~~4.080~~ 4.140 (1) (2) and (3).	
(12) CLEAR VISION: These provisions may not be interpreted to allow parking or structures	

DRAFT LUO ARTICLE 4	NOTES
SECTION 4.120: GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS (1) Projections such as chimneys, spires, elevator shaft housings, flagpoles, devices or structures for the capture of solar energy, towers for wind energy conversion systems and windmills, and other structures not used for human occupancy are not subject to the BUILDING HEIGHT LIMITATIONS of this Ordinance, unless such projection shades an existing solar energy system on an adjoining property to such as extent as to affect the efficiency of that system. (2) In the airport overlay zone, no structure or tree shall exceed 150 feet in height.	New numbering; text moved from SECTION 5.120
~~SECTION 4.040: MOBILE HOME, MANUFACTURED HOME AND RECREATIONAL VEHICLE SITING CRITERIA~~	SECTION 4.040 moved to Article 5 as 5.010
~~SECTION 4.050: MOBILE AND MANUFACTURED HOME PARK STANDARDS~~	SECTION 4.050 moved to Article 5 as 5.020
~~SECTION 4.060: RECREATIONAL CAMPGROUND STANDARDS~~	SECTION 4.060 moved to Article 5 as 5.030
~~SECTION 4.065: PRIMITIVE CAMPGROUND STANDARDS~~	SECTION 4.065 moved to Article 5 as 5.040
SECTION 4.130: DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS	New numbering; text moved from SECTION 4.070
(1) The following are GEOLOGIC HAZARD AREAS to which the standards of this Section apply: (a) Active landslides identified in Oregon Department of Geology and Mineral Industries (DOGMI) Bulletins 74 and 79; (b) Inactive landslides, landslide topography and mass movement topography identified in DOGMI bulletins 74 and 79 where slopes are greater than 19 percent; (c) Areas prone to mudflows identified in DOGMI Bulletin 79; (d) Brallier Peat soils identified in Soil Survey, Tillamook Area, Oregon (USDA, Soil Conservation Service, 1964) and the unpublished Soil Conservation Service soils survey for coastal Tillamook County; (e) Ocean front lots on bluffs in areas where erosion and sliding are identified as problems in the Goal 18 element of the Comprehensive Plan;	New numbering; text moved from SECTION 4.070

DRAFT LUO ARTICLE 4	NOTES
(f) Other locally known areas of GEOLOGIC HAZARD based on evidence of past occurrences. (g) As required for development.	
(2) All development within GEOLOGIC HAZARD areas shall comply with the following standards: (a) Vegetation removal shall be the minimum necessary to accommodate the use. (b) Temporary measures shall be taken to control runoff and erosion of soils during construction. Such measures include temporary stabilization (mulching or sodding) sediment basins or other performance equivalent structures required by the Planning Department. (c) Exposed areas shall be planted in permanent cover as soon as possible after construction. (d) Storm water shall be directed into drainages with adequate capacity so as not to flood adjacent or downstream properties. Finished grades should preferably be designed to direct water flows along natural drainage courses. (e) Additional requirements contained in a Geologic report required by this Section shall be followed.	New numbering; text moved from SECTION 4.070
(3) A GEOLOGIC HAZARD report is required prior to approval of planned developments, coast resorts, subdivisions and partitions governed by the Land Division Ordinance, building permits, mobile home permits, sand mining, occurring in areas identified in (1) with the following exception: (a) For building or mobile home or manufactured home permits in areas identified in (1) (b), reports are needed for lots 20,000 square feet or larger only where the proposed structure is to be situated on slopes greater than 29 percent or if (1) (f) applies.	New numbering; text moved from SECTION 4.070
(4) A report prepared for a subdivision, planned development or partition pursuant to the requirements of this Section, may be used to satisfy these requirements for subsequent building, mobile home or manufactured home permits providing that the original report provided recommendations on building placement and construction and that these recommendations are followed.	New numbering; text moved from SECTION 4.070

DRAFT LUO ARTICLE 4	NOTES
(5) The GEOLOGIC HAZARD report shall be prepared, stamped and signed by both an Oregon Registered Geologist and a qualified Oregon Registered Engineer or by an Oregon Certified Engineering Geologist. Structural recommendations shall be prepared, stamped and signed by an Oregon Registered Engineer trained and proficient in preparing structural calculations and diagrams. The Planning Director or his designee shall determine the boundary limits of the study area. The GEOLOGIC HAZARD report shall be prepared and submitted on forms deemed acceptable by the County and shall include plan and sectional diagrams of the area showing property boundaries and the geographic information required by (6) below.	New numbering; text moved from SECTION 4.070
(6) The GEOLOGIC HAZARD analysis shall include the following: (a) In landslide areas [(1) (a) and (1) (b)]; ~~(1)~~ i. Soils and bedrock types, ~~(2)~~ ii. Slope, ~~(3)~~ iii. Orientation of bedding planes in relation to the dip of the surface slope, ~~(4)~~ iv. Soil depth, ~~(5)~~ v. Other relevant soils engineering data, ~~(6)~~ vi. Water drainage patterns, and ~~(7)~~ vii. Identification of visible landslide activity in the immediate area. (b) In areas prone to mudflow [(1) (c)]; ~~(1)~~ i. History of mud or debris flow, and ~~(2)~~ ii. Areas likely to be affected by future mudflow. (c) In Brallier peat soils [(1) (d)]; ~~(1)~~ i. Boring log, ~~(2)~~ ii. Bearing capacity, and ~~(3)~~ iii. Drainage patterns. (d) Ocean front bluffs subject to coastal erosion and sliding [(1) (e)];	New numbering; text moved from SECTION 4.070. Header/sub-header reformatting.

DRAFT LUO ARTICLE 4	NOTES
~~(1)~~ i. Information required by (6) (a) above, and ~~(2)~~ ii. History of coastal erosion in the area.	
(7) The GEOLOGIC HAZARDS report shall recommend development standards that will protect development on the property and surrounding properties. These should include standards for: (a) Development density (when more than one use is possible), (b) Locations for structures and roads, (c) Land grading practices, including standards for cuts and fills, (d) Vegetation removal and re-vegetation practices, (e) Foundation design (if special design is necessary), (f) Road design (if applicable), and (g) Management of storm water runoff during and after construction.	New numbering; text moved from SECTION 4.070
(8) The GEOLOGIC HAZARD report shall include the following summary findings and conclusions: (a) The type of use proposed and the adverse effects it might have on adjacent areas; (b) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use; (c) Methods for protecting the surrounding area from any adverse effects of the development; (d) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation; (e) The proposed development is adequately protected from any reasonably foreseeable hazards including but not limited to GEOLOGIC HAZARDS, wind erosion, undercutting, ocean flooding and storm waves; and (f) The proposed development is designed to minimize adverse environmental effects.	New numbering; text moved from SECTION 4.070
SECTION 4.140: REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION	New numbering; text moved from SECTION 4.080

DRAFT LUO ARTICLE 4	NOTES
(1) The following areas of riparian vegetation are defined: (a) Fifty (50) feet from lakes and reservoirs of one acre or more, estuaries, and the main stems of the following rivers where the river channel is more than 15 feet in width; Nestucca, Little Nestucca, Three Rivers, Tillamook, Trask, Wilson, Kilchis, Miami, Nehalem and North and South Fork Nehalem River. (b) Twenty-five (25) feet from all other rivers and streams where the river or stream channel is greater than 15 feet in width. (c) Fifteen (15) feet from all perennial rivers and streams where the river or stream channel is 15 feet in width or less. For estuaries, all measurements are horizontal and perpendicular from the mean high water ~~—~~line or the line of non-aquatic vegetation, ~~which ever~~whichever is most landward. Setbacks for rivers, streams, and coastal lakes shall be measured horizontal and perpendicular from the ordinary high water line.	New numbering; text moved from SECTION 4.080
(2) All development shall be located outside of areas listed in (1) above, unless: (a) For a bridge crossing; or (b) Direct water access is required in conjunction with a water dependent use; or (c) Because of natural features such as topography, a narrower riparian area protects equivalent habitat values; or (d) A minimal amount of riparian vegetation is present and dense development in the general vicinity significantly degrades riparian habitat values. Setbacks may be reduced under the provisions of (c) and (d) above only if the threat of erosion will not increase and a minimum 20 foot setback is maintained. Determinations of habitat values will be made by the Oregon Department of Fish and Wildlife.	New numbering; text moved from SECTION 4.080

DRAFT LUO ARTICLE 4	NOTES
(3) Exemptions from (2) above and from the applicable setback requirement for the front or rear yard that is opposite the riparian area may be granted without a variance for uses on: (a) Lots located in areas identified in the Comprehensive Plan's Goal 2 exception element as "built and committed" and which existed as of the date of adoption of this Ordinance, and single family residential "lots of record" as defined and used in Chapter 884 Oregon Laws 1981 as amended, with a depth measured according to (1) above that is; ~~(1)~~ i. Less than 95 feet in places where the area of riparian vegetation is 50 feet wide; or ~~(2)~~ ii. Less than 70 feet in places where the area of riparian vegetation is 25 feet wide. (b) Other lots in identified Abuilt and committed≅ areas and other Alots of record≅ where the combination of setbacks required by this section result in a buildable lot depth of less than 45 feet. Exemptions from the riparian setback shall be the minimum necessary to accommodate the proposed use after the yard opposite the riparian area has been reduced to a width of no less than ten feet.	New numbering; text moved from SECTION 4.080. Header/sub-header reformatting.
(4) All trees and at least 50 percent of the understory vegetation shall be retained within areas listed in (1) above, with the following exceptions: (a) Removal of trees that pose an erosion or safety hazard to existing uses allowed by the underlying zone. (b) The mowing, planting, or maintenance of existing lawn and pasture, including the control of noxious weeds. (c) Vegetation removal necessary in conjunction with an approved in-water project or to provide direct access for a water-dependent use. (d) Structural shoreland stabilization subject to the shoreline stabilization standards in Section 3.140. (e) Vegetation removal for new bridge construction or routine repair, operation, or maintenance of bridges and highways. (f) Vegetation removal necessary for maintenance of clear vision areas and the removal of roadside hazards. (g) Vegetation removal necessary for construction of a minor	New numbering; text moved from SECTION 4.080

DRAFT LUO ARTICLE 4	NOTES
highway improvement within an existing right-of-way. Forest operations for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act.	
~~4.150 NESKOWIN EROSION CONTROL AND STORMWATER MANAGEMENT~~	Section moved to Article 5 Special Use Standards and Exceptions
SECTION 4.150: DEMOLITIONS OR ALTERATIONS OF HISTORIC STRUCTURES	New numbering; text moved from SECTION 4.100
(1) Demolitions of HISTORIC STRUCTURES identified in the Comprehensive Plan inventory of HISTORIC BUILDINGS: (a) The Planning Department shall hold applications for demolition for 45 days before issuing the permit. (b) During the 45 day period, the Planning Department shall take the following action: Notify the State Historic Preservation Office and the Pioneer Museum of the proposed demolition; advertise in a newspaper of general circulation the nature of the request and the historical values that would be lost; inform the applicant of the historic character of the building and the incentive associated with historic preservation. (c) If after 45 days the Planning Department finds that there is no reasonable possibility for protecting the building, the demolition permit shall be issued.	New numbering; text moved from SECTION 4.100
(2) Alterations of the following buildings identified in the Comprehensive Plan as having significant historic and architectural merit: Isom/Fox Cottage, Povey Cottage, Wentz Cottage, Doyle Cottage, Churchill Cottage, Tillamook Naval Air Station Blimp Hangaers. (a) Exterior alterations (except painting), additions, and construction of auxiliary buildings shall be reviewed by the Planning Department and the Curator of the Pioneer Museum. (b) Alterations shall be approved if proposed exterior materials and details are consistent with the building's historical character and maintenance of the building's predominant architectural features.	New numbering; text moved from SECTION 4.100
SECTION 4.160: PROTECTION OF ARCHAEOLOGICAL SITES	New numbering; text moved from SECTION 4.110

DRAFT LUO ARTICLE 4	NOTES
(1) The Planning Department shall review building permits and other land use actions that may affect known ARCHAEOLOGICAL SITES. If it is determined that the proposed action may affect the integrity of an ARCHAEOLOGICAL SITE, the Planning Director shall consult with the State Historic Preservation Office on appropriate measures to preserve or protect the site and its contents. No permit shall be issued until either the State Historic Preservation Office determines that the proposed activity will not adversely affect the ARCHAEOLOGICAL SITE, or the State Historic Preservation Office has developed a program for the preservation or excavation of the site.	New numbering; text moved from SECTION 4.110
(2) Indian cairns, graves and other significant archaeological resources uncovered during construction or excavation shall be preserved intact until a plan for their excavation or reinterment has been developed by the State.	New numbering; text moved from SECTION 4.110
SECTION 4.170: MIXED USE DEVELOPMENT (MUD)	New numbering; text moved from SECTION 4.130
(1) PURPOSE: The purpose of a MIXED USE DEVELOPMENT is to allow greater freedom, diversity and cohesiveness in the planning and integrated development of relatively large tracts of land for a range of uses which could not effectively be accommodated under the provisions of this Ordinance. The use of these provisions is dependent upon three conditions: (a) That a specific development proposal cannot effectively be reviewed under the provisions of the zone within which it is proposed; (b) That the individual proposed uses are not incompatible with the established surrounding land uses; and (c) That the proposal involves at least three different types of land use within a single site plan. For the purposes of a MIXED USE DEVELOPMENT review, a "type of land use" is one which differs in nature or character from other uses contained within a single development proposal.	New numbering; text moved from SECTION 4.130
(2) APPLICABILITY: These provisions cannot be utilized without the submission of an acceptable plan, with satisfactory assurance that it can be carried out, and a preliminary determination by the Department that the three conditions listed in (1) above have been met. A MUD is considered a Conditional Use in the RR, CSFR, CR-1,CR-2, CR-3, RC, CC and RI and unincorporated community zones where permitted. However, in the RR zone, only parcels within a Community Growth Boundary will be considered for a MUD proposal. Additional RR zoned properties may be designated for a MUD through a Plan Amendment according to the provisions of Article IX of this Ordinance. All permitted uses listed in the RR, CSFR, CR-1, CR-2, CR-3 and RC and unincorporated community	New numbering; text moved from SECTION 4.130

DRAFT LUO ARTICLE 4		NOTES
	zones are permitted in a MUD in any of these zones. All permitted uses in the CC and RI zones, as well as those in the RR, CSFR, CR-1, CR-2, CR-3 and RC and unincorporated community zones where permitted are permitted in a MUD in the CC and RI zones.	
(3)	STANDARDS: Standards pertaining to lot size, density, off-street parking, yards, building heights, or other aspects of development shall be governed by the standards of the underlying zone or zones in which the MUD is proposed. The requirements of all applicable overlay zones must be met by the proposed development. Where Variances from applicable standards are required, they shall be considered under the provisions of Article VIII at the time of Planning Commission review. Where applicable standards conflict, the more restrictive shall apply. Preliminary review of proposals involving the division of land shall take place, at the time of Planning Commission review, under the provisions of the Tillamook County Land Division Ordinance. All standards for use, as identified for RC, CC, RI, and CI shall apply where appropriate.	New numbering; text moved from SECTION 4.130
(4)	MIXED USE DEVELOPMENT PROCEDURES AND CRITERIA: The following procedures and criteria shall govern a request to review and approve a MUD proposal: (a) The applicant shall arrange a pre-application meeting with the Department so as to determine the standards, requirements, and procedures governing a MUD request, and to inform the Department of the nature of the proposed development. (b) The applicant shall submit a complete preliminary development plan to the Department for review, along with six (6) copies of a report summarizing the proposal. The plan shall include the following information: ~~1.~~ i. A map showing the entire parcel, the proposed land uses and building locations, and the vehicular and pedestrian circulation patterns. Such a map shall be of such detail to indicate that all applicable Ordinance standards and requirements can be met. ~~2.~~ ii. A topographic map rendered in the same scale as the map in (1) above. ~~3.~~ iii. Housing unit densities for areas of residential development. ~~4.~~ iv. Proposed uses and ownership and maintenance arrangements for all areas to be left in open space, and the	New numbering; text moved from SECTION 4.130

DRAFT LUO ARTICLE 4	NOTES
ownership status of all streets. ~~5.~~ v. Proposed property lines upon the completion of the project. ~~6.~~ vi. A preliminary grading and drainage plan. ~~7.~~ vii. The method of water supply and sewage disposal. ~~8.~~ viii. An outline of proposed deed restrictions, if any. ~~9.~~ ix. A discussion of the economic justification for proposed land uses which are in conflict with the zoning on the parcel, and the relations of such uses to all other uses proposed within the MUD. ~~10.~~ x. The proposed time frame for completion of the entire development. ~~11.~~ xi. A Geologic Hazard report where required by the Land Use Ordinance. ~~12.~~ xii. A map indicating flood hazard areas if required by this Ordinance. ~~13.~~ xiii. Filing and review fees, which shall be established by order of the Board of County Commissioners, and which shall be non-refundable despite Planning Commission action. Such fees shall not be applied to any concurrent application. (c) The Planning Department shall distribute the preliminary plan, for review and comment, to those agencies and departments which it deems necessary to determine the feasibility and adequacy of the plan. Such agencies and departments shall be given at least 21 days for review. (d) Following the preliminary review as described above, the Department shall notify the applicant of changes which have been suggested or would be required by the agencies and departments reviewing the plan. (e) After the Department's notification of what changes are considered necessary in order to meet the purposes of all applicable Ordinances and to protect the rights of property owners surrounding the proposed development, the developer shall submit, for Planning Commission review, a final proposal of the project. Planning Commission review will not take place until the	

DRAFT LUO ARTICLE 4	NOTES
complete plan is submitted. (f) The Commission shall apply the following criteria in the consideration of all MUD requests: ~~1.~~ i. The proposed plan is internally cohesive and is consistent with Comprehensive Plan Policies for the vicinity. ~~2.~~ ii. There are special development objectives that the project will satisfy which warrant review under these provisions. ~~3.~~ iii. The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features. ~~4.~~ iv. Proposed uses which are not otherwise permitted by the zoning on the parcel are accessory uses within the entire development. ~~5.~~ v. The proposed use will not have a substantial impact upon adjacent uses, nor will it alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for permitted uses listed in the underlying zone. ~~6.~~ vi. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.	
(5) In approving a MUD proposal, the Planning Commission may impose whatever conditions are necessary in order to ensure that the purposes of this Ordinance are met.	New numbering; text moved from SECTION 4.130
(6) The approved site plan for a MIXED USE DEVELOPMENT cannot be substantially amended or altered unless approved by the Planning Commission under the provisions of Article VI of this Ordinance. Determination of the substance of such changes or amendments shall be the responsibility of the Planning Director.	New numbering; text moved from SECTION 4.130
SECTION 4.180: HOME OCCUPATION PERFORMANCE STANDARDS	New numbering; text moved from SECTION 4.140
(1) PURPOSE: To provide for occupational activities in residences or their accessory structure, as provided by ORS 215.448, while assuring compatibility with existing and permitted uses within the area affected by the home occupation.	New numbering; text moved from SECTION 4.140

DRAFT LUO ARTICLE 4	NOTES
(2) APPLICABILITY: HOME OCCUPATIONS are allowed outright or conditionally, depending upon the intensity of the use and the zone within which they are located. In the F-1, F and SFW-20 zones, a HOME OCCUPATION includes a "Foster Family Home" and a "Bed and Breakfast Enterprise".	New numbering; text moved from SECTION 4.140
(3) STANDARDS: (a) All HOME OCCUPATIONS shall meet the following standards or conditions in addition to other applicable ordinance requirements: ~~(1)~~ i. The HOME OCCUPATION is operated by the resident of the property upon which the activity is located, within the residence or accessory structures. ~~(2)~~ ii. The HOME OCCUPATION will employ no more than five full- or part-time persons. ~~(3)~~ iii. The HOME OCCUPATION will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located. ~~(4)~~ iv. Where HOME OCCUPATIONS are allowed conditionally, conditions of approval shall limit retail sales, signs, traffic, noise, obnoxious odors, hazardous activities, and other identifiable adverse off-site impacts. ~~(5)~~ v. The existence of a HOME OCCUPATION shall not be used as justification for a zone change. (b) HOME OCCUPATIONS permitted outright shall meet the following additional standards or requirements: ~~(1)~~ i. Those employed in the HOME OCCUPATION must be members of the family residing on the premises. ~~(2)~~ ii. There shall be no activities that give the outward appearance or manifest the characteristics of a retail business, such as signs other than those permitted under Section 4.020, advertising of the dwelling as a business location, more than six customers daily entering the business premises, more than two customer vehicles at a time, noise that adversely affects neighbors, obnoxious odors, hazardous activities, or other adverse off-site impacts. ~~(3)~~ iii. Complaints from neighbors may be cause for requiring a	New numbering; text moved from SECTION 4.140

DRAFT LUO ARTICLE 4	NOTES
Conditional Use review of the activity.	
(4) REVIEW: The Director shall review all Conditional Use Permits approving HOME OCCUPATIONS every 12 months following the date of approval, and may allow the use to continue if the HOME OCCUPATION continues to comply with Ordinance requirements.	New numbering; text moved from SECTION 4.140

Land Use Ordinance Article 5 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 5	NOTES
~~PROPERTY USE REQUIREMENTS & EXCEPTIONS~~ SPECIAL USE STANDARDS AND EXCEPTIONS	
	Proposed new title; Zoning Chapters moved to Article 2 and Chapters with generally applicable standards moved to Article 4.
~~SECTION 5.010: ZONE BOUNDARIES~~ ~~If a ZONE BOUNDARY divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that the distance from the ZONE BOUNDARY to the property boundary does not exceed 20 feet.~~	Moved to Article 2 as Section 2.030
~~SECTION 5.020: AUTHORIZATION OF SIMILAR USES~~	Moved to Article 2 as Section 2.040
~~SECTION 5.030: MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS~~	Moved to Article 4 as Section 4.000.
~~SECTION 5.040: GENERAL PROVISIONS REGARDING ACCESSORY USES~~	Moved to Article 4 as Section 4.040
~~SECTION 5.060: ACCESS~~	Moved to Article 4 as Section 4.060
~~SECTION 5.080: DISTANCE BETWEEN BUILDINGS~~	Moved to Article 4 as Section 4.080
SECTION 5.010: MOBILE HOME, MANUFACTURED HOME AND RECREATIONAL VEHICLE SITING CRITERIA	Added from Article 4. Previously Section 4.040
Each mobile home, manufactured home and recreational vehicle located within the County shall comply with all County and state installation and placement requirements and the following additional requirements, except when used during the construction of a permitted use as detailed in the applicable zone, when only Section ~~5.085 (9)~~ of the following requirements shall apply in addition to placement permit requirements.	Added from Article 4. Previously Section 4.040 5.085 does not exist

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	~~PROPERTY USE REQUIREMENTS & EXCEPTIONS~~ SPECIAL USE STANDARDS AND EXCEPTIONS	
(1)	An application for mobile home, manufactured home or recreational vehicle placement shall be obtained from, and approved by, the Department prior to the placement of a mobile home, manufactured home or recreational vehicle on any lot within the County's jurisdiction. Plans showing the proposed location of the unit shall accompany the application. No permit shall be considered approved until compliance with all applicable sanitation, building, planning, and public works requirements can be demonstrated, and such demonstration is acknowledged by the signatures of appropriate County officials. A new application must be obtained and approved if a new or different mobile home, manufactured home or recreational vehicle is placed, or if placement has not taken place within 12 6 (six) months following approval of the most recent application.	Added from Article 4. Previously Section 4.040
(2)	Building permits are required for construction of a foundation or any site-constructed buildings or structures, if one is required by the Uniform Building Code as adopted by the County.	Added from Article 4. Previously Section 4.040
(3)	The area of a mobile home, manufactured home or recreational vehicle shall be determined by measurement of the exterior dimensions of the unit, exclusive of any trailer hitch device.	Added from Article 4. Previously Section 4.040
(4)	A mobile home or manufactured home shall be anchored with required tie-downs.	Added from Article 4. Previously Section 4.040
(5)	A mobile home or manufactured home shall have a continuous skirting of non-decaying material within ninety (90) days of placement.	Added from Article 4. Previously Section 4.040
(6)	A storage building of at least sixty-four (64) square feet that is structurally compatible with the mobile home, manufactured home or recreational vehicle shall be constructed within ninety days following placement of the unit.	Added from Article 4. Previously Section 4.040
(7)	Off-street parking sufficient for two automobiles shall be provided for each mobile home, manufactured home or recreational vehicle installation. Construction of the off-street parking facilities shall be completed within ninety days following placement of the unit upon the site in compliance with Section 4.030.	Added from Article 4. Previously Section 4.040
(8)	Additions or alterations may be attached to a mobile or manufactured home, provided that such additions are structurally compatible with the mobile and manufactured home, and comply with other requirements of this Ordinance, the Uniform Building Code, and State regulations.	Added from Article 4. Previously Section 4.040

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(9) Temporary mobile home, manufactured home or recreational vehicle used in conjunction with a building or permanent placement permit shall meet the following criteria: (a) Continuous construction shall take place as evidenced by construction activity during each consecutive six-month period. (b) Tie-downs shall be utilized according to State standards. (c) Required set-backs shall be maintained. (d) A mobile or manufactured home shall be removed within thirty days after the date the building permit is void, closed out, or finalized by the County Building Official. (e) A recreational vehicle shall be immediately unhooked from utilities and stored on the lot so as to maintain required set-backs, or shall be removed within thirty days after the date that either the building permit is void, closed out, or finalized by the County Building Official, or the permanent placement permit is issued or denied. (f) Failure to meet any of the criteria in (a) through (e) above shall automatically void the temporary placement permit.	Added from Article 4. Previously Section 4.040
(10) The Director has the authority to waive the requirements in Subsections (5) and (6) above, upon application by the owner showing just cause for said waiver.	Added from Article 4. Previously Section 4.040
SECTION 5.020: MOBILE AND MANUFACTURED HOME PARK STANDARDS	Added from Article 4. Previously 4.050
PURPOSE: The purpose of the MOBILE AND MANUFACTURED HOME PARK standards is to insure that each new or enlarged park provides necessary facilities, adequate lot area, set-backs, and other needed requirements for the public safety, health and general welfare. A MOBILE AND MANUFACTURED HOME PARK is a place where four or more mobile homes/manufactured homes or mobile homes/ruanufactured homes and recreational vehicles mixed, are located on one or more contiguous lots, tracts, or parcels of land under a single ownership, the purpose of which is to provide permanent residential spaces for charge of fee paid for the use of facilities, or to offer space free of charge in connection with securing the trade, patronage or services of the occupant.	Added from Article 4. Previously 4.050

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The standards contained in this Section are minimum standards. Additional standards may be required where necessary to meet other requirements of this Ordinance, i.e. Flood Plain, Geologic Hazard Zone, Riparian Vegetation. A MOBILE AND MANUFACTURED HOME PARK shall be built to State standards and shall comply with the following provisions:	
(1) A MOBILE AND MANUFACTURED HOME PARK shall have: (a) A minimum lot size of 1 acre, or the minimum lot size of the zone, whichever is greater, (b) A minimum number of 4 spaces.	Added from Article 4. Previously 4.050
(2) Each park space shall have: (a) A minimum length of 40 feet, (b) A minimum width of 30 feet, (c) A maximum coverage of 75%, (d) Clearly-defined boundaries marked by a fence, planting, or other suitable means, (e) Electricity, potable water, and an approved means of sewage disposal.	Added from Article 4. Previously 4.050
(3) Mobile and manufactured homes, and Recreational Vehicles within the park shall have the following setbacks: (a) A minimum distance of 20 feet from public streets right-of-way, (b) A minimum distance of 10 feet from all non-street property lines.	Added from Article 4. Previously 4.050
(4) Accessory building or structure, including community and service buildings, carports, cabanas, and ramadas, but excluding signs and fences, shall be at least 20 feet from public street rights-of-way.	Added from Article 4. Previously 4.050
(5) Streets within mobile and manufactured home parks shall have: (a) A minimum width of 20 feet if parking is prohibited and 30 feet if parking is permitted on one side, (b) Well-drained, durable and dustless surfaces improved to minimum public road standards, or other approved surface and maintained in good condition.	Added from Article 4. Previously 4.050

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(6)	Walkways not less than three (3) feet wide and illumination of not less than one foot candles may be required to provide pedestrian access from mobile and manufactured home spaces to community and service buildings. All walkways shall be well drained and have durable and dustless surfaces.	Added from Article 4. Previously 4.050
(7)	Screening consisting of sight-obscuring fence and/or buffer strip of vegetation may be required along all property lines.	Added from Article 4. Previously 4.050
(8)	Trash receptacle shall be provided in convenient locations for the use of the tenants within the park, and shall be located in such number and be of such capacity that there is no uncovered accumulation of trash at any time.	Added from Article 4. Previously 4.050
(9)	A mobile or manufactured home permitted in the park shall meet the standards as stipulated in Section ~~4.040~~ 5.010 of this Ordinance. All recreational vehicles shall be tied down.	Added from Article 4. Previously 4.050 Updated Section reference to reflect changes in Articles 4 & 5
(10)	If the park provides spaces for 50 or more mobile or manufactured home units, each vehicular way in the park shall be named and marked with signs which are similar in appearance to those used to identify public streets. A map of the named vehicular ways shall be provided to the departments of emergency services for distribution to all affected emergency agencies. One shall be filed with the Department of Community Development.	Added from Article 4. Previously 4.050
(11)	An on-site storage area, for park residents only, may be allowed. If allowed, the storage area shall be screened with a 6 foot high sight obscuring fence or hedge, or combination of landscaping and fence to 6 foot high along all exterior property lines.	Added from Article 4. Previously 4.050
(12)	The standards contained in this Section are minimum standards. Different standards may be required where necessary to meet other requirements of this Ordinance.	Added from Article 4. Previously 4.050
(13)	Preliminary plans which contain all the information specified in OAR 814-050 shall be submitted to the Planning Department when requesting Conditional Use, or permit approval.	Added from Article 4. Previously 4.050
(14)	Approval of a MOBILE AND MANUFACTURED HOME PARK shall not be construed to be an approval of the building plans for building permit review purposes. All proposed building construction is subject to alteration to meet Uniform Building Code requirements as part of building permit review.	Added from Article 4. Previously 4.050

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(15) All MOBILE AND MANUFACTURED HOME PARKS, which legally existed prior to the date of this Ordinance, and which have submitted complete Master Plans to the Department for review, shall be considered an "existing use" if: (a) The park is in compliance with all State regulations and County sanitation regulations; and (b) Master Plans and review fees are submitted to the Department no later than December 31, 1986; and (c) The Department issues a letter to the park owner indicating that the park meets the above two criteria. If it is determined by the Department that the park DOES meet the first two criteria the Department shall submit the letter, mentioned in (C) above, to the park owner. At that time, only that portion of the park identified in the Master Plan, will then be considered an "existing use". Only those parks who retain the confirmation letter will be considered an "existing use". In the future, if one of the "existing use" parks enlarge or expand, only the new portion of the park will be required to meet the County standards. The "existing use" parks are to be allowed to remain as they are represented within the accepted Master Plan on only that portion of the property designated. If the use is vacated for over one year the "existing use" designation shall be void, and any new use of the property shall conform to the requirements of this Ordinance. The "existing use" may be sold or transferred to new owners. The new owners will maintain the rights as the previous owners.	Added from Article 4. Previously 4.050
SECTION 5.030: RECREATIONAL CAMPGROUND STANDARDS	New numbering; text added from 4.060.
(1) PURPOSE: The purpose of the RECREATIONAL CAMPGROUND STANDARDS is to insure that each new or enlarged RECREATIONAL CAMPGROUND provides necessary facilities, adequate lot area, set-back, and other needed requirements for the public safety, health, and general welfare. A RECREATIONAL CAMPGROUND is a place where four of more recreational vehicles and/or tents are located on one or more continuous lots, tracts, or parcels of land under a single ownership for temporary recreational camping. A permanent house, mobile home, manufactured home, or recreational vehicle for the owner, operator, or manager of the campground is allowed, however other	Updated Section reference to reflect changes in Articles 4 & 5

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Sections of the Ordinance pertaining to such use shall apply, including Section ~~4.040~~ 5.010, etc. Accessory uses that may be permitted include recreational cabins, showers, laundry, a grocery, a gas pump, and recreation facilities that are designated for the primary purpose of serving the occupants of the campground. A camper as defined in Article I, shall not be allowed to stay any longer than six (6) months in any twelve (12) month period. The standards contained in this Section are minimum standards. Additional standards may be required where necessary to meet other requirements of this Ordinance, i.e. Floodplain, Geologic Hazard zone, Riparian Vegetation.	
(2) A RECREATIONAL CAMPGROUND shall be built to State standards and shall comply with the following provisions:	
~~(A)~~ (a) A RECREATIONAL CAMPGROUND shall have: ~~(1)~~ i. A minimum size of 1 acre or the minimum lot size of the zone, whichever is greater; ~~(2)~~ ii. A minimum number of 4 sites; ~~(3)~~ iii. A minimum width of space 23 feet or state minimum which ever is greater, for each site; ~~(4)~~ iv. Lot depths may vary in size, however maximum unit lengths shall be designated for each proposed space, and each space shall include enough area for the required set-backs along with the maximum unit length; ~~(5)~~ v. A minimum distance between actual unit location and interior road right-of-way of 10 feet. Each campsite will have direct access to interior road right-of-way; ~~(6)~~ vi. And all property lines not abutting an exterior roadway shall be 10 feet. A minimum distance between actual unit and an exterior roadway shall be 20 feet; ~~(7)~~ vii. A minimum distance between actual units of 15 feet; ~~(8)~~ viii. Minimum distance between actual unit and community or service buildings of 10 feet; ~~(9)~~ ix. Campground roads shall have a surface width of at least 16 feet with 2 foot shoulders on each side. All interior park roads shall be surfaced to minimum County road standards and well-drained. No on-street parking shall be allowed;	Added from Article 4. Previously 4.060. Header/sub-header reorganized.

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~~(10)~~ x. Walkways not less than three (3) feet wide may be required to be provided from trailer spaces to community and service buildings. All access roads and walkways should be well lighted; ~~(11)~~ xi. All areas not used for spaces, motor vehicle parking, traffic circulation, or service or community buildings shall be completely and permanently landscaped or maintain existing natural vegetation. The landscaping shall be maintained in good condition; ~~(12)~~ xii. A sight-obscuring fence and/or buffer strip of vegetation may be required on every side of a RECREATIONAL CAMPGROUND;. ~~(13)~~ xiii. Trash cans shall be provided in convenient locations for the use of guests of the park, and shall be located in such number, and shall be of such capacity, that there is no uncovered accumulation of trash at any time; ~~(14)~~ xiv. All Recreational Vehicles staying in the park shall be assigned to a space. No space shall have more than one (1) Recreational Vehicle or tent assigned to it, except as provided in State law; ~~(15)~~ xv. Approval of a recreational campground shall not be construed to be an approval of the building plans for building permit review purposes. All proposed building construction must meet Uniform Building Code requirements as part of building permit review; ~~(16)~~ xvi. On-site storage areas, for park residents only, may be allowed. If allowed, the storage area shall be screened or combined landscape and screening with a 6 foot high sight obscuring fence or hedge along all exterior property lines of the storage area; ~~(17)~~ xvii. Preliminary plans which contain all the information specified in OAR 333-31-059 shall be submitted to the Planning Department when requesting Conditional Use approval. ~~(18)~~ xviii. All RECREATIONAL CAMPGROUNDS, which legally existed prior to the date of this Ordinance, and which have submitted complete Master Plans to the department for review, shall be considered an "existing use" if: ~~(a)~~ 1. The RECREATIONAL CAMPGROUND is in compliance with all State regulations and County Sanitation regulations; and ~~(b)~~ 2. Master Plans and review fees are submitted to the department no later than December 31, 1986; and	

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~~(c)~~ 3. The department issues a letter to the RECREATIONAL CAMPGROUND owner indicating that the campground meets the above two criteria. If it is determined by the department that the RECREATIONAL CAMPGROUND does meet the first two criteria, the department shall submit the letter, mentioned in (c) above, to the campground owner. At that time, only that portion of the campground identified in the Master Plan, will then be considered an "existing use". Only those campgrounds who retain the confirmation letter will be considered an "existing use". In the future, if one of the "existing use" campgrounds enlarge or expand, only that new portion of the campground will be required to meet the County standards. The "existing use" RECREATIONAL CAMPGROUNDS are to be allowed to remain as they are represented within the accepted Master Plan on only that portion of the property designated. If the use is vacated for over one year the "existing use" designation shall be void, and any new use of the property shall conform to the requirements of this Ordinance. The "existing use" may be sold or transferred to new owners. The new owners will maintain the same rights as the previous owners. ~~(19)~~ xix. The accessory commercial uses such as gas pump, laundry, grocery store and recreational facilities shall not exceed the requirements of Rural Commercial, Section 3.020. ~~(20)~~ xx. New full hook-up parks requiring a community septic/sewer system are permitted only within adopted unincorporated community ~~growth~~ boundaries.	
SECTION 5.040: PRIMITIVE CAMPGROUND STANDARDS	Added from Article 4. Previously 4.065
PURPOSE The purpose of the PRIMITIVE CAMPGROUND STANDARDS is to insure that each new or enlarged campground provides the necessary facilities, sites, amenities, and other requirements in the interest of preserving the public safety, health, and general welfare, and that such developments provide a quality camping opportunity for visitors to the County. A PRIMITIVE CAMPGROUND is a designated place where four or more campsites are located for occupancy by camping units on a temporary basis for	Added from Article 4. Previously 4.065

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recreation, education or vacation purposes. A PRIMITIVE CAMPGROUND is predominantly an unattended facility which is established to accommodate recreational vehicles, tents, or bicycle uses for a period of time not to exceed two weeks in any given four week period. The standards contained in this Section are minimum standards. Additional standards may be required where necessary to meet other requirements of this Ordinance, i.e. Flood Plain, Geologic Hazard zone, riparian vegetation. A campground shall be built to State standards and shall comply with the following provisions:	
(1) The total area utilized for campsites and access shall not exceed 60% of the total area of the campground.	Added from Article 4. Previously 4.065
(2) Each space shall be a minimum of 1,200 square feet.	Added from Article 4. Previously 4.065
(3) Each campsite shall be provided with a fire pit or ring.	Added from Article 4. Previously 4.065
(4) Tables shall be provided at all campsites.	Added from Article 4. Previously 4.065
(5) Natural vegetation or landscaping surrounding campsites shall remain intact.	Added from Article 4. Previously 4.065
(6) Trash cans may be provided in convenient locations for the use of guests of the park, may be located in such number, and may be of such capacity that there is no uncovered accumulation of trash at any time.	Added from Article 4. Previously 4.065
(7) A house, mobile home or manufactured home may be located within the campground for the owner, manager or caretaker of the campground.	Added from Article 4. Previously 4.065
(8) Other camp-related buildings may be permitted, if approved through the Conditional Use process.	Added from Article 4. Previously 4.065
(9) No recreational vehicle, tent, or other building or structure shall be within 20 feet of any property line.	Added from Article 4. Previously 4.065
(10) Access and interior roadways must be approved by the County Public Works Department.	Added from Article 4. Previously 4.065
(11) The campground may be adequately screened with vegetation and/or natural features around its exterior boundary lines.	Added from Article 4. Previously 4.065
(12) Preliminary plans which contain all the information specified in OAR 333-31-059 shall be submitted to the Planning Department when requesting Conditional Use or permit approval.	Added from Article 4. Previously 4.065

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(13) All PRIMITIVE CAMPGROUNDS, which legally existed prior to the date of this Ordinance, and which have submitted complete Master Plans to the Department for review, shall be considered an "existing use" if: (a) The PRIMITIVE CAMPGROUND is in compliance with all State regulations and County Sanitation regulations; and (b) Master Plans and review fees are submitted to the department no later than December 31, 1986; and (c) The department issues a letter to the PRIMITIVE CAMPGROUND owner indicating that the campground meets the above two criteria. [d1]	Added from Article 4. Previously 4.065. Striked text moved to Section 5.065(14)
(14) If it is determined by the department that the PRIMITIVE CAMPGROUND does meet the first two criteria of (13), the department shall submit the letter, mentioned in (c) above, to the campground owner. At that time, only that portion of the campground identified in the Master Plan, will then be considered an "existing use". Only those campgrounds who retain the confirmation letter will be considered an "existing use". In the future, if one of the "existing use" campgrounds enlarge or expand, only that new portion of the campground will be required to meet the County standards. The "existing use" PRIMITIVE CAMPGROUNDS are to be allowed to remain as they are represented within the accepted Master Plan on only that portion of the property designated. If the use is vacated for over one year the "existing use" designation shall be void, and any new use of the property shall conform to the requirements of this Ordinance. The "existing use" may be sold or transferred to new owners. The new owners will maintain the same rights as the previous owners	Text moved into new sub-header from Section 5.065(13)
~~SECTION 5.100: GENERAL EXCEPTION TO LOT SIZE REQUIREMENTS~~	Moved to Article 4 as Section 4.100
~~SECTION 5.110: EXCEPTIONS TO YARD SETBACK REQUIREMENTS~~	Moved to Article 4 as Section 4.110
~~SECTION 5.120: GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS~~	Moved to Article 4 as Section 4.120
SECTION 5.050: GENERAL EXCEPTIONS FOR THE LOCATION OF RECREATIONAL VEHICLES AND MOBILE AND MANUFACTURED HOMES	New Section Number (5.050). Previously 5.130

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(1) The Commission, upon receiving a preliminary subdivision designed either for RECREATIONAL VEHICLES in the RMH, RMD, CSFR or RR-2 AND RR-10 zones or MOBILE AND MANUFACTURED HOMES in the CR-2 or CR-3 zones, may approve the preliminary plat with the stipulation that the proposed use may be permitted outright, provided that the following criteria can be met: (a) There is no apparent incompatibility with land uses on surrounding properties. (b) The proposed use of the subdivision will not substantially alter the overall land use pattern in the vicinity. (c) The proposed use is consistent with Comprehensive Plan policies for the vicinity. (d) All applicable regulations pertaining to the proposed use will be met.	
(2) The use of RECREATIONAL VEHICLES is permitted outright in the following areas, provided that all applicable development standards are met: (a) Silver Valley Mobile Home Ranch, located in the Neskowin area in the RR zone. (b) Three Rivers Ranch, located on Highway 22 near Hebo in the RR zone. (c) Deer Ridge Subdivision and all recorded additions, located on Netarts Highway, 4 miles from Tillamook in the RR zone. (d) Foley Creek, Foley Creek II, and Foley Creek III, located on Miami-Foley Road, 7 miles from Garibaldi in the RR zone. (e) Wilson Beach, located in Netarts in the RMD zone. (f) Elk Meadows, located east of Lee's Camp on the Wilson River Highway.	
SECTION 5.060: BUILDING HEIGHTS WITHIN THE NEAH-KAH-NIE COMMUNITY GROWTH BOUNDARY	New Section Number (5.060). Previously 5.140
Within the Neah-Kah-Nie Community Growth Boundary, all buildings within five hundred (500) feet of the State Beach Zone Line shall be limited in height to seventeen (17) feet, and to twenty-four (24) feet otherwise. When the five hundred (500) foot measurement line divides a lot, the entire lot is subject to the	

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seventeen (17) foot limitations. Higher buildings may be permitted only according to the provisions of Article 8.	
SECTION 5.070: TEMPORARY USES	New Section Number (5.070). Previously 5.150
(1) The use of a recreation vehicle as a temporary dwelling during the construction of a public facility improvement project may be authorized by the Director in any zone, subject to the approval of a sewage disposal system by the County Sanitarian.	
(2) The temporary parking and use of a recreational vehicle by a party visiting a resident of Tillamook County is authorized in conjunction with a legally established dwelling, on the resident's property for a period not to exceed two weeks within one month (30 days), provided that no County Sanitation or setback requirements are violated.	
(3) Temporary Use permits for Special Events and Retail Sales: (a) Definition: For the purposes of this Subsection, Temporary Use means activities involving the retail sale of food or goods, or outdoor events such as festivals or carnivals, which last no more than a total of three consecutive days. Such uses shall not involve the construction of permanent facilities. (b) Temporary Use Permit: A Temporary Use is not permitted until a permit is acquired from the Department. ~~(1)~~ i. Applications for a temporary use permit shall be made on forms provided by the Department. Applications shall include: ~~A~~ 1. The applicant's name, address, and telephone number. ~~B~~ 2. The written permission of the property owner. ~~C~~ 3. Organizational affiliation or sponsorship, if any. ~~D~~ 4. Description of the planned activity. ~~E~~ 5. Days and hours of operation. ~~F~~ 6. Provisions for parking, access, and litter control, if necessary. ~~(2)~~ ii. Applications will be reviewed by the Tillamook County Public Works, Planning, Health, Sheriff's Department;	

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Parks Department where applicable. ~~(3)~~ iii. In reviewing a Temporary Use Permit, the Director shall consider the recommendations and comments of the reviewing departments and the potential impacts of the proposed use on nearby properties. The Director may impose conditions of approval to ensure compliance with the provisions of this Ordinance. ~~(4)~~ iv. The Director's decision on a Temporary Use Permit may be appealed to the Board by filing a written letter with the Department within 7 days of the decision. Notice of the public hearing before the Board shall be provided in accordance with Section 10.060 (3) (a). (c) Fees for Temporary Use Permits: ~~(1)~~ i. No fee shall be charged if the applicant is a bonafide nonprofit, charitable organization. ~~(2)~~ ii. Applicants may coordinate their requests so that a single fee may be charged for all associated activities occurring at one location during the same time period. ~~(3)~~ iii. The appeal fee is equal to the cost of the application. (d) Approved permits shall be available, at the location of the Temporary Use during the period allowed by the permit, for inspection by Tillamook County law enforcement or Department officials.	
SECTION 5.080: GARAGE SALES	New Section Number (5.080). Previously 5.151.
Not more than two garage sales consisting of not more than three consecutive days each shall be allowed in an 12 month period.	
SECTION 5.090: SPECIAL REQUIREMENTS FOR MOBILE HOMES	New Section Number (5.090). Previously 5.160.
In the CR-1, CR-2 zones of Cloverdale, the CR-3 zone when permitted outright; in the CR-2 zone when permitted conditionally; in the CSFR zone within and contiguous to the exception areas of Falcon Cove and Tierra Del Mar; and in the RR zone in the Idaville Roads, and an area south of the Alderbrook Golf Course and north of Alderbrook Road between Vaughn and Doughty Roads; and in the First Addition to Wilson Beach zoned RMD, and as otherwise identified as applicable by the ordinance; in addition to the requirements of Section ~~4.040~~5.085 for mobile homes, mobile homes shall: (1) Be multi-sectional, and not single wide.	Section 5.085 does not exist

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(2) Have a roof with at least a pitch of 3 in 12 (3) Be roofed with composition shingles or other conventional house-type roofing. (4) Be sided with lap or other wood-like siding. (5) Be skirted with the same material as the siding.	
~~SECTION 5.170: SPECIAL DRAINAGE ENHANCEMENT AREA PROVISIONS FOR THE SOUTH NEAH-KAH-NIE AREA~~	Section moved Article 3 as sub-section 3.300(5)(a-d)
~~Section 2.9 of the Goal VII Element of the County Comprehensive Plan identifies a special drainage enhancement area in Neah-Kah-Nie south and east of Nehalem Road at its junction with Beach Street. Section 2.9 of the Goal VII Element also identifies, within the southwest portion of this area, a "potential development area" upon which one dwelling unit may be placed. These areas are further described in the Plan and are identified on the County's Zoning Map. Subject to the following exceptions, development, including fill, will be prohibited within this drainage enhancement area:~~ ~~(1) Ditching and tiling that improve drainage into or out of the Drainage Enhancement Area shall be permitted.~~ ~~(2) Activities such as landscaping and gardening, which do not include placement of structures, dikes, levees, or berms, or filling, grading or paving, and which will not restrict drainage into or out of the Drainage Enhancement Area, shall be permitted.~~ ~~(3) A pond may be created if it can be shown through the flood hazard area development permit process of Section 3.060 3.510 of the County's Land Use Ordinance that it will not adversely affect drainage in the area.~~ ~~(4) One dwelling unit, including necessary fill, shall be permitted within the "potential development area" portion of the Drainage Enhancement Area, providing that the area subject to development for this purpose is contiguous and does not exceed one-half the area of the "potential development areas".~~	Section moved Article 3 as sub-section 3.300(5)(a-d)
SECTION 5.100 NESKOWIN EROSION CONTROL AND STORMWATER MANAGEMENT	New Section number Previously 4.150.

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~~PROPERTY USE REQUIREMENTS & EXCEPTIONS~~ SPECIAL USE STANDARDS AND EXCEPTIONS	
(1) PURPOSE: The Neskowin Coastal Erosion Adaptation Plan directs that erosion control and stormwater management be addressed within the Neskowin community boundary. Fluctuations in water levels and discharge of sediments within community streams and creeks ultimately impact coastal erosion. The purpose of this section is to ensure that new land divisions and other substantial developments within the Neskowin Community ~~Growth~~ Boundary provide for adequate control of erosion and sedimentation during construction and other ground disturbing activities. Furthermore, measures should be incorporated for long-term management of stormwater in a manner that minimizes impacts on coastal erosion and other related adverse impacts to the community. (2) APPLICABILITY: The provisions of this section shall apply to: (a) All lands within the Neskowin Community ~~Growth~~ Boundary as set forth on the Tillamook County Comprehensive Plan map; (b) All development subject to approval by Tillamook County pursuant to Section ~~3.080~~ 3.520, Section ~~3.082~~ 3.525, Section ~~3.084~~ 3.045, Section ~~4.130~~ 4.170, or the provisions of the Tillamook County Land Division Ordinance; and, (c) All development within the Neskowin Coastal hazard Overlay Zone (NESK CH) area that requires a Neskowin Coastal Hazard Area Permit. (3) EROSION CONTROL: All applications for development subject to the provisions of this section shall include detailed plans for the control of erosion and sedimentation during the course of construction and/or other ground disturbing activities. Such plans shall, at a minimum, incorporate the following measures: (a) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimizes soil erosion, allow the soil to be stabilized as quickly as practicable, and disturb the smallest practical area at any one time during construction; (b) Development plans shall minimize cut or fill operations so as to prevent off-site impacts; (c) Sedimentation barriers, as described in the Oregon Department of Environmental Quality publication "Best Management Practices for Stormwater Discharges Associated with Construction Activities" shall be placed to control sedimentation and minimize any sediment discharge from the site. Such barriers shall be installed prior to site clearing or grading activities; (d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development; and,	Updated cross-references to Overlay Zones; new numbering for Mixed Use Development; and updated cross-reference to new Article 1 (old Article 11 compliance and penalties).

DRAFT LUO ARTICLE 5	NOTES
~~PROPERTY USE REQUIREMENTS & EXCEPTIONS~~ SPECIAL USE STANDARDS AND EXCEPTIONS	
(e) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical. (4) STORMWATER MANAGEMENT: Applications for development subject to the provisions of this section shall include plans for the long-term management of stormwater that, at a minimum, conform to the following requirements: (a) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally controlled where necessary to prevent increased erosion; and (b) Permanent drainage provisions adequate to convey surface runoff from the twenty-year frequency storm to suitable drainage ways such as storm drains, natural watercourses, or drainage swales shall be provided. In no case shall runoff be directed in such a way as to significantly decrease the stability of bluff faces, foredune areas, known landslides, or other areas identified as unstable slopes prone to earth movement, either by erosion or increase of groundwater pressure. (c) A geologic report, required within the NESK CH Overlay Zone, shall address management of surface water runoff at or behind active foredunes and riprap structures in order to reduce erosion and structure failure potential. (5) MAINTENANCE: All erosion control and stormwater management measures shall be maintained in a manner that ensures that they function in accordance with their approved design. Failure to maintain erosion control or stormwater management measures in accordance with approved plans shall constitute a violation of this ordinance subject to enforcement pursuant to Article ~~X~~1.	

Land Use Ordinance Article 6 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 6	NOTES
CONDITIONAL USE PROCEDURES AND CRITERIA	
SECTION 6.010: PURPOSE	
The purpose of a CONDITIONAL USE is to provide for uses that are not allowed by right in a certain zone because of potentially adverse impacts on uses permitted by right in that zone. Such uses may be made or deemed compatible through the review process contained in this Article, which subjects the proposed CONDITIONAL USE activity to specific requirements, criteria, and conditions. The location and operation of any CONDITIONAL USE listed in this Ordinance shall only be permitted according to the provisions of this Article.	
SECTION 6.020: PROCEDURE	
The following procedure shall be observed in submitting and acting on a CONDITIONAL USE request:	
(1) A request may be initiated for a CONDITIONAL USE, or the modification of an approved CONDITIONAL USE, by filing an application with the Department. The Department may require any information necessary for a complete understanding of the proposed use and its relationship to surrounding properties. ~~An application will not be considered complete for purposes of statutory time limitations until all requested information is received by the Department. No application will be accepted until all review fees, as set by the Board, are paid in full.~~	Deleted text is addressed in (new) Article 10.
(2) The Director shall~~, within ten days of receipt and acceptance of an application for a CONDITIONAL USE,~~ act administratively according to the procedure set forth in ~~Sections 6.020 (3) through (9)~~ Article 10, or shall refer the application to the Commission for a public hearing and decision. The application shall be referred to the Commission if the director determines that the proposed use would have significant impacts that extend beyond the abutting properties, and that those impacts are not likely to be adequately addressed by response to public notice required by Section ~~6.020 (3)~~ 10.070. If the Director elects to refer the application to the Commission, it shall be heard at the next available Commission	Revised citations.

DRAFT LUO ARTICLE 6	NOTES
hearing, unless the applicant requests otherwise.	
~~(3) If the Planning Director elects to act administratively, he or she shall send, by First Class mail, a notice of the application for a CONDITIONAL USE to the following persons:~~ ~~(a) The applicant.~~ ~~(b) All owners of property abutting the property which is the subject of the CONDITIONAL USE application. For the purpose of determining whether property is abutting other property, intervening public and private ways and water courses do not break the continuity of abutting properties.~~ ~~(c) The Citizen Advisory Committee (CAC) members for the area in which the subject property is located.~~ ~~(d) Other persons, agencies, or departments the Director deems appropriate.~~	Deleted text is addressed in (new) Article 10.
~~(4)~~ (3) No CONDITIONAL USE permit shall be invalidated because of failure to receive the notice provided for in Section ~~6.020 (3)~~ 10.070.	New Subsection numbering; revised citation.
~~(5) Notices sent pursuant to Section 6.020 (3) shall be mailed within ten days of receipt of a complete application. They shall state the general nature of the request, and that there is a right to respond with comments or objections in writing within ten days of mailing. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision, and shall have a right to appeal that decision to the Commission.~~ ~~(6) In addition to the notice mailed to the persons listed in Section 6.020 (3), notice of a CONDITIONAL USE application shall be published in a newspaper of general circulation in the County at least ten days before any administrative decision is made. The newspaper notice shall inform the public of the general nature of the request, and shall announce that written comments and objections will be accepted by the Department for seven days from the date of publications. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision, and shall have a right to appeal that decision to the Commission.~~ ~~(7) After any written comments or objections are received, and the period of time for public input has passed, the Director shall have ten days to prepare a written decision approving, disapproving, or approving with conditions, the application for a CONDITIONAL USE. In making the decision, the Director shall consider all written comments, the information in the application, and all applicable criteria of the Ordinance.~~ ~~(8) The applicant and all persons who submitted written comments shall be considered parties to the written decision ,and shall be entitled to written notice of the decision within ten days of the date of that decision. Any party may appeal the decision of the Director to the Commission in~~	Deleted text is addressed in (new) Article 10.

DRAFT LUO ARTICLE 6	NOTES
~~accordance with Section 10.020 of this Ordinance. Only those who are considered to be parties have standing to appeal an administrative decision made pursuant to Section 6.020.~~ ~~(9) Copies of all written decisions shall be mailed to Commission members. The Commission members shall be afforded an opportunity to comment on all written decisions at their next regular public hearing.~~	
SECTION 6.030: GENERAL REQUIREMENTS	
A CONDITIONAL USE shall be authorized, pursuant to the procedures set forth in Section 6.020, if the applicant adequately demonstrates that the proposed use satisfies all relevant requirements of this Ordinance, including the review criteria contained in Section 6.040 or the Health Hardship provisions contained in Section 6.050, and the following general requirements:	
(1) A CONDITIONAL USE shall be subject to the standards of the zone in which it is located, except as those standards have been modified in authorizing the CONDITIONAL USE. The size of a lot to be used for a public utility facility may be reduced below the minimum required, provided that it will have no adverse effect upon adjacent uses.	
(2) A CONDITIONAL USE may be enlarged or altered pursuant to the following: (a) Major alterations of a CONDITIONAL USE, including changes to or deletion of any imposed conditions, shall be processed as a new CONDITIONAL USE application. (b) Minor alterations of a CONDITIONAL USE may be approved by the Director according to the procedures used for authorizing a building permit, if such alterations are requested prior to the issuance of a building permit for the CONDITIONAL USE. Minor alterations are those which may affect the siting and dimensions of structural and other improvements relating to the CONDITIONAL USE, and may include small changes in the use itself. Any change which would affect the basic type, character, arrangement, or intent of the approved CONDITIONAL USE shall be considered a major alteration. (c) The enlargement or alteration of a one-or two-family dwelling, mobile home, manufactured home, or recreational vehicle that is authorized as a CONDITIONAL USE under the provisions of this Ordinance shall not require further authorization, if all applicable standards and criteria are met.	

DRAFT LUO ARTICLE 6	NOTES
(3) Where the approval of a CONDITIONAL USE request is contingent upon an amendment to this Ordinance, and an application for such amendment has been recommended for approval by the Commission, the CONDITIONAL USE request may be approved upon the condition that the Board approves the Ordinance Amendment.	
SECTION 6.040: REVIEW CRITERIA	
Any CONDITIONAL USE authorized according to this Article shall be subject to the following criteria, where applicable:	
(1) The use is listed as a CONDITIONAL USE in the underlying zone, or in an applicable overlying zone.	
(2) The use is consistent with the applicable goals and policies of the Comprehensive Plan.	
(3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.	
(4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.	
(5) The proposed use will not have detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills.	
(6) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.	
SECTION 6.050: HEALTH HARDSHIP PROVISIONS	
A CONDITIONAL USE for a HEALTH HARDSHIP may be authorized according to the procedure set forth in Section 6.020, provided that the use is of a temporary nature. Approval of the HEALTH HARDSHIP permits the placement of a mobile home, manufactured home or recreational vehicle, subject to the following conditions in addition to the requirements of Section ~~4.040~~ 5.010:	Section reference updated to reflect changes in Articles 4 & 5
(1) The applicant can demonstrate that approval of the request would allow for the care of a seriously ill person in a manner that could not be achieved by any reasonable existing alternative.	
(2) The applicant has a medical doctor's written confirmation of a HEALTH HARDSHIP.	
(3) The approval is for a length of time not to exceed 24 months, or the duration of the HEALTH HARDSHIP, whichever is less. The Director may extend an approval for additional 24 month periods if a written request for renewal is submitted by the applicant before expiration, and	

DRAFT LUO ARTICLE 6	NOTES
written reconfirmation of the HEALTH HARDSHIP is provided by a medical doctor.	
SECTION 6.060: CONDITIONS OF APPROVAL	
In approving a CONDITIONAL USE or a modification of a CONDITIONAL USE, any conditions which are considered necessary to protect the area surrounding the proposed use, and to preserve the basic purpose and intent of the underlying zone, may be imposed. These may include, but are not limited to, the following:	
(1) Increasing the required parcel area or yard dimensions.	
(2) Limiting the height, size, or location of buildings and structures.	
(3) Modifying the location and number of required off-street parking and loading spaces.	
(4) Controlling the location and number of vehicle access points.	
(5) Limiting the number, size and location of signs.	
(6) Requiring diking, fencing, screening, landscaping, or other measures to protect adjacent or nearby properties from the effects of the use.	
(7) Prescribing a time limit within which to fulfill any established conditions.	
SECTION 6.070: COMPLIANCE WITH CONDITIONS	
Adherence to the approved plot plan and compliance with the conditions imposed in approving a CONDITIONAL USE request shall be required. Any departure from the conditions of approval or approved plans constitutes a violation of this Ordinance.	
SECTION 6.080: TIME LIMIT	
All CONDITIONAL USES except those approved for a Health Hardship may be approved for a 24-month period. If construction has not begun on the approved development, such approvals may be extended beyond 24 months only if the Director determines that a review would be unlikely to reveal new information which could lead to different conclusions than those reflected in the original staff report. For the purposes of such a determination, the Director may rely on such things as:	
(1) Changes in Ordinance requirements or the requirements of State law;	
(2) The extent and character of new development in the vicinity of the request;	

DRAFT LUO ARTICLE 6	NOTES
(3) The adequacy of the review upon which the original was based;	
(4) Any other circumstances which could change the substance of the original staff report.	
If the Director determines that a new review is warranted, then the applicant shall provide all information and fees required by this Article.	

Land Use Ordinance Article 7 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 7	NOTES
NONCONFORMING USES AND STRUCTURES	
SECTION 7.010: PURPOSE	
The purpose of the NONCONFORMING USES AND STRUCTURES provisions are to establish standards and procedures regulating the continuation, improvement and replacement of structures and uses which pre-date, and which do not comply with, this Ordinance. The intent is to allow changes to nonconforming uses and structures in a manner that does not increase the level of adverse impact to surrounding areas. These provisions are intended to be consistent with ORS 215.130	
SECTION 7.020: NONCONFORMING USES AND STRUCTURES	
(1) DEFINITIONS: (a) NONCONFORMING USE: A use that does not conform to current requirements of this Ordinance but which legally existed at the time the applicable section(s) of the Ordinance took effect and has continued into the present without discontinuance as described in Section 7.020 (6). (b) A NONCONFORMING STRUCTURE: A structure that does not conform to current requirements of this Ordinance but which legally existed at the time the applicable section(s) of the Ordinance took effect. (c) ALTERATION of a NONCONFORMING STRUCTURE: A partial change to a structure, not involving enlargement of the external dimensions of the structure. (d) ALTERATION of a NONCONFORMING USE: A change in the characteristics of the use (for example, hours of operation; type of vehicle serviced) but not a change in the use. (e) EXPANSION: Any increase in any external dimension of a structure, or any increase in land area devoted to a use.	Section reference updated to reflect changes in Article 3

DRAFT LUO ARTICLE 7	NOTES
(f) REPLACEMENT OF USE: The discontinuance as described in Section 7.020 (6) of an existing use and commencement of a new use. (g) REPLACEMENT OF STRUCTURE: Removal that exceeds 80 percent of an existing structure and placement of a new structure. (h) 100% MARKET VALUE THRESHOLD: ALTERATIONS or EXPANSIONS within any five-year period, of which equals or exceeds 100% of the market value of the structure (as indicated by the records of the County Assessor) at the beginning of the five-year period. The 100% MARKET VALUE THRESHOLD shall not apply to an ALTERATION or EXPANSION for purposes of conformance with Section ~~3.060~~ 3.510 Flood Hazard Overlay Zone.	
(2) BURDEN OF PROOF: In matters relating to the continuation, alteration, expansion or replacement of a nonconforming structure or use, the applicant bears the burden of proof for establishing: (a) The current use or structure lawfully existed at the time the applicable zoning requirement went into effect; and (b) The level of use and/or dimensions of the structure that existed at the time the applicable zoning went into effect.	
Standard evidence that a use or structure has been maintained over time may include dated documents such as: building permits, land use approvals, development permits, other governmental permits, utility bills, tax records, assessor records, loan statements, business license, directory listings, published references or other documents deemed admissible by the Director. If the regulation, which rendered the structure or use nonconforming, was enacted more than 20 years prior to the time of application, the applicant need only provide evidence or information pertaining to the 20 years immediately previous to application.	
(3) CONTINUATION: A NONCONFORMING USE OR STRUCTURE may be continued at the level of use or dimension of structure existing on the date the applicable zoning went into effect, subject to the requirements of Section 7.020.	
(4) ALTERATION OR EXPANSION: (a) ALTERATION of a NONCONFORMING STRUCTURE or a structure devoted to a NONCONFORMING USE is allowed, subject to all other provisions of this ordinance. If such alteration causes the 100% MARKET VALUE THRESHOLD to be exceeded, then it shall be subject to Major Review under Section 7.020(12). The 100% MARKET VALUE THRESHOLD shall not apply to an ALTERATION for purposes of conformance with Section ~~3.060~~ 3.510 Flood Hazard Overlay Zone.	Section reference updated to reflect changes in Article 3

DRAFT LUO ARTICLE 7	NOTES
(b) EXPANSION of a NONCONFORMING STRUCTURE, EXPANSION of a structure devoted to a NONCONFORMING USE, or ALTERATION or EXPANSION of a NONCONFORMING USE shall be subject to Minor Review under Section 7.020(11). If the criteria of Section 7.020(11) are not met, then the proposed alteration or expansion can only be allowed through a Variance (Article VIII). EXPANSION of a NONCONFORMING STRUCTURE shall be allowed outright for purposes of conformance with Section ~~3.060~~ 3.510 Flood Hazard Overlay Zone if the EXPANSION meets the height standard for the subject property and does not reduce existing nonconforming setbacks. The 100% MARKET VALUE THRESHOLD shall not apply to an EXPANSION for purposes of conformance with Section ~~3.060~~ 3.510 Flood Hazard Overlay Zone.	
(5) REPLACEMENT OR USE ADDITION:	
(a) If a NONCONFORMING STRUCTURE is replaced, the new structure shall conform to the current requirements of this ordinance.	
(b) If a NONCONFORMING USE involving a structure is replaced or a new use is added to the existing use, the new use shall conform to the current requirements of this ordinance, unless it is determined that the structure is suitable only for nonconforming uses. Such determination shall be made as part of the procedure and criteria of Minor Review under Section 7.020(11).	
(c) If a NONCONFORMING USE not involving a structure is replaced, or a new use is added to the existing use, the new use shall conform to the current requirements of this ordinance.	
(d) NONCONFORMING manufactured dwellings or recreational vehicles located in the LM or M-1 zones may be replaced provided the required setbacks of Section 3.016 (4) (d), (e) and (f) are met and the structure meets the standards of Section ~~4.040~~ 5.010.	
(e) A NONCONFORMING recreational vehicle may be replaced with a manufactured home or mobile home subject to the procedure of Section 6.020. The replacement shall conform to the criteria of Section 6.040. The manufactured dwelling shall also conform to the standards of Section ~~4.040~~ 5.010 and the setback requirements of the zone in which it is located.	
(f) A NONCONFORMING farm structure may be replaced by a new structure provided the new structure conforms to the standards of the zone in which it is located.	

DRAFT LUO ARTICLE 7	NOTES
(6) DISCONTINUANCE OF USE: (a) If a NONCONFORMING USE is discontinued for a period of one year, subsequent use of the property shall conform to this Ordinance. (b) If a NONCONFORMING USE of a mineral or aggregate mining operation is discontinued for a period of two years, subsequent use of the property shall conform to this Ordinance. (c) DISCONTINUANCE OF USE shall not apply to a medical leave of absence for a serious illness suffered by the owner/operator of the use, or serious illness suffered by member of owner/operator's immediate family related by blood, marriage, adoption or guardianship for which primary care is the responsibility of the owner/operator of the use, that resulted in an inability to continue the use for the period of the illness not in excess of two years. Burden of proof shall be with the owner/operator of the use and shall consist of the following: i. A Medical Doctor's affidavit stating the nature and term of the illness and necessity for the medical leave of absence; ii. Copies of receipts of medical bills related to the illness; and iii. Proof of relationship to owner/operator.	
(7) RELOCATION OF USE: A NONCONFORMING USE may be relocated upon the same parcel after review according to the procedure of Section 8.020 and findings that the proposed relocation conforms to the following standards: (a) The proposed location is no more detrimental to adjacent and nearby properties and uses than is the use at the current location. (b) The proposed location does not reduce the productivity of the parcel of land if the use is located in an F, F-1, or SFW-20 zone.	
(8) DESTRUCTION OF USE: If a NONCONFORMING STRUCTURE or a structure devoted to a NONCONFORMING USE is destroyed or damaged by any cause other than an action of the property owner or his agent, to an extent exceeding 80 percent of its fair market value as indicated by the records of the County Assessor, that structure may be rebuilt, subject to the following conditions: (a) Reconstruction of the structure shall conform to the setbacks, building height and other requirements of the zone in which it is located. (b) Reconstruction of a structure shall be allowed in the same location if the destroyed structure was not in conformance with Section ~~4.080 Riparian Overlay Zone~~ 4.140 Requirements for Protection of Water Quality and Streambank Stabilization.	Updated Section reference to reflect changes in Article 4

DRAFT LUO ARTICLE 7	NOTES
(c) Restoration or replacement shall be commenced within one year from the occurrence of the event that destroyed or damaged the structure. This requirement shall be satisfied by obtaining a building permit for the restoration or replacement of the structure or by demonstrating that circumstances beyond the control of the applicant made it impossible to obtain a building permit within that time. In any case a building permit must be obtained and construction must commence within 24 months after the destructive event. If this requirement is not satisfied, the use of the property shall be in conformance with the requirements of the zone in which it is located. If destruction or damage is caused by an action of the property owner or their agent the reconstruction shall be subject to Section 7.010(5) of this ordinance.	
(9) NONCONFORMING STRUCTURE EXCEPTIONS: Notwithstanding Section 7.020(3), a structure having a conforming main use but not conforming to setback or height standards may be expanded as follows: (a) If all proposed new construction complies with all standards of the zone, the expansion may be allowed; (b) If the structure has a nonconforming non-street side yard of three feet or more, the structure may be expanded to the interior edge of required front or rear yards. (c) If the structure has a nonconforming non-street side yard of less than three feet, the structure may be expanded at no less than three feet from the side property line, to the interior edge of required front or rear yards. If the expansion exceeds the 100% MARKET VALUE THRESHOLD, then the Major Review criteria must be met.	
(10) Notwithstanding the provisions of this section, alteration or expansion of a NONCONFORMING USE OR STRUCTURE shall be allowed if necessary to comply with any lawful requirement.	
(11) MINOR REVIEW: Application is made under the fee and procedures for ~~a~~n Type II Administrative Review and is reviewed using the following review criteria. A request may be permitted if: (a) The request will have no greater adverse impact on neighboring areas than the existing use or structure when the current zoning went into effect, considering: i. A comparison of existing use or structure with the proposed change using the following factors:	Minor modification references (new) Article 10.

DRAFT LUO ARTICLE 7	NOTES
1. Noise, vibration, dust, odor, fumes, glare, or smoke detectable at the property line or off-site; 2. Numbers and kinds of vehicular trips to the site; 3. Amount and nature of outside storage, loading and parking; 4. Visual impact; 5. Hours of operation; 6. Effect on existing vegetation; 7. Effect on water drainage and water quality; 8. Service or other benefit to the use or structure provides to the area; and 9. Other factors relating to conflicts or incompatibility with the character or needs of the area. ii. The character and history of the use and of development in the surrounding area. (b) The request shall maintain a minimum separation of six feet between structures, and comply with the clear vision area of Section 4.010. The Department may require the applicant to submit a ~~property~~ site survey or similar information to assist in making these determinations.	
(12) MAJOR REVIEW: Application is made ~~using~~ under the ~~same~~ fee and procedure ~~as~~ for a ~~Conditional Use~~ Type II Administrative Review and is~~, but~~ reviewed relative to the following criteria: (a) The proposed alteration or expansion may be allowed only if the nonconforming structure or use is brought into conformance, or the nonconforming structure or use, including the proposed alteration/expansion, meets the following criteria: i. The alteration/expansion meets the Minor Review criteria; and ii. Either: 1. The nonconforming structure or use, including the proposed alteration/expansion, is consistent with the purposes of relevant development standards as enumerated in Section 4.005 and preserves the rights of neighboring property owners to use and enjoy their land for legal purposes; or 2. The applicant demonstrates that bringing the structure or use into compliance is either physically impracticable or financially onerous, and that mitigation will be implemented and maintained which will substantially offset the impact(s) to neighboring property owners.	Minor modification references (new)

DRAFT LUO ARTICLE 7	NOTES
The Department may require the applicant to submit a property survey or similar information to assist in making these determinations.	
~~(13) EXPLANATORY TABLE: The following table summarizes the use allowance or review requirements applicable to actions involving nonconforming uses or structures. This table is meant for summarizing purposes only and shall not be used in place of the requirements of Article VII. The summary presented by this table lacks the detail needed to fully understand the complexity of nonconforming uses or structures and regulations applied to them.~~	

Land Use Ordinance Article 8 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 8	NOTES
VARIANCE PROCEDURES AND CRITERIA	
SECTION 8.010: PURPOSE	
The purpose of a VARIANCE is to provide relief when a strict application of the dimensional requirements for lots or structures would cause an undue or unnecessary hardship by rendering the parcel incapable of reasonable economic use. No VARIANCE shall be granted to allow a use of property not authorized by this Ordinance.	
SECTION 8.020: PROCEDURE	
The following procedure shall be observed in applying for and acting on a VARIANCE request:	
(1) A request may be initiated for a VARIANCE, or the modification of an approved VARIANCE, by filing an application with the Department. The Department may require any information necessary for a complete understanding of the proposed VARIANCE and its relationship to surrounding properties. ~~An application will not be considered complete for purposes of statutory time limitations until all requested information is received by the Department. No application will be accepted until all review fees, as set by the Board, are paid in full.~~	
(2) The Director shall~~, within ten days of receipt and acceptance of an application for a VARIANCE,~~ act administratively according to the procedure set forth in ~~Sections 8.020 (3) through (9)~~ Article 10, or shall refer the application to the Commission for a public hearing and decision. The application shall be referred to the Commission if the Director determines that the proposed use would have significant impacts that extend beyond the abutting properties, and that those impacts are not likely to be adequately addressed by response to public notice required by Section ~~8.0202 (3)~~ 10.070. If the Director elects to refer the application to the Commission, it shall be heard at the next available Commission hearing, unless the applicant requests otherwise.	Revised citations.

DRAFT LUO ARTICLE 8	NOTES
~~(3) If the Planning Director elects to act administratively, he or she shall send, by First Class mail, a notice of the application for a VARIANCE to the following persons:~~ ~~(a) The applicant.~~ ~~(b) All owners of property abutting the property which is the subject of the VARIANCE request. For the purpose of determining whether property is abutting other property, intervening public and private ways and water courses do not break the continuity of abutting properties.~~ ~~(c) The Citizen Advisory Committee (CAC) members for the area in which the subject property is located.~~ ~~(d) Other persons, agencies, or departments the Director deems appropriate.~~	Deleted text is addressed in (new) Article 10.
~~(4)~~(3) No approved VARIANCE request shall be invalidated because of failure to receive the notice provided for in Section ~~8.020 (3)~~ 10.070.	New Subsection numbering; revised citation.
~~(5) Notices described in Section 8.020 (3) shall be mailed within ten days of receipt of a complete application. They shall state the general nature of the request, and that there is a right to respond with comments or objections in writing within ten days of mailing. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision, and shall have a right to appeal that decision to the Commission.~~ ~~(6) In addition to the notice mailed to the persons listed in Section 8.020 (3), notice of a VARIANCE request shall be published in a newspaper of general circulation in the County at least ten days before any administrative decision is made. The newspaper notice shall inform the public of the general nature of the request, and shall announce that written comments and objections will be accepted by the Department for seven days from the date of publication. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision, and shall have a right to appeal that decision to the Commission.~~ ~~(7) After any written comments or objections are received, and the period of time for public input has passed, the Director shall have ten days to prepare a written decision approving, disapproving, or approving with conditions, the application for a VARIANCE. In making the decision, the Director shall consider all written comments, the information in the application, and all applicable criteria of the Ordinance.~~ ~~(8) The applicant and all persons who submitted written comments shall be considered parties to the written decision, and shall be entitled to written notice of the decision within ten days of the date of that decision. Any party may appeal the decision of the Director to the Commission in accordance with Section 10.020 of this Ordinance. Only those who are considered to be parties have standing to appeal an administrative decision~~	Deleted text is addressed in (new) Article 10.

DRAFT LUO ARTICLE 8	NOTES
~~made pursuant to Section 8.020.~~ ~~(9) Copies of all written decisions shall be mailed to Commission members. The Commission members shall be afforded an opportunity to comment on all written decisions at their next regular public hearing.~~	
SECTION 8.030: REVIEW CRITERIA	
A VARIANCE shall be granted, according to the procedures set forth in Section 8.020, if the applicant adequately demonstrates that the proposed VARIANCE satisfies all of the following criteria:	
(1) Circumstances attributable either to the dimensional, topographic, or hazardous characteristics of a legally existing lot, or to the placement of structures thereupon, would effectively preclude the enjoyment of a substantial property right enjoyed by the majority of landowners in the vicinity, if all applicable standards were to be met. Such circumstances may not be self-created.	
(2) A VARIANCE is necessary to accommodate a use or accessory use on the parcel which can be reasonably expected to occur within the zone or vicinity.	
(3) The proposed VARIANCE will comply with the purposes of relevant development standards as enumerated in Section 4.005 and will preserve the right of adjoining property owners to use and enjoy their land for legal purposes.	
(4) There are no reasonable alternatives requiring either a lesser or no VARIANCE.	
SECTION 8.040: ENERGY CONSIDERATIONS	
It is the policy of the County that its development standards encourage the construction of facilities intended to conserve ENERGY or to develop renewable sources of ENERGY. Consequently, development standards may be adjusted to accommodate design features that are intended to result in either ENERGY conservation or the use of renewable ENERGY. Variances granted for this purpose shall be the minimum required to achieve this policy.	
SECTION 8.050: CONDITIONS OF APPROVAL	
Conditions deemed appropriate to carry out the intent of this Article may be attached to approved Variances. Such conditions shall be reasonably related to the Variance criteria.	
SECTION 8.060: COMPLIANCE WITH CONDITIONS	
Any departure from the conditions of approval or the approved plot plan constitutes a violation of this Ordinance. The Director may revoke approval of any Variance for failure to comply with any conditions of approval or for any	

DRAFT LUO ARTICLE 8	NOTES
other violation of this Ordinance.	
SECTION 8.070: TIME LIMIT	
All approved Variances shall be void if construction of the structure which required the Variance has not begun within 24 months of the date upon which the applicant was notified of the Commission's or the Director's decision. If construction/division has not begun, or if the division of land has not been filed with the County Clerk, such approval may be extended beyond 24 months only upon the Director's approval. Requests for extension of time shall be in writing and shall be submitted prior to the date of expiration.	

Land Use Ordinance Article 9 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 9	NOTES
AMENDMENT	
SECTION 9.010: AUTHORIZATION TO INITIATE AMENDMENTS	
An AMENDMENT to a zoning map maybe initiated by the Board, the Commission, the Department, or by application of a property owner. Anyone may initiate proceedings to AMEND the text of this Ordinance.	
SECTION 9.020: MAP AMENDMENT PROCEDURE AND CRITERIA	
The following provisions shall govern the consideration of a MAP AMENDMENT request:	
(1) Review procedures shall be determined pursuant to Section 10.040; ~~N~~notice of a proposed AMENDMENT shall be distributed according to the provisions of a Type III or Type IV review procedure ~~Section 10.060 of this Ordinance~~.	Revised citations.
(2) The applicant or, if County initiated, the Department shall prepare an analysis of the site and the surrounding area in the form of a map and report, considering the following factors: (a) Size, shape and orientation of the subject parcel. (b) Surrounding parcel sizes. (c) Topography, drainage, hazards, and other physical site characteristics. (d) Parcel ownership and current use. (e) Economic and population data for the affected area that may be contained in the Comprehensive Plan. (f) Traffic circulation.	New text proposed to clarify the applicant's submittal requirements. Subsection should be consistent with County application forms.

DRAFT LUO ARTICLE 9	NOTES
(g) Zoning history of the subject parcel. (h) Compatibility of the proposed new zone with the surrounding zoning and land uses. (i) Availability and feasibility for development of nearby properties in the proposed zone. (j) Aesthetics. (k) Availability of public facilities and services. (l) Land use objectives of both the applicable and the proposed zoning.	
(3) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. In hearing the request to establish a new zoning designation, the Commission shall consider all of the following criteria. A zone MAP AMENDMENT may be approved only if all ~~four~~ five criteria can be met. (a) The proposed new zone is consistent with applicable Comprehensive Plan policies. (b) The proposed new zone shall not result in the conversion of resource lands to non-resource use without an approved exception to applicable state resource protection Goals. (c) The site under consideration is better suited to the purposes of the proposed zone than it is to the purposes of the existing zone. (d) Development anticipated to result from the proposed zone shall not impair the actual or the legally designated uses of surrounding properties. (e) The amendment must conform to Section 9.040 Transportations Planning Rule Compliance.	New text addresses TPR compliance.
(4) The Director shall report the Commission's recommendation to the Board. The Board shall conduct a public hearing on an AMENDMENT to modify or change an existing zone on a zoning map subsequent to receiving the report and recommendation of the Planning Commission. Zone MAP AMENDMENTS shall be adopted by the Board of County Commissioners by Ordinance.	
(5) The Board's decision on a zone MAP AMENDMENT shall be final.	

DRAFT LUO ARTICLE 9	NOTES
(6) A copy of all zone MAP AMENDMENTS shall be forwarded to the County Assessor's office.	
SECTION 9.030: TEXT AMENDMENT PROCEDURE	
(1) ~~This Ordinance may be AMENDED by application of~~ A COMPREHENSIVE PLAN TEXT or ORDINANCE AMENDMENT may be requested by any person, subject to the requirements of a Type IV procedure and Article 10. The proponent of ~~an~~ COMPREHENSIVE PLAN or ORDINANCE AMENDMENT shall arrange a pre-application conference with the Department, pursuant to Section 10.030.	Added reference to (new) Article 10 and have included Comprehensive Plan text amendments. Note that Section 10.030(2) Applicability only requires pre-applications for Type I, II and III applications.
~~(2) An application for an ORDINANCE AMENDMENT shall be submitted to the Department at least 45 days prior to the Commission hearing for its consideration. Such applications shall be accompanied both by fees as set by order of the Board, and by the proponent's justification for the AMENDMENT.~~	This requirement no longer necessary; procedures included in Article 10. (Note: This requirement ensured that the County met the Department of Land Conservation and Development's notice requirements. The State notice requirement is currently 35 day prior to the first evidentiary hearing.
~~(3) Notice of a proposed AMENDMENT shall be published according to the provisions of Section 10.060 (3).~~	This requirement no longer necessary; procedures included in Article 10.
~~(4)~~(2) The applicant or, if County initiated, the Department shall prepare an analysis of the proposed AMENDMENT, addressing such issues as the intent of the provisions being amended; the affect on land use patterns in the County; the affect on the productivity of resource lands in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed text.	New numbering. New text proposed to clarify the applicant's submittal requirements. Subsection should be consistent with County application forms. Existing requirement corresponds to (proposed) (3)(c), below.
(3) Criteria. Commission review and recommendation, and Board approval, of an ordinance amending the Zoning Map, Development Code or Comprehensive Plan shall be based on all of the following criteria: (a) If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules; (b) The proposal must be consistent with the Comprehensive Plan. (The Comprehensive Plan may be amended concurrently with proposed	

DRAFT LUO ARTICLE 9	NOTES
changes in zoning); (c) The Board must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or ordinance; and (d) The amendment must conform to Section 9.040 Transportations Planning Rule Compliance.	
~~(5) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. It shall consider the intent of applicable policies of the Comprehensive Plan, and recommend that the Board adopt, adopt with modifications, or not adopt the proposed AMENDMENT.~~ ~~(6) The Director shall report the Commission's recommendation to the Board. The Board shall conduct a public hearing on an AMENDMENT of modify or change the text of the Land Use Ordinance subsequent to receiving the report and recommendation of the Planning Commission. AMENDMENTS to the text of this Ordinance shall be adopted by the Board of County Commissioners by Ordinance.~~ ~~(7) The Board's decision on an AMENDMENT to the text of this Ordinance shall be final.~~	These requirements no longer necessary; procedures included in Article 10.
SECTION 9.040: TRANSPORTATION PLANNING RULE COMPLIANCE Proposals to amend the Comprehensive Plan, Zoning Map or Ordinance shall be reviewed to determine whether they significantly affect a transportation facility pursuant with Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the County, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant affect on a transportation facility, the County shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.	New Section.

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Land Use Ordinance Article 10 Draft

The following table provides a recommended new Tillamook County Land Use Ordinance (LUO) Article 10, which contains the County's land use and development permitting requirements and procedures. Staff is recommending that existing Article 10 be replaced in its entirety with the proposed language below. The left column contains recommended code language; unlike other revised LUO Articles, this text is not shown underlined. The right column provides some commentary, including notes indicating areas where existing ordinance language was used and/or new language was drafted.[1]

DRAFT LUO ARTICLE 10 **DEVELOPMENT APPROVAL PROCEDURES**	NOTES
SECTION 10.010: PURPOSE AND APPLICABILITY	
(1) Purpose. The purpose of this chapter is to establish standard decision-making procedures that will enable the County, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 10.1 provides a key for determining the review procedure and the decision-making body for particular approvals.	New language.
(2) Applicability and coordination. All land use and development permit applications and approvals included in Table 10.1 shall be reviewed and decided using the procedures contained in this chapter. (a) The Director ~~or the Director's designee~~ shall be responsible for the coordination of land use and development applications and decision-making procedures. (b) No development shall occur without first obtaining the required permit(s) pursuant to the provisions in this chapter. (c) Permit approval is contingent on receipt of required application submittal(s) and findings of compliance with the provisions of this Ordinance and, where applicable, the Tillamook County Comprehensive Plan.	New language.
(3) Consistency with Oregon Revised Statutes. The processing of applications and permits authorized under this Ordinance shall be consistent with the Oregon Revised Statutes (ORS). The County shall follow the provisions of the ORS in instances where following the provisions of this chapter alone would fail to meet State requirements for the processing or review of land use applications or permits.	New language.
(4) Review Types. All land use and development permit applications	New language to introduce

[1] The Oregon Transportation and Growth Management Department's Model Development Code and User's Guide for Small Cities ("Model Code") was a resource for the structure and procedural language; adopted language from other Counties was also used as guidance, and in some instances modified for Tillamook County.

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DRAFT LUO ARTICLE 10 DEVELOPMENT APPROVAL PROCEDURES	NOTES
shall be reviewed under one review type as established in this chapter. There are four types of permit/approval procedures. Detailed information about each review type is provided in Section 10.040. A complete list of applications and their associated review type and review authority is provided in Table 10.1. (a) Type I Ministerial Review (b) Type II Administrative Review (c) Type III Quasi-judicial Review (d) Type IV Legislative Review	the four review types Clarifies the review, decision and appeal authorities for each review type.
SECTION 10.020: APPLICATIONS	
(1) Applications for Type I, Type II and Type III planning actions may be initiated by the following: (a) The owner of the property that is the subject of the application; (b) The purchaser of such property who submits a duly executed written contract, or copy thereof, which has been recorded with the Tillamook County Clerk; (c) The purchaser of such property who submits a duly executed earnest money agreement stating the land use action proposed; (d) A lessee in possession of such property who submits written consent of the owner to make such application; (e) The County Board through an adopted Resolution; (f) The County Road Department [or Public Works], (when dealing with land involving public works projects); or (g) By the representative or agent of any of the above upon submittal of written authorization to make such application. (2) Type IV Legislative planning actions may be initiated only by the County Board of Commissioners, County Planning Commission, Community Advisory Committees or the Department through an adopted Resolution.	New language.
(3) Consolidated Review. When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings may be consolidated if requested by the applicant for review and decision. (a) Under a consolidated review, required notices also may be consolidated, provided the notice shall identify each application to be decided. (b) The applications shall be processed according to the highest numbered review type required for any part of the application.	ORS 215.416(2) requires that a consolidated review procedure be available to applicants. Concurrent reviews should default to the highest applicable review level of the applications. For Discussion:

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For example, a concurrent review of a Type II review and a Type III review would be processed through a Type III review. (c) When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application. (d) The applicant shall submit an application form and application fee for each application being reviewed.	- Does the County currently require separate application forms/fees for each permit type? - Does the County have any provisions for reducing fees for each additional application?
(4) Decision deadlines and time limits. (a) The County shall take final action on Administrative and Quasi-Judicial land use applications, including resolution of all appeals, within the following time limits: i. For land inside a UGB and applications for mineral aggregate extraction: 120 days from the date the application is deemed complete ii. For all other applications: 150 days from the date the application is deemed complete iii. Upon written request by the applicant, the decision period may be extended for a specified period of time. The total of all extensions shall not exceed 215 days (unless a dispute concerning the application will be mediated per ORS 215.427(10)). (b) Time limits and extensions for residential development on agricultural or forest land outside the UGB. If a permit is approved for single-family dwelling on agricultural or forest land outside an urban growth boundary, consistent with ORS 215.417 the permit shall be valid for four years and can be extended for an additional two years. (c) In computing time periods prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.	New language. Clarifies decision deadlines and ensures consistency with ORS 215. Note that the County does not currently have procedures for extending permit approval (Subsection (4)(b)). Including a new section in the LUO will be a recommendation coming out of the LUO Audit.
(5) Filing fees. (a) For the purpose of defraying the cost of processing applications, fees shall be paid to the Department upon the filing of an application. (b) Any and all fees shall be established by County Board separate from this Ordinance and may be revised whenever necessary.	. Modified language. Existing Article 10 language: *SECTION 10.050: FEES* *The Board shall set all FEES, by Order, to be paid; to the Department upon the filing of any*

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(c) A filing fee may be waived by the County Board for Governmental agencies or nonprofit groups. Said waiver shall be approved by the County Board prior to submitting an application or appeal to the Department. (d) Upon written request by the applicant, filing fees may be refundable prior to a decision being issued through a Type I decision. The Director shall prorate the refund based on the original application fee minus expenses incurred by the Department, including noticing expenses and staff time dedicated to the application.	*application or appeal.*
(6) Application forms and checklists. Application forms provided by the County must be used for all applications. The County shall supply application forms pursuant to the standards contained in applicable State laws, Comprehensive Plan policies, and Ordinance provisions. The County shall also supply checklists or information sheets that specify the information that must be contained in the application, including format and number of copies.	Modified language. Current language in Article 10: SECTION 10.040: FORM OF PETITIONS, APPLICATIONS, AND APPEALS All PETITIONS, APPLICATIONS AND APPEALS provided for in this Ordinance shall be made on forms prescribed by the County. APPLICATIONS shall he accompanied by accurately-scaled plans, showing the actual shape and dimensions of the property to be built upon: the size and location on the lot of existing and proposed buildings and other structures; and any other information necessary to fully explain the request and determine compliance with the requirements of this Ordinance.
(a) Application types. Table 10.1 below provides a list of all application types and their associated review procedure, review authority and appeal authority. *[For legibility, Table 10.1 is included on Pages 25 and 26 of this document]*	

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(b) Application submittal requirements. An application shall be considered complete when it is submitted in accordance with the format and upon such forms as may be established by the Director. In addition to required hard copies, all materials must be submitted electronically or in a format that does not exceed 11 inches by 17 inches in size. A complete application is one which contains the information required to address the relevant standards of this ordinance and the applicable standards and requirements of the Comprehensive Plan as specified by this ordinance. At a minimum, a complete application must contain the following items: i. Application form with applicable signatures. ii. Payment of applicable review fees. iii. Deed, title or other proof of ownership. iv. Detailed description of all existing and proposed uses and structures, including a summary of all information contained in any site plans. The description may need to include both a written and graphic component such as elevation drawings or 3-D models. v. Detailed statement that demonstrates how the proposal meets all applicable approval criteria, zoning and land use regulations, and development standards. vi. Site plan(s), preliminary plat, or final plat as applicable. vii. Information demonstrating compliance with prior decisions(s) and conditions of approval for the subject site, as applicable. viii. Any other items identified on the specific application form or submittal checklist. ix. Copy of the pre-application summary, if applicable.	New introduction language.
(c) Completeness review. Upon receipt of an application, the County shall conduct a completeness review to determine if an application contains all information necessary to continue with the review. If an application is determined to be incomplete, the Director shall notify the applicant in writing of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete upon receipt by the Director of: i. All of the missing information; ii. Some of the missing information and written notice from the applicant that no other information will be provided; or	New language; Complies with ORS 215.427

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iii. Written notice from the applicant that none of the missing information will be provided. On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information and has not responded in accordance with (1.-iii.) above.	
(d) Re-submittal of a denied application. If an application is denied by the County, and no higher authority reverses such denial upon appeal, no new application for the same or substantially similar action shall be filed for at least six (6) months from the date of the final order of the action denying the application.	Modified language. Proposed language applies to all applications, as opposed to the original language, which was limited. Existing Article 10 language: SECTION 10.080: TIME BETWEEN APPLICATIONS If a request for a Zone Map Amendment, Conditional Use Permit, or Variance is denied, no re-application for substantially the same request may be made for six (6) months following the date of the final decision on the denial of the request. -
(e) Supplemental application. An applicant whose application for a permit was denied by the County may submit a supplemental application for any or all other uses allowed by this Ordinance in the zone that was the subject of the denied application. 1. The supplemental application shall be processed by the County in conformance with the provisions of ORS 215.433. 2. The County shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the supplemental application is deemed complete.	New language proposed for consistency with ORS 215.433: *Except that 240 days shall substitute for 120 days or 150 days, as appropriate, all other applicable provisions of ORS 215.427 shall apply to a supplemental application submitted under this section.*
(f) Modification of applications under review. The procedures of this subsection shall apply if an applicant modifies an application after the County has deemed it complete but prior to a public hearing or issuance of a decision.	New language to clarify the procedure for modifying an application once the review process has begun.

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i. Upon receipt of materials that modify an application, the Director shall evaluate the modifications, determine which of the two categories listed below describes the modification, and follow the related procedures. This decision is not a land use decision and is not appealable.	This is not required per state law but may be useful if modifications of this type occur with any frequency.
ii. Significant Modification. A significantly modified application greatly differs from the application that was deemed complete. Such differences may include the land use; size, height, and/or design of proposed structures; location of uses and structures on the site; or other such characteristics of the proposal. Substantial modifications may alter which approval criteria and development standards apply to the development proposal. The Director shall notify the applicant of this determination and take one of the following actions, at the direction of the applicant: 1. Allow the applicant to withdraw the original application and submit the modified proposal as a new application. 2. Reject the modifications and continue processing the original application. Rejecting a significant modification does not preclude the applicant from submitting other, different modifications.	- This new section provides some flexibility while providing guidance, but it is somewhat discretionary.
iii. Minor Modification. Minor modifications involve a limited number of changes from the original application and typically should not alter ~~which~~ any approval criteria and development standards which apply to the development proposal. The Director shall notify the applicant of this determination and take one of the following actions, at the direction of the applicant: 1. Accept the modifications and proceed with the review of the modified application. The Director may repeat, at his or her discretion, any part of the public notice or referral process to provide appropriate opportunity for public review of the modifications. The applicant shall also extend the 120-day or 150-day decision requirement in writing to a date that is sufficient to allow for additional review, public notice, or evaluation by the County. 2. Reject the modifications and continue processing the original application. Rejecting a minor modification does not preclude the applicant from submitting other, different modifications.	
SECTION 10.030 Pre-Application Conference	
(1) Purpose. The purpose of a pre-application conference is to acquaint the	Currently, there is no Pre-App

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applicant with the substantive and procedural requirements of the Ordinance; provide for an exchange of information regarding applicable elements of the Comprehensive Plan and development requirements; arrange such technical and design assistance as will aid the applicant; and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The Department shall make available such background information as may be on file relating to the general area of the subject parcel or parcels, and any plans the County may have or information related to past activity or development in the area upon the request of the developer. The Department shall advise the applicant of the design standards, improvement requirements, and procedures established by the County for the review and approval of the proposed land use action.	language included in Article 10. Proposed Section 10.030 includes revised language from LDO Section 4 (below). Existing pre-application requirement from LDO SECTION 4: PRE-APPLICATION MEETING; BACKGROUND INFORMATION: (1) All developers shall complete a pre-application form obtained from the Department, and are encouraged to arrange a pre-application meeting for the purpose of informing the Department of their proposed land divisions. (2) The Department shall make available such background information as may be on file relating to the general area of the partition or Subdivision, and any plans the County may have or know of for development in the area upon the request of the developer. The Department shall advise the developer of the design standards, improvement requirements, and procedures established by the County for the review and approval of land divisions.
(2) Applicability. (a) For a Type I application, a pre-application conference is not required. An applicant may request a pre-application conference and will be subject to applicable fees. (b) Applicants shall complete a pre-application form obtained from the Department and pay the required fee for proposals that	New language. Clarifies when a pre-app is required and allows an applicant to opt out of a pre-app for Type II applications.

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require Type II and Type III decisions. (c) For a Type II application, a pre-application conference is required unless the applicant provides a signed acknowledgment that they have waived the pre-application conference. The pre-application fee must still be paid and is not refundable. (d) Type III decisions require a pre-application meeting with the Department for the purpose of informing the Department of the proposal. A pre-application conference may not be waived.	Note that Lot Line Adjustments are proposed to be a Type I procedure and not subject to this requirement. County would need to develop the waiver form if this approach is used. Waiver form should explain the potential consequences of not having a pre-application conference (i.e., delayed review process due to incomplete application). -
(3) Procedure. The pre-application conference procedure will include the following steps: (a) An applicant must submit a pre-application request form, the required pre-application information and materials and the pre-application conference fee. (b) The County will schedule a pre-application conference. When feasible based on staff availability and other scheduling factors, the pre-application conference will be held within two weeks of the applicant's request. (c) The County will review the pre-application materials and notify other relevant agencies prior to the conference. Notified agencies will provide written comments prior to the conference or attend the conference. (d) After the conference is held, the County will provide the applicant with a written summary including applicable policies and regulations that must be addressed in the application. The County will also provide a submittal checklist for a complete application package, including applicable fees. (e) An applicant may request an additional pre-application conference at any time prior to submittal of an application, subject to applicable fees.	New language. This would provide a more formalized pre-application process than the County currently uses. Applicants should be required to submit pre-application information, including a preliminary site plan, etc. to enable staff to better prepare for the conference and review the information with other agencies. -
SECTION 10.040 Review Types All land use applications will be reviewed by the County using one of the	This section is intended to define and describe the

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following review types. Specific applications and their associated review types are listed in Table 10.1. (1) Type I Ministerial Review. Type I decisions are made by the Director, or his/her designee, without public notice and without a public hearing. Type I applications involve permitted uses or development governed by clear and objective approval criteria and/or development standards that may require the exercise of professional judgment about technical issues. (2) Type II Administrative Review. Type II decisions are made by the Director, or his/her designee, and include notice and an opportunity to appeal to the Planning Commission. Alternately, the Director may refer a Type II application to the Planning Commission for its review and decision in a public hearing. Applications involve permits for which the application of review criteria requires the exercise of limited discretion. (3) Type III Quasi-judicial. Type III decisions (with the exception of a quasi-judicial zone change) are made by the Planning Commission after a public hearing, with an opportunity to appeal to the Board of Commissioners. A decision on a quasi-judicial zone change (e.g., a change in zoning on one property to comply with the Comprehensive Plan) is a Type III decision made by the Board of Commissioners on recommendation of the Planning Commission. Quasi-judicial decisions involve the exercise of discretion and judgment when applying applicable land use and development criteria but implement established policy. (4) Type IV Legislative. Type IV reviews are considered by the Planning Commission, who makes a recommendation to the Board of Commissioners. The Board of Commissioners makes the final decision on a legislative proposal thorough the enactment of an ordinance. Legislative decisions involve the creation, broad-scale implementation, or revision of public policy. Changes to the comprehensive plan land use map are characterized as legislative; applications involving amendments to the County's zoning map will require a legislative review where a large number or entire class of property owners are directly affected.	different review types used by the County. As proposed, Type II review allows the Director to refer an application to the Planning Commission and public hearing. As proposed, a quasi-judicial zone change is a Type III/Board of Commissioners' decision and a comprehensive plan land use map amendment is legislative. Note: For Type III decisions, the County can mandate that the Planning Commission decision is the final County decision and any appeals would go to LUBA, or appeals can go to the Board of Commissioners (ORS 215.422); proposed language reflects current practice. -
SECTION 10.050 General Noticing Requirements The County shall provide opportunities for public and agency input in the planning process. To ensure that there is a coordinated effort to permit land use projects, notice of applications for development approval shall be sent to interested entities, local, state and federal agencies, ~~and departments such as~~ County departments, ~~sheriff and fire departments, school districts, utility companies,~~and County designated Citizen Advisory Committees.	New language in this section is consistent with noticing requirements in ORS 215.416 and 215.418 (approval of development on wetlands) and ORS 197.763. This section will explain the

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~~and the applicable city departments for those municipalities within Tillamook County. Affected jurisdictions and agencies could include the Department of Environmental Quality, the Oregon Department of Transportation, [include County Agencies here] and/or other applicable local, state or federal agencies.~~ A list of applicable local, state and federal agencies and entities shall be maintained by the Director. The following general noticing requirements are in addition to the noticing requirements found under the Procedures section for each decision type in Article 10. (1) General noticing requirements. (a) The County shall provide review notice to the Department of State Lands for applications that are wholly or partially within an area identified as a wetland on the Statewide Wetlands Inventory. Notice shall be provided within 5 working days of receipt of the complete application. (b) If the subject property is being considered for a comprehensive plan or zone change, notice of receipt of the application shall be provided to the Oregon Department of Transportation. (c) The County shall provide review notice to ODOT and the appropriate railroad owner for applications in which a railroad or highway crossing provides or will provide the only access to a property. (d) The County shall provide review notice of all comprehensive plan and zoning ordinance amendments to the Department of Land Conservation and Development (DLCD). Notice shall be provided at least 35 days prior to the first evidentiary hearing and will be consistent with ORS 197.610. (e) The County shall provide notice of decision on comprehensive plan and zoning ordinance amendments to DLCD. Notice shall be provided within 20 days of the date of the decision and will be consistent with ORS 197.615. (f) An affidavit or other formal certification of all mailing notices shall be made part of the record. (g) Failure of a notified party to receive notification will not invalidate the procedure.	noticing process for all review types, including review notice and decision notice. Subsection (3) ensures consistency with ORS 197.794. Subsection (4) includes language from ORS 197.610 and ORS 197.615 regarding comp plan and zoning changes. -
SECTION 10.060 Type I Procedures (1) Noticeof Review. No notice of review of a Type I application is required. (2) Criteria and Decision. The Director's review of a Type I application will determine whether minimum code requirements are met and	New language. Note that only the applicant and owners of the subject property are entitled to notice of decision. However, as proposed in Section 10.040, a Type I appeal is conducted as

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whether any other land use permit or approval is required prior to issuance of a building permit. (3) Notice of Decision. Type I development actions shall be decided by the Director without public notice or hearing. Notice of a decision shall be provided to the applicant or the applicant's representative and owners of the subject property. (4) Effective Date. A Type I decision is final on the date it is signed by the Director. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the State Land Use Board of Appeals. (5) Appeals. A Type I decision can be appealed in accordance with Section 10.100.	a Type III hearing, but limited to materials and evidence that led up to the contested decision. -
SECTION 10.070 Type II Procedures (1) Notice for Type II Decisions. (a) Notice of review. The purpose of the Administrative Decision notice is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the Director issues the decision. i. A notice of review of the Type II application shall be provided to the following parties within 10 business days of receipt of a complete application: 1. All owners of record of real property within 100 feet of the subject site if the subject site is inside UGB. 2. All owners of record of real property within 250 feet of the subject site if the subject site is outside UGB and not in farm or forest zone. 3. All owners of record of real property within 750 feet of subject site if the subject site is outside UGB and in a farm or forest zone. 4. Any citizen's advisory committee or community organization whose boundaries include, or are adjacent to, the subject site. 5. Any affected government agency or public district, including affected city if the subject site is inside a UGB. 6. Owners of a public use airport, if the subject site is within 5,000 feet of the side or end of a "visual	New language; consistent with the requirements of ORS 215.416. Note: ORS 215 does not specify a time limit for the public comment period/ does not require a public comment period on Type II reviews. ORS 197.195 (limited land use decisions) requires a 14-day period for submission of written comments prior to the decision. -

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airport" runway, or within 10,000 feet of an "instrument airport" runway, unless the proposal involves structures less than thirty-five (35) feet tall outside the runway approach surface. 7. Other persons as may be affected by the proposal. ii. The notice of review shall contain the following information: 1. A summary of the proposal and the relevant approval criteria. 2. The general location of the subject property and, when available, street address, legal description, or other easily understandable reference to the location of the proposed use or development. 3. The deadline established for rendering a final decision. 4. The address and County contact person for submitting written comments. 5. The deadline for submitting written comments on the request, which shall be at least 14 days prior to the scheduled decision date. 6. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence. 7. Statement that all evidence relied upon by the County Planning Director or Planning Commission, as applicable, to make its decision is in the public record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the County. 8. Statement that after the comment period closes the County will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice. 9. The following statement in bold letters: NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE	

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PURCHASER. (2) Criteria and Decision. (a) At the conclusion of the comment period, the Director shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Ordinance criteria. Alternatively, the Director may transmit all written comments received, if any, along with a copy of the application to the Planning Commission for review and decision at its next regularly scheduled meeting. (b) Where the Director refers an application subject to Administrative Review to the Planning Commission, the Planning Commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Ordinance criteria. The Planning Commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided the Commission must make a final decision within the 150-day period (or 120-day period, as applicable) prescribed under State law (ORS 215.427) and as described in Section 10.020(4) of this Ordinance. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the 150-day timeframe and the Commission may decide to accept oral and written testimony in a public hearing review of the application, pursuant with Section 10.080; in which case a new puhlic notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure. (3) Notice of Decision. (a) Notice of decision shall be provided within 10 days of the date of the decision to all parties who received review notice under subsection 1(a) above. (b) The Director shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law. (c) The decision notice shall include the following information: i. A description of the applicant's proposal and the County's decision, including conditions of approval if applicable. ii. The street address or other easily understood geographical description of the suhject site, including a map of the property in relation to the surrounding area.	

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iii. Name of the County contact with phone number. iv. Statement that a copy of the decision is available for inspection at no cost, or copies will be provided at a reasonable cost. v. The date the decision shall become final, unless appealed. vi. Statement that any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal within 12 days of the date the notice was mailed, pursuant to the requirements in Section 10.100. vii. Statement that the decision will not become final until the 12-day appeal period is over. viii. Statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals (LUBA) under ORS 197.830, unless the notice does not reasonably describe the nature of the decision. ix. Effective Date of Decision. Unless the conditions of approval specify otherwise, an Administrative Decision becomes effective twelve (12) days after the County mails the decision notice unless the decision is appealed pursuant with Section 10.100.	
SECTION 10.080 Type III Procedures (1) Notice for Type III Decisions. (a) Notice of Review. The County shall provide notice of a public hearing on a Quasi-Judicial application at least 28 days prior to the first hearing date. If two or more hearings are allowed, then notice shall be provided at least 10 days prior to first hearing. The County Planning ~~Official~~ Director shall prepare an affidavit of notice, which shall be made part of the file. This affidavit shall state the date that the notice was mailed. Notice of a public hearing shall be provided to the following parties: i. All owners of real property within 100 feet of the subject property if the subject property is inside UGB ii. Property owners within 250 feet of subject property if the subject property is outside UGB and not in farm or forest zone. iii. Property owners within 250 feet of subject property if the action is a zone change requested by the property owner (required by ORS 215.223.3). iv. Property owners within 750 feet of subject property if the	New language; consistent with the requirements of ORS 197. ORS 197.763(2)(a) governs quasi-judicial proceedings. Airport notice requirements are for zone changes, pursuant to ORS 215.223. Requirement could be made more specific for Tillamook Airport, based on its classification. Subsection (d) is consistent with Article 10 requirements for Quasi-Judicial Land Use Hearings (SECTION 10.060(2)(d)). However, the ORS requirement re:

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subject property is outside UGB and in a farm or forest zone. v. Any affected government agency or public district, including affected city if subject site is inside a UGB. vi. Any citizen's advisory committee or community organization whose boundaries include, or are adjacent to, the subject site. vii. Owners of a public use airport, if the subject site is within 5,000 feet of the side or end of a "visual airport" runway, or within 10,000 feet of an "instrument airport" runway, unless the proposal involves structures less than thirty-five (35) feet tall outside the runway approach surface. viii. Other persons as may be affected by the proposal. (b) Notice of a public hearing shall include the following information: i. A summary of the proposal and the relevant approval criteria. ii. The general location of the subject property and, when available, street address, legal description, or other easily understandable reference to the location of the proposed use or development. iii. The date, time and location of scheduled hearing and the name of the hearing body. iv. The name of a local government representative to contact and the telephone number where additional information may be obtained. v. A disclosure statement indicating that if any person fails to address the relevant approval criteria in sufficient detail, in person at a hearing or by written statement letter, they may not be able to appeal to the Board of Commissioners, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue. Only comments on the relevant approval criteria are considered relevant evidence. vi. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. vii. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.	newspaper notice (ORS 215.060) is for plan and code amendments ("10 days' advance public notice of each of the hearings is published in a newspaper of general circulation in the county"). Subsection 5(b)(iii) is consistent with ORS 215.422, which requires an appeal period of at least 7 days. The County can opt to provide a longer period.

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viii. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings. (c) Newspaper notice. Notice of the public hearing shall be published in a newspaper of general circulation in the County at least ten (10) calendar days prior to the date of a quasi-judicial public hearing. An affidavit or other formal certification of publication shall be made part of the record. (d) Notice of decision. i. Notice of the decision shall be provided within 10 days of the date of the decision to the applicant, the owners of the subject property and all persons who made an appearance of record. ii. The notice of decision shall include the following information: 1. A description of the applicant's proposal and the County's decision, including conditions of approval if applicable. 2. The street address or other easily understood geographical description of the subject site, including a map of the property in relation to the surrounding area. 3. The date the decision shall become final, unless appealed , and the due date for an appeal (12 days from the date the decision notice was mailed). 4. A statement that the County's decision, including findings and conclusions, and conditions of approval, if any, is available for review at the County. 5. A statement that persons entitled to appeal pursuant to Section 10.110 may appeal the Planning Commission's decision to the County Board of Commissioners, or may appeal the Board's decision to the Land Use Board of Appeals, as applicable.	
(2) Conduct of the Public Hearing (a) Staff report. At least seven (7) days prior to the hearing, the Department shall provide to the hearings body and make available to the public for inspection or purchase a report detailing the nature of the request and findings based on the applicable criteria of this chapter. (b) Application materials. All application materials, documents or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided and made available for public review	New language; consistent with ORS 197.763.

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(c) Hearings Procedure. At the commencement of the hearing, the Chairperson of the Commission, or his or her designee, shall state to those in attendance all of the following information and instructions: i. The applicable approval criteria by Code chapter that apply to the application. ii. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision. iii. Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue may preclude appeal to the State Land Use Board of Appeals on that issue. iv. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See Subsection (6) Record of the Public Hearing. v. Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing), or leave the record open for additional written evidence or testimony as provided in Subsection (5).	
(3) Procedural Rights. An impartial review authority as free from potential conflicts of interest and pre-hearing ex-parte (outside the hearing) contacts as reasonably possible shall be a procedural entitlement provided at the public hearing. (a) Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. (b) Where a real conflict of interest arises, that member or members or the hearing body shall not participate in the hearing, except where State law provides otherwise. (c) Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.	New language: consistent with ORS 197.763.

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(4) Presenting and receiving evidence. (a) The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence. (b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this Section. (c) Members of the hearing body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence. (d) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Review Authority shall grant such request by continuing the public hearing or leaving the record open for additional written evidence or testimony pursuant to Subsection (5) below.	New language.
(5) Continuance. All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public. If additional documents or evidence are provided by any party, the Review Authority may allow a continuance or leave the record open for at least seven (7) days to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.428. (a) If the Review Authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven (7) days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven (7) days to submit additional written evidence or testimony for the purpose of responding to the new written evidence. (b) If the Review Authority leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven (7) days. Any participant may file a written request with the Review Authority for an opportunity to	

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respond to new evidence submitted during the period the record was left open. If such a request is filed, the Review Authority shall reopen the record and any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue. (c) A continuance or extension granted pursuant to Subsection 6 shall be subject to the limitations of ORS 215.428 unless the continuance or extension is requested or agreed to by the applicant. (d) Unless waived by the applicant, the Review Authority shall allow the applicant at least seven (7) days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.	
(6) Record of the Public Hearing. (a) The official public hearing record shall include all of the following information: i. All materials considered by the hearings body; ii. All materials submitted by the County Planning Official to the hearings body regarding the application; iii. The minutes of the hearing; iv. The final written decision; and v. Copies of all notices given as required by this Article, and correspondence regarding the application that the County mailed or received. (b) The meeting minutes shall be filed in hardcopy form with the County Planning Official. The minutes and other evidence presented as a part of the hearing shall be part of the record. (c) All exhibits received and displayed shall be marked to provide identification and shall be part of the record.	New language.
(7) Effective Date of Decision. Quasi-Judicial Decision. Unless the conditions of approval specify otherwise, a Quasi-Judicial decision becomes effective ten (10) business days after the County mails the decision notice unless the decision is appealed pursuant with Section 10.110.	New language.
SECTION 10.090 Type IV Procedures (1) Notice for Type IV Legislative Decisions. Notice of review and decision for Type IV actions shall be done in accordance with the	ORS 215.503 contains detailed provisions for noticing requirements for

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provisions of ORS 215.503. In addition, the following shall be require for Type IV decisions: (a) Newspaper notice. Notice of the public hearing shall be published in a newspaper of general circulation in the County at least ten (10) calendar days prior to the date of a quasi-judicial public hearing. An affidavit or other formal certification of publication shall be made part of the record. (b) Notice of decision. Notice of decision shall be provided to persons who testified orally or in writing while the public record was open regarding the proposal. The notice should include the following information: i. A brief summary of the decision ii. If adopted: The date and number of the adopting ordinance; and where and when the adopting ordinance and related findings may be reviewed. iii. A summary of the requirements for appealing the decision to the Land Use Board of Appeals (ORS 197.830-845)	legislative actions, including specific wording that must be used in the notice letter. Subsection b. is consistent with existing notice requirements for Legislative Land Use Hearings (SECTION 10.060: NOTICE OF PUBLIC HEARING, Subsection (3)). **Note:** Currently Article 10 includes the following under Quasi-Judicial Land Use Hearings: *(b) Where Amendments are being made to the Dredged Material Disposal Plan or the Mitigation Plan, NOTICE shall be made by publication in a newspaper of general circulation in the County, and shall be mailed to those agencies which participated in the Dredged Material Disposal Plan or the Mitigation Plan, at least 30 days prior to the date of the first hearing).* -
(2) Effective Date of Decision. A Legislative Land Use decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant. Notice of a Legislative Land Use decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within twenty (20) business days after the Board of Commission decision is filed with the Director. The County shall also provide notice to all persons as required by other applicable laws.	New language.
SECTION 10.100 Appeal of Type I or Type II decision (1) Who may appeal. Any party to the decision may appeal a Type I or	New language; consistent with ORS 215.

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Type II decision to the Planning Commission. (2) Notice of appeal. Any person with standing to appeal, as provided in subsection (1) may appeal a Type I or Type II decision by filling a Notice of Appeal according to the following procedures. (3) Appeal deadline. Notice of intent to appeal must be filed by the aggrieved party within 12 days of the date the decision notice was mailed. (4) Content of notice of appeal. A notice of intent to appeal shall be accompanied by the required filing fee, unless waived pursuant to Section 10.020(5), and shall contain the following information: (a) An identification of the decision being appealed, including the date of the decision. (b) The name and signature of each petitioner and statement of the interest of each petitioner to determine party status. Multiple parties may join in filing a single petition for review, but each petitioner shall designate a single Contact Representative for all contact with the Department. All Department communications regarding the petition, including correspondence, shall be with this Contact Representative. (c) A statement explaining the specific grounds for appeal. Unless otherwise directed by the Review Authority, the appeal of Type I decisions shall be limited to the issue(s) raised in the petition. (5) Appeal authority. Appeal of a Type I or Type II decision will be reviewed by the Planning Commission. The Planning Commission shall be the final decision-maker for the County on appeals of the final decision of the Director for Type I or II actions. (6) Appeal process. All hearings on appeal shall be conducted as public hearings in accordance with Section 10.080. Public notice for appeal hearings shall be the same as public notice for Type III review hearings in Section 10.050(D). (7) Review of the final decision. Review of the final decision of Type I shall be limited to the issue(s) raised in the petition. Review of the final decision of Type II actions shall be a de novo hearing before the Planning Commission and shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the decision, but may include other relevant evidence and arguments. For an appeal of a Type II decision, the Planning Commission may allow additional evidence, testimony or argument concerning any relevant standard, criterion,	Governed by ORS 215.422 (Review of decision of hearings officer or other authority; notice of appeal; fees; appeal of final decision); complies with ORS 215.416(11), which pertains to appeals of a decision made without a hearing.

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or issue. (8) Notice of decision. Notice of decision on the appeal shall be provided in accordance with Section 10.050(D).	
SECTION 10.110 Appeal of Type III Decision (1) Who may appeal. The following people have legal standing to appeal: (a) The applicant or owner of the subject property. (b) Any other person who testified orally or in writing during the subject public hearing before the close of the public record. (2) Notice of appeal. Any person with standing to appeal, as provided in subsection (1) may appeal a Type III decision by filling a Notice of Appeal according to the following procedures. (3) Appeal deadline. Notice of intent to appeal must be filed by the aggrieved party within 12 days of the date the decision notice was mailed. (4) Content of notice of appeal. A notice of intent to appeal shall be accompanied by the required filing fee, unless waived pursuant to Section 10.020(5), and shall contain the following information: (a) An identification of the decision being appealed, including the date of the decision. (b) A statement demonstrating the person filing the notice of appeal has standing to appeal. (c) A statement explaining the specific issues being raised on appeal. (5) Appeal authority. The appeal of a Type III Decision shall be a hearing de novo before the Board of Commissioners. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony or argument concerning any applicable standard, criterion, condition, or issue. (6) Appeal process. All hearings on appeal shall be conducted as public hearings in accordance with Section 10.080. Public notice for appeal hearings shall be the same as public notice for Type III Quasi-judicial hearings in Section 10.050(D). (7) Effective date. A Type III Decision or Appeal Decision, as applicable, is effective the date the County mails the decision notice. Appeals of Board of Commission decisions under this Section shall be filed with the State Land Use Board of Appeals	New language. **Note:** Pursuant to ORS 215.422, for Type III decisions, the County can mandate that the Planning Commission decision is the final County decision, with appeals going to LUBA. As proposed in this draft Article 10 all appeals go to the Board of Commissioners, which is consistent with current practice. ORS 215.422 states that "*The procedure and type of hearing for such an appeal or review shall be prescribed by the governing body*" meaning that the county can determine if an appeal hearing for Type III should be de novo or a review of record. As proposed, the appeal is a "de novo" hearing before the Board.

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pursuant with ORS 197.805-197.860.	
SECTION 10.120 Appeal of Type IV Decision (1) Appeal of a Type IV legislative decision may be made to the State Land Use Board of Appeals in accordance with ORS 197.830 - 845.	Appeals to LUBA are governed by ORS 197.830 - 845
(2) Appeal exceptions. Pursuant to ORS 197.620, a decision to not adopt a legislative amendment or a new land use regulation is not appealable unless the amendment is necessary to address the requirements of a new or amended goal, rule or statute.	Governed by ORS 197.620
SECTION 10.130 Remands (1) When an application may be remanded from an appellate body, such as the Land Use Board of Appeals, to the County for further proceedings, the Review Authority may decide whether the matter shall proceed before the Review Authority or a subordinate review authority, such as the Director. For applications where the decision of the Board was appealed, the Board shall decide at a regular meeting as a nonpublic hearing item whether the matter shall proceed before the Board or a subordinate review authority. (2) Final action must be taken on the application witbin 90 days of the effective date of the remand order issued by the State Land Use Board of Appeals. (a) The effective date of the final order is the last day for filing a petition for judicial review of a final order of the State Land Use Board of Appeals under ORS 197.850(3). (b) If judicial review of a final order is sought under ORS 197.830, the 90-day period shall not begin until final resolution of the judicial review. (c) The 90-day period shall not begin until the applicant requests in writing that the County proceed with the application on remand. (d) The 90-day period can be extended for a reasonable period of time at request of applicant. (e) The 90-day period does not apply to a remand concerning a decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to DLCD under ORS 197.610.	Proposed language governed by ORS 215.435 (for LUBA remands)

This table is intended to provide an overview of all existing Tillamook County application types and their proposed associated review type, along with recommended changes to the review type where applicable. The table also includes the decision authority and appeal authority. Upon adoption, this table will be included in Article 10 under SECTION 10.020: APPLICATIONS, Subsection (6) (a).

TABLE 10.1: REVIEW PROCEDURES SUMMARY			
		Review Authority	
Permit/Application	**Procedure Type**	**Decision**	**Appeal**
~~Accessory Use~~	~~Type I~~	~~Director / Designee~~	~~Planning Commission~~
~~Accessory Structure~~	~~Type I~~	~~Director / Designee~~	~~Planning Commission~~
Appeal of Director's Decision	Type III	Planning Commission	Board of County Commissioners
Appeal of Planning Commission Decision	Type IV	Board of County Commissioners	Land Use Board of Appeals
Beach and Dune Hazard Report Review	Type I	Director ~~/ Designee~~	Planning Commission
Conditional Use Review	Type II	Director ~~/ Designee~~	Planning Commission
Conditional Use (as deemed by Director)	Type III	Planning Commission	Board of County Commissioners
Comprehensive Plan Amendment	Type III	~~Planning Commission~~Board of County Commissioners (with recommendation by Planning Commission)	~~Board of County Commissioners~~LUBA
~~Detailed Hazard Report~~	~~Type III~~	~~Planning Commission~~	~~Board of County Commissioners~~
Development Permit Review for Development in Estuary ~~Development~~or Floodway	Type II	Director ~~/ Designee~~	Planning Commission
Extension of Time Review	Type I	Director ~~/ Designee~~	Planning Commission
Extension of Time (as deemed by the Director)	Type III	Planning Commission	Board of County Commissioners
Final Plat Approval	Type I	Director ~~/ Designee~~	Planning Commission

TABLE 10.1: REVIEW PROCEDURES SUMMARY			
		Review Authority	
Permit/Application	**Procedure Type**	**Decision**	**Appeal**
Floodplain Development Permit Review (excluding fill development in Ffloodway or flood fringe areasEstuary)	Type I	Director / Designee	Planning Commission
Farm and Forest Dwellings, New	Type II	Director / Designee	Planning Commission
Foredune Grading Permit Review	Type II	Director / Designee	Planning Commission
Geologic Hazard Report Review	Type I	Director / Designee	Planning Commission
Goal Exception	Type III	Planning Commission	Board of County Commissioners
Land Use Compatibility Statement	Type I	Director / Designee	Planning Commission
Neskowin Coastal Hazard Area Permit	Type II	Director/Designee	Planning Commission
Nonconforming Review (Minor or Major)	Type II	Director / Designee	Planning Commission
Ordinance Amendment	Type IV	Board of County Commissioners (with recommendation by Planning Commission)	LUBA
Planning WorksheetZoning Permit	Type I	Director / Designee	Planning Commission
Preliminary Plats - Partitions	Type II	Director / Designee	Planning Commission
Preliminary Plat - Subdivision	Type III	Planning Commission	Board of County Commissioners
Preliminary Plat Time Extension	Type I	Director / Designee	Planning Commission
Property Line Adjustment	Type I	Director / Designee	Planning Commission
Resource or Riparian Setback Exemption	Type II	Director / Designee	Planning Commission
Remedial Grading Permit Review	Type I	Director / Designee	Planning Commission
Replacement Dwelling (Resource Zone)	Type I	Director / Designee	Planning Commission

TABLE 10.1: REVIEW PROCEDURES SUMMARY			
		Review Authority	
Permit/Application	**Procedure Type**	**Decision**	**Appeal**
Sanitation Review LUC	Type I	Director ~~/ Designee~~	Planning Commission
Temporary Use	Type I	Director ~~/ Designee~~	~~Planning Commission~~Board of County Commissioners
Variance	Type II	Director ~~/ Designee~~	Planning Commission
Variance (as deemed by Director)	Type III	Planning Commission	Board of County Commissioners
Zone Map Amendment, Legislative	Type IV	Board of County Commissioners (with recommendation by Planning Commission)	LUBA
Zone Map Amendment, Quasi-judicial	Type III	Board of County Commissioners (with recommendation by Planning Commission)~~Planning Commission~~	~~Board of County Commissioners~~LUBA

Land Use Ordinance Article 11 Draft

An over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO). In the fall of 2014 County Staff worked with the project consultant to identify and prioritize areas of possible improvements to the LUO; the following table reflects modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

DRAFT LUO ARTICLE 11	NOTES
DEFINITIONS	(New) Article 11 Title
SECTION 11.010: DEFINITIONS	Existing definitions moved from Article 1, Section 1.030
PURPOSE: The purpose of Article 11 is to define terms that are used in the County of Tillamook Land Use Ordinance and other terms that may arise in interpreting the Ordinance, particularly those that may be uncommon or have more than one meaning.	New text.
SECTION 11.020: APPLICABILITY	New Section.
(A) Definitions. The definitions in Article 11 apply to all actions and interpretations under the County of Tillamook Land Use Ordinance. The meanings of some terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases, the context in which a term is used will indicate its intended meaning, and that intent shall control.	New text.
(B) When a Term Is Not Defined. Terms not defined in the Ordinance shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.	New Text.
(C) Unless specifically defined in this Section or elsewhere in this Ordinance, words or phrases used herein shall be interpreted so as to give them the meaning they have in common usage, and to give this Ordinance its most reasonable application.	Original text from Section 1.030
(D) Words used in the present tense include the future; the word "building" includes the "structure"; and the word "shall" is mandatory and not discretionary.	Original language moved from sub header (C) into new sub header (D)
11.030:~~(A)~~ GENERALLY ~~USED~~ APPLIED DEFINITIONS	
ABUTTING: Sharing all or part of a common property line. For the purpose of determining abutting property, intervening public and private ways and watercourses do not break the continuity of abutting properties.	

DRAFT LUO ARTICLE 11	NOTES
ACCEPTED FARMING PRACTICES: A mode of operation that is common to farms of a similar nature,that is necessary for the operation of such farms to obtain a profit in money, and is customarily utilized in conjunction with farm use.	
ACCESS: The legally established route by which pedestrians and vehicles enter and leave property from a public way.	
ACCESSORY STRUCTURE-ACCESSORY USE: A detached structure or a land use that is incidental and subordinate to the established primary use of a piece of property, and which is located on the same property as is the primary use, except as provided in Section ~~5.040~~ 4.040.	Reference updated to reflect Section movement
ADJOINING; Contiguous or abutting exclusive of street width. It shall include the terms adjacent, abutting or contiguous.	
ADULT FOSTER HOME: As defined by OAR 411-5-400 (2); a State-certified dwelling operated in a family-type setting for senior citizens and/or disabled persons over the age of 18 who are in need of help in the provision of shelter, food, medical care and/or other service.	
AIRPORT, RUNWAY: The center portion of the landing strip, which is designed and constructed for takeoff and landing of aircraft.	
ALLEY: A street which affords only a secondary means of vehicular access to property.	
APARTMENT HOUSE: Any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of four or more families living independently of each other and doing their own cooking in the building.	
APPEAL: Means a request for review of a Planning Director's or a Planning Commission's decision or interpretation of any provision of this Ordinance.	
AQUACULTURE: The propagation, cultivation, maintenance, and harvesting of aquatic species.	
ARCHITECTURAL FEATURES: Features include, but are not limited to cornices, canopies, sunshades, gutters, chimneys, fireplaces, flues, and eaves. Architectural features shall not include any portion of a structure built for support, occupancy, shelter, or enclosure of persons or property of any kind.	
AUTOMOBILE WRECKING YARD: Any property where two or more motor vehicles which are not in running condition, or the parts thereof, are wrecked, dismantled, disassembled, substantially altered, or stored in the open, and are not intended to be restored to operation. Such intent may be shown by progressive repair or restoration work on said vehicles.	

DRAFT LUO ARTICLE 11	NOTES
AWNING: A shade structure that is supported by both posts or columns and by a mobile home installed on a mobile home lot.	
~~BEACH: The sloping unvegetated shore of a body of water.~~ BASEMENT: A portion of a building which has less than one-half (1/2) of it height measured from finished floor to finished ceiling above the average elevation of the adjoining ground, but not an "underground structure" as defined in this ordinance. (FLOOD DEFININTION INSERT)	
~~BASEMENT: A portion of a building which has less than one-half (1/2) of it height measured from finished floor to finished ceiling above the average elevation of the adjoining ground, but not an "underground structure" as defined in this ordinance. (FLOOD DEFININTION INSERT)~~ BEACH: The sloping unvegetated shore of a body of water.	
¶BEACON: Any light with one or more beams directed in the atmosphere or directed at one or more points not on the same site as the light source; also, any light with one or more beams that rotate or move.	
BED AND BREAKFAST ENTERPRISE, BOARDING, LODGING OR ROOMING HOUSE: A residential structure where not more than 15 persons, not including members of the family occupying such a structure, provide compensation for lodging.	
BIOMASS ENERGY SYSTEM: A system that produces, collects, converts, or uses organic materials other than fossil fuels for the production of energy.	
BOARD: The Board of County Commissioners of Tillamook County, Oregon.	
BOARDING, LODGING, OR ROOMING HOUSE: See BED AND BREAKFAST ENTERPRISE, BOARDING, LODGING, OR ROOMING HOUSE.	
BUILDABLE AREA: (a) For the purpose of siting structures on a parcel, the area thereon exclusive of all applicable setbacks or areas within restrictive overlay zones contained in this Ordinance. (b) For purposes of calculating the allowable number of dwellings on a lot or parcel, the area thereof, exclusive of the following: 1. Road or utility easements; 2. Narrow strips of land provided for access from a street to a flag lot; 3. Areas seaward of the beach zone line; 4. Areas within all estuary zones;	

DRAFT LUO ARTICLE 11	NOTES
5. Channels within the ordinary high water lines of streams that are at least 15 feet wide; and 6. Areas within the ordinary high water line of lakes. This definition shall not apply to erosion control structures or structures otherwise allowed within applicable overlay zones.	
BUILDING: A structure built or used for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.	
BUILDING HEIGHT: The vertical distance of a building measured from grade to the highest point of the roof. (See grade)	
CABANA: A room enclosure attached to a mobile home for residential use by the occupant of the mobile home.	
CAMPER: See RECREATIONAL VEHICLE.	
CAMPING UNIT: Any tent or recreational vehicle located in a campground as temporary living quarters for recreational, education or vacation purposes.	
CAMPSITE: Any plot of ground within a campground intended for the exclusive occupancy by a camping unit or units.	
CLEAR-VISION AREA: See Section 4.010.	
CO-GENERATION: The sequential conversion of a primary fuel to produce two or more energy streams, one of electrical or mechanical energy, and one of heat energy.	
COMMISSION: The Tillamook County Planning Commission.	
COMMUNITY GROWTH BOUNDARY: A boundary placed on zoning maps to entirely contain the lands within an unincorporated community that are either served, or can be served, by community sewage treatment facilities; such lands are typically designated for residential or commercial development at urban densities.	
COMMON OWNERSHIP: Land commonly owned to include open space lands dedicated in planned unit developments and lands dedicated for open space which are owned by homeowners associations.	
COMPOSTING: The managed process of controlled biological decomposition of green feedstocks. It does not include composting for the purpose of soil remediation.	
COMPOSTING FACILITY: A site or facility, excluding home composting and agricultural composting conducted as a farm use, which utilizes green feedstocks to	

DRAFT LUO ARTICLE 11	NOTES
produce a useful product through a managed process of crolled biological decomposition. Composting may include amendments beneficial to the composting process. Vermiculture and vermicomposting are considered composting facilities. Composting facilities or sites may include sales of the finished product, as well as accessory products limited to topsoil, barkdust and aggregate commonly used in landscaping to wholesale and retail customers	
CONDITIONAL USE: A use of land that generally conforms to the type and nature of the uses permitted by right in a zone, but because of potential adverse off-site impacts, requires the review and discretionary approval of the Director or Commission according to the provisions of Article VI of this Ordinance.	
¶CONDOMINIUM: A structure containing more than one dwelling unit, each of which is owned individually, exclusive of the land upon which the structure is located. (See also ORS 91.500 100.005).	
CONTIGUOUS: Sharing all or part of a common boundary.	
COTTAGE INDUSTRY: A business or business-related activity that is carried on within either a dwelling or a building accessory to that dwelling, which employs no more than two non-family members, and which has limited impacts on the surrounding properties. Deliveries and customer visitations are limited to the hours between 8:00 a.m. and 6:00 p.m. Outdoor storage is allowed if it is similar to what legally occurs in the neighborhood, and accessory structures conform to the character of the neighborhood.	
COUNTY: The County of Tillamook, State of Oregon.	
CURRENT EMPLOYMENT OF LAND: That land for farm use which includes: (a) Land subject to soil-bank provisions of the Federal Agricultural Act of 1956, as amended (P.L. 84-540, Stat. 188); (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (c) Land planted in orchards or other perennials prior to maturity; (d) Any land constituting a woodlot of less than 20 acres contiguous to and owned by the owner of land specially assessed at true cash value for farm use, even if the land constituting the wood lot is not utilized in conjunction with farm use; (e) Wasteland, in an exclusive farm use zone, dry, covered or partially covered with water, lying in or adjacent to and in common ownership with farm use land and which is not currently being used for any economic farm use;	

DRAFT LUO ARTICLE 11	NOTES
(f) Land under dwellings customarily provided in conjunction with the farm use in an exclusive farm use zone; and (g) Land under buildings supporting accepted farm practices.	
DEDICATION: The designation of land by its owner for any general public use.	
DEPARTMENT: The Tillamook County Department of Community Development.	
DEVELOPMENT: Any ~~man-made~~ human-caused change to improved or unimproved land, including, but not limited to, buildings or other structures; mining; dredging; filling; grading; paveing; excavation; drilling operations; construction of roads or ditches; earth-moving; or construction of dikes, berms or levees. It does not include ordinary farm or forest practices such as plowing, disking, harrowing, cutting, or planting, or other similar activities for the cultivation or preparation of the soil for farm or forest production.	
DIRECTOR: The Director of the Department or his or her designee~~designate~~.	
DORMITORIES: A large room for sleeping, containing numerous beds.	
DWELLING: A detached structure that meets the requirements of the Uniform Building Code for residential structures, and which is intended and/or used for residential proposes. DWELLING includes qualifiers such as the following, indicating the number of dwelling units per structure: Single family..... 1 Two-family ..... 2 3 or 4 family .....3 or 4 Multi-family.....5 or more	
DWELLING, ACCESSORY: A dwelling unit with a separate entrance that shares at least one building wall, or portion thereof, with a single family, detached dwelling unit, or an accessory structure on the same tax lot, but not a two or three family dwelling. For purposes of these provisions, 'wall' does not include a breezeway, porch, or awning.	
DWELLING, ATTACHED OR COMMONWALL: A dwelling which shares at least one wall, or portion thereof, with another dwelling and which is permitted in a single-family residential zone subject to the same density requirements as single family detached dwellings in those zones. An attached or commonwall dwelling may, or may not, include a separate lot or parcel.	
DWELLING UNIT: One or more rooms occupied, designed or intended for occupancy as separate living quarters, and containing three or more of the following: • refrigeration;	

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• cooking facility (including cooking stove, hot plate, range hood, microwave oven, or similar facility) • dishwashing machine • sink intended for meal preparation (not including a wet bar) • garbage disposal • toilet.	
EASEMENT: The grant of a right of use for a specific purpose over, through, or on a parcel of land.	
FACING: Directly opposite, across from.	
FAMILY: One or more persons related by blood, marriage, adoption or guardianship, and not more than five additional persons not so related, occupying a dwelling unit and living as a single household unit. This includes the occupants of an ADULT FOSTER HOME and a FOSTER FAMILY HOME.	
FARM USE: The current employment of land for the primary purpose of obtaining a profit measurable in money by raising, harvesting, and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. FARM USE includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. It does not include the use of land subject to the provisions of ORS Chapter 321 except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203 (3).	
FENCE, SIGHT OBSCURING: A fence or shrubbery arranged in such a way as to obstruct vision.	
FLOOR AREA: The area included within the surrounding exterior walls of a building or portion thereof, exclusive of porches and exterior stairs, multiplied by the number of stories or portion thereof. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. Floor area shall not include portions of buildings used for parking of vehicles, except the square footage of commercial uses in parking structures can be counted as part of the total floor area.	
FOSTER FAMILY HOME: As defined by OAR 412-22-010 (4); any State-certified home maintained by a person who has under his or her care any child unattended by parents or a guardian for the purpose of providing such child with care, food, and lodging. Such homes include foster family, group, and shelter homes. (See Adult Foster Home)	
GRADE: The average elevation of the existing ground at the centers of all walls of a building.	

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GROUP COTTAGES: See HOTEL.	
HEALTH HARDSHIP: Circumstances where the temporary placement of a mobile home or recreational vehicle to accommodate a seriously ill person or their attendant is justified by the absence of a reasonable alternative.	
HEAVY INDUSTRY: A manufacturing activity that has substantial impact on the surrounding area because of hazards, dust, odor, light, heat, noise, or other pollutants, but which does not present a significant public hazard.	
HEIGHT OF BUILDING: See BUILDING HEIGHT.	
HOME OCCUPATION: A lawful occupation carried out by a resident of the property on which the activity is located, within the residence or other buildings normally associate with uses permitted in the zone in which the property is located, subject to the provisions of Section ~~4.140~~ 4.180 of this Ordinance. Home occupations do not include garage sales, yard sales, Christmas bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services. However, if such sales and/or parties are held more than 2 times in any calendar year, such sales and/or parties shall be considered a home occupation.	Citation update
HOMEOWNERS ASSOCIATION: The grouping or uniting of persons residing within a defined area, such as subdivision, into an incorporated entity for the prosecution of a common enterprise.	
HOSPITAL, ANIMAL: A building or premises for the medical or surgical treatment of domestic animals or pets including dog, cat, and veterinary hospitals.	
HOTEL OR GROUP COTTAGES: A building or group of buildings containing six or more units without cooking facilities which are designed to be used, or which are used, rented, or hired out for transient occupancy.	
HYDROELECTRIC SYSTEM: A mechanism for converting energy from moving or falling water into electrical or mechanical energy. A hydroelectric system which produces no more electricity than the average annual consumption of the owner shall not be considered a COMMERCIAL FACILITY under ORS 215.213, even though it may sell excess power to the local utility.	
IMPROVEMENT: Any building structure, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.	
JUNK YARD: Any property used as a site for breaking up, dismantling, sorting, storing, distributing, trading, bartering, buying, or selling of any scrap, waste, or disposed material.	

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KENNEL: A commercial establishment where four or more dogs, cats, or animals that are at least four months of age are kept for board, propagation, training, or sale.	
KIOSK: A small structure used as a newsstand, information booth, refreshment stand, bandstand, or display of goods, etc.	
LIGHT INDUSTRY: A business having noise, dust, odor, light, traffic, and hazard impacts that are similar to those experienced in general business areas. Outdoor storage is screened with sight-obscuring fences.	
LINE, PROPERTY: A line, or a description thereof, that is recorded in the office of the County Clerk, and which serves to distinguish a lot or parcel from surrounding properties.	
LIVESTOCK: Domestic animals and fowl of types customarily raised or kept on farms for profit or home consumption.	
LOT: A tract of land that has been created by a subdivision.	
LOT AREA: The total area of a lot or parcel measured in a horizontal plane within the property lines, exclusive of public and private roads.	
LOT COVERAGE: The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.	
LOT, CORNER: A lot abutting two or more streets or private ways, other than an alley, at their intersection.	
LOT DEPTH: The average horizontal distance between the front lot line and the rear lot line.	
LOT, FLAG: A single buildable lot partially separated from a public or private road by other land, but maintaining a minimum of 25 foot frontage on the public or private road from which it gains access.	
LOT, INTERIOR: A non-corner lot.	
LOT LINE: The property line of a lot.	
LOT LINE, FRONT: The line separating a lot from a street or private way, other than an alley. On a corner lot, the front is the shortest property line along a street or private way other than an alley. In the case of a through lot or a corner lot with equal lines abutting streets, the front lot line is the side from which primary vehicular access is attained.	
LOT LINE, REAR: A property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other-shaped lot, a hypothetical line 10 feet in length within the lot that is parallel to the front lot line.	

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LOT LINE, SIDE: Any non-front or -rear lot line.	
LOT LINE, STREET SIDE: Any lot line along a street or private way (not an alley), other than the front lot line.	
LOT OF RECORD: A lot, parcel, other unit of land, or combination thereof, that conformed to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed or contract creating the lot, parcel or unit of land was signed by the parties to the deed or contract; except: 1. Contiguous lots under the same ownership when initially zoned shall be combined when any of these lots, parcels or units of land did not satisfy the lot size requirements of the initial zoning district, excluding lots in a recorded plat. 2. A unit of land created solely to establish a separate tax account, or for mortgage purposes, that does not conform to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed, tax account or contract creating it was signed by the parties to the deed or contract, unless it is sold under the foreclosure provisions of Chapter 88 of the Oregon Revised Statutes.	
LOT, THROUGH: An interior lot abutting two streets.	
LOT, WIDTH: The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.	
MANUFACTURED DWELLING: Includes: Residential trailer: a structure, greater than 400 square feet, constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962. Mobile home: A structure having at least 400 square feet of floor area and which is transportable in one or more sections. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction. Manufactured home: A structure constructed for movement on the public highways, after June 15, 1976, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal	

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manufactured housing construction and safety standards and regulations in effect at the time of construction.	
MASTER PLAN: A sketch or other presentation showing the ultimate development layout of a parcel of property that is to be developed in successive stages or subdivisions. The plan need not be completely engineered but shall be of sufficient detail to illustrate the property's inherent features and probable development pattern.	
MOBILE/MANUFACTURED HOME PARK: A place where either four or more mobile homes/ manufactured homes or mobile homes/manufactured homes and recreational vehicles mixed, are located on one or more contiguous lots, tracts, or parcels of land under a single ownership, the purpose of which is to provide permanent residential spaces for charge or fee paid for the use of facilities, or to offer space free of charge in connection with securing the trade, patronage or services of the occupant.	
MOBILE HOME SUBDIVISION: A subdivision designated by the County to permit the outright placement of mobile homes, and where the primary use of lots is for placement of mobile homes and where development standards have been met.	
MOBILE KITCHEN UNIT, TEMPORARY: A vehicle in which food is prepared, processed, or converted, or which is used in selling and dispensing of food to the ultimate consumer.	
MOTEL: A building or group of buildings used for transient residential purposes that contains guest rooms or dwelling units, and which is designed, intended or used primarily for the accommodation of transient automobile travelers. MOTEL includes groups designated as auto cabins, motor courts, motor hotels and similar designations.	
MOTOR HOME: See RECREATIONAL VEHICLE.	
NONCONFORMING STRUCTURE OR USE: A structure or use that legally exists at the time this Ordinance or any Amendment hereto becomes effective, but which does not conform to the current requirements of the zone in which it is located.	
NURSERY: The propagation of trees, shrubs, vines or flowering plants for transplanting, sale, or for grafting or budding; planting of seeds or cuttings; grafting and budding one variety on another; spraying and dusting of plants to control insects and diseases, and buying and selling the above plant stock at wholesale or retail. Help and seasonal labor may be employed. The term "nursery" contemplates the sale of a product of such nursery. The conduct of a nursery business presumes parking places for customers, the keeping of sales records, and quarters for these functions. However, the use does not include the business of reselling goods purchased off the premises, except plant stock, or the establishment of a roadside stand.	
OCEANFRONT LOT: Lot which abuts the State Beach Zone Line (ORS 390.770) or a lot where there is no portion of a buildable lot between it and the State Beach Zone Line.	

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OWNER: The owner of the title to real property, or the contract purchaser of real property of record, as shown on the last available complete tax assessment roll. OWNER shall also mean any agent with written authority of the owner.	
PARCEL: Any tract of land that is not included within the bounds of a residential subdivision.	
PARKING SPACE: A 20 by 8 foot area (exclusive areas for maneuvering and access) that is permanently reserved for the temporary storage of a single vehicle, and which has legal access to a street or alley.	
PARTITION: To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance. "Partition" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner	
PARTY TO PROCEEDING: For the purpose of notice, party to proceeding includes only the applicant, individuals or agencies who respond in writing to a request, or those individuals who attend the hearing and sign the guest list.	
PERSON: Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.	
PLANNING COMMISSION: A Commission appointed by the governing body of the County to assist in the development and administration of the County's planning regulations as provided by ORS 215.020 to 215.035.	
PLANNING DIRECTOR: An individual or his or her designate who is appointed by the governing body of the County to be responsible for the administration of planning as provided by ORS 215.042.	
PRIMARY USE: The principle purpose for which property is used or occupied.	
PRIMARY WOOD PROCESSING: The use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product, including, but not limited to pole and piling preparation, small portable saw mills, log sorting yards, wood chipping operations, fence post manufacturing and fire wood production.	

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PRIMITIVE CAMPGROUND: A designated place where four or more campsites are located for occupancy by camping units on a temporary basis for recreation, education or vacation purposes. A primitive campground is predominantly an unattended facility which is established to accommodate recreational vehicles, tents, or bicycle uses for a period of time not to exceed two weeks in any given four week period.	
PRINCIPALLY ABOVE GROUND: A structure where at least 51 percent of the actual cash value, less land value, is above ground.	
PRIVATE WAY: A thoroughfare reserved for use by an identifiable set of persons.	
PRODUCE STAND: An accessory facility to a farm use. As a permitted use, a produce stand shall be located on property owned or leased by the produce stand operator for the production of farm products. As a conditional use, a produce stand may include the sale of farm products produced by other farmers, but excludes the sale of meats. Such facility may include the sale of incidental and related items. Produce stands are subject to the regulations and licensing requirements of the Food and Dairy Division of Oregon Department of Agriculture, the requirements of the Uniform Building Code, and the parking and signing requirements of this Ordinance.	
PUBLIC PARK OR RECREATION: Recreation developments which provide for picnicking, swimming, hunting, fishing, riding or other similar activities, but which exclude overnight camper or recreational vehicle use and outdoor commercial amusements such as miniature golf courses and go-cart tracks.	
RECREATIONAL VEHICLE: A portable temporary dwelling unit, with a gross floor area not exceeding 400 square feet in the set up mode, which is intended for vacation, emergency or recreational use, but not for permanent residential use, unless located in a recreational vehicle or mobile/manufactured dwelling park.	
RECREATIONAL VEHICLE includes the following: (a) CAMPER: A structure containing a floor that is designed to be temporarily mounted upon a motor vehicle, and which is designed to provide facilities for temporary human habitation. (b) MOTOR HOME: A motor vehicle with a permanently attached camper, or that is originally designed, reconstructed or permanently altered to provide facilities for temporary human habitation. (c) TRAVEL TRAILER: A trailer that is capable of being used for temporary human habitation, which is not more than eight feet wide, and except in the case of a tent trailer, has four permanent walls when it is in the usual travel position. (d) SELF-CONTAINED RECREATIONAL VEHICLE: A vehicle that contains a factory-equipped, on-board system for the storage and	

DRAFT LUO ARTICLE 11	NOTES
disposal of gray water and sewage. This definition of a recreational vehicle shall not apply in the F-1 or SFW-20 zones.	
RECREATIONAL CAMPGROUND: A place where four or more recreational vehicles and/or tents are located on one or more continuous lots, tracts or parcel of land under a single ownership for temporary recreational camping. A permanent house, mobile home, or recreational vehicle for the owner, operator, or manager of the campground is permitted, however other Sections of the Ordinance pertaining to such use shall apply i.e. Section ~~4.040~~ 5.010, etc. Accessory uses that may be permitted include recreation cabins, shower, laundry, a grocery, gas pump, and recreation facilities that are designated for the primary purpose of serving the occupants of the campground. A camper shall not be permitted to stay any longer than six (6) months in any twelve (12) month period.	
RECREATIONAL VEHICLE SUBDIVISION: A subdivision designated by the County as permitting the placement of recreational vehicles outright, subject to all development standards and placement permit requirements.	
RESIDENTIAL CARE, TRAINING, OR TREATMENT FACILITY: As defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.	
ROAD: A public or private way created to provide ingress to, or egress from, one or more lots, parcels, areas or tracts of land, or that provides for travel between places by vehicles. A private way created exclusively to provide ingress and egress to land in conjunction with a forest, farm or mining use is not a "road." The terms "street," "access drive" and "highway" for the purposes of this Ordinance shall be synonymous with the term "road."	
ROAD, COUNTY: A public way under County jurisdiction which has been accepted into the County road maintenance system by order of the board of county Commissioners.	
ROAD, PUBLIC: A public way dedicated or deeded for public use but not accepted into the County road maintenance system, intended primarily for vehicular circulation and access to abutting properties.	
ROADWAY: That portion of a road or alley that has been improved for vehicular traffic.	
RURAL INDUSTRY: A business conducted in non-urban zones that employs up to ten non-family members, and which is not necessarily conducted in conjunction with a dwelling. Impacts to surrounding properties are not offensive. All parking is provided for on the property.	

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RURAL LAND: Lands that are neither suitable nor necessary for development at urban densities, and which, as a result, are designated for rural homesites or recreational, agricultural, or forestry uses. RURAL LAND includes all lands within zones which require, outright, at least a two acre minimum lot size.	
SAND DUNES: The aeolian deposition of sand in ridged or mounds, landward of the beach.	
SCREENING: Sight-obscuring fence, or sight-obscuring planting.	
SEASONAL FARM WORKER: Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in reforestation of lands, including but not limited to, the planting, transplanting, tubing, pre-commercial thinning, and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.	
SEASONAL FARM WORKER HOUSING: Housing limited to occupancy by seasonal farm workers and their immediate families, that is occupied for no more than nine months in a calendar year.	
SETBACK: A linear distance perpendicular to a lot line that describes the depth of a lot or parcel that shall not be occupied by a structure, unless specifically provided for in this Ordinance. See also YARD.	
SEWAGE: Water-carried wastes from a home or community.	
SEWAGE TREATMENT PLANT: Facilities for the treatment and disposal of sewage.	
SHOPPING CENTER: Three or more retail or service establishments on a single unit of land.	
SIGHT-OBSCURING FENCE: Any fence or wall which conceals or makes indistinct any object viewed through such fence or wall.	
SIGHT-OBSCURING PLANTING: A dense perennial evergreen planting with sufficient foliage to obscure vision and which will reach a height of at least six (6) feet within thirty (30) months after planting.	
SIGN: An identification, description, illustration or device which is affixed to or represented, directly or indirectly, upon a building, structure or land, and which directs attention to a product, place, activity, person, institution, or business. Each display surface of a sign other than two surfaces parallel and back to back on the same structure shall be considered a sign.	

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SIGN, ADVERTISING: A sign which directs attention to a business, product, activity, or service which is not necessarily conducted, sold, or offered upon the premises where such sign is located.	
SOLAR ENERGY SYSTEM: Any device, structure, mechanism, or series of mechanisms which uses solar radiation as a source for heating, cooling, or electrical energy.	
SMALL POWER PRODUCTION FACILITY: A facility that produces energy primarily by use of biomass, waste, solar energy, wind power, water power, geothermal energy or any combination thereof, having a power production capacity that, together with any other facilities located at the same site, is not greater than 80 megawatts; and such facility is more than 50 percent owned by a person who is not a public utility, an electric utility holding company or an affiliated interest. When this definition differs from that in ORS 758.500, the definition in ORS 758.500 shall prevail.	
SOLID WASTE: Solid waste shall include all putrescible and non-putrescible waste, including, but not limited to, garbage; compost; organic waste; yard debris; brush and branches; land clearing debris; sewer sludge; residential, commercial and industrial building demolition or construction waste; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicles or vehicle parts and vehicle tires; special vehicles and equipment that are immobile and/or inoperable, manufactured dwellings or residential trailers which are dilapidated, partially dismantled or fire damaged; manure; feces; vegetable or animal solid and semi-solid waste and dead animals; and infectious waste. Waste shall mean useless, unwanted or discarded materials. The fact that materials which would otherwise come within the definition of Solid Waste may, from time to time, have value and thus be utilized shall not remove them from the definition. The terms Solid Waste or Waste do not include: a. Environmentally hazardous wastes as defined in ORS 466.055; b. Materials used for fertilizer or for other productive purposes on land in agricultural operations in the growing and harvesting of crops or the raising of fowl or animals. This exception does not apply to the keeping of animals on land which has been zoned for residential non-agricultural purposes; c. Septic tank and cesspool pumping or chemical toilet waste; d. For purposes of Article V of this Ordinance, reusable beverage containers as defined in ORS 459A; e. Source separated, principal recyclable materials as defined in ORS 459A and the Rules promulgated thereunder and under this Ordinance, which have been purchased or exchanged for fair market value, unless said principal recyclable materials create a public	

DRAFT LUO ARTICLE 11	NOTES
nuisance pursuant to Article II of this Ordinance; f. Applications of industrial sludges or industrial waste by-products authorized through a Land Use Compatibility Statement or Management Plan approval and that have been applied to agricultural lands according to accepted agronomic practices or accepted method approved by the Land Use Compatibility Statement or Management Plan, but not to exceed 100 dry tons per acre annually; g. Stabilized municipal sewage sludge applied for accepted beneficial uses on land in agricultural, non-agricultural, or silvicultural operations. Sludge derived products applied for beneficial uses on land in landscaping projects.	
STANDARDS: Rules governing the size, dimensions, shape, or orientation of a lot or parcel, or the placement of buildings or activities thereon.	
START OF CONSTRUCTION: (a) For a structure other than a mobile home, START OF CONSTRUCTION means the first placement of permanent material for the construction of the primary use on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the START OF CONSTRUCTION means the first permanent framing or assembly of the structure, or any part thereof, on its piling or foundation. (b) For mobile homes not within a mobile home park or subdivision, START OF CONSTRUCTION means securing the mobile home at its permanent location by means of tiedowns or, in the case of a double-wide mobile home, its placement upon piers.	
STORY: That portion of a building between the finished surface of any floor and the next floor above, that is at least six feet above grade; the top story shall be the topmost living space.	
STREAM: A body of perennial running water, together with the channel occupied by such running water.	
STREET: The entire right-of-way of every public and private way for vehicular and pedestrian traffic; includes the terms ROAD, HIGHWAY, LANE, PLACE, AVENUE, ALLEY, and other similar designations. For setback purposes, non-vehicular public and private ways are not considered streets and require no setbacks.	
STREET LINE: A property line between a lot, tract, or parcel of land and an adjacent street or private way.	
STRUCTURAL ALTERATION: Any change to the weight-bearing members of a	

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building, including foundations, bearing walls, columns, beams, girders, or any change in the roof or exterior walls.	
STRUCTURE: Anything constructed or installed or portable, the use of which requires a location on a parcel of land.	
SUBDIVISION: A tract of land that has been divided into four or more lots within a calendar year.	
SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, where the cost equals or exceeds fifty (50) percent of the market value of the structure, either; (a) Before the improvement or repair is started; or (b) If the structure has been damaged and is being restored, before the damage occurred. SUBSTANTIAL IMPROVEMENT occurs upon the first structural alteration of a building, whether or not the alteration of a building, whether or not the alteration affects the external dimensions of the building. The term does not, however, include: (a) Any improvements made to a structure to comply with existing state or local health, sanitary, or safety code specifications, and which are solely necessary to assure safe living conditions; (b) Any restoration work on a structure listed in the National Register of Historic Places or a State Inventory of Historic Places; or (c) Any project for the addition or expansion of an electrical cogeneration facility.	
SURFACE MINING: Includes the mining of minerals by removing overburden and extracting a natural mineral deposit thereby exposed, or simply such extraction. Surface mining includes open-pit mining, auger mining, production of surface mining waste, prospecting and exploring that extracts minerals or affects land, processing to include rock crushing and batch plant operations, and excavation of adjacent offsite borrow pits other than those excavated for building access roads.	
SURFACE MINING, MINERALS: Includes soil, clay, stone, sand, gravel, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial, or construction use.	
SURFACE MINING, NONAGGREGATE MINERALS: Coal and metal-bearing ores, including but not limited to ores that contain nickel, cobalt, lead, zinc, gold, molybdenum, uranium, silver, aluminum, chrome, copper or mercury.	

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SURFACE MINING, OPERATOR: A legal entity engaged in surface mining or in an activity at a surface mining site preliminary to surface mining.	
SURFACE MINING, RECLAMATION: Procedures designed to minimize the disturbance from surface mining and to provide for the rehabilitation of surface resources through the use of plant cover, soil stabilization, and other procedures to protect the surface and subsurface water resources, and other measures appropriate to the subsequent beneficial use of mined lands.	
TEMPORARY MOBILE KITCHEN UNIT: See MOBILE KITCHEN UNIT, TEMPORARY.	
TOWNHOUSE: Townhouse is a single-family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two sides.	
TRACT: One or more contiguous lots or parcels under the same ownership.	
TRAIL: A hard or soft surfaced facility for pedestrians, or equestrians separate from vehicular traffic. Trails often go through natural areas and are designed to have a minimal impact on the natural environment.	
TRANSFER STATION: A fixed or mobile facility used as part of a solid waste collection and disposal system or resource recovery system, between a collection route and a processing facility or a disposal site, including but not limited to drop boxes made available for general public use. This definition does not include solid waste collection vehicles.	
TRAVEL TRAILER: See RECREATIONAL VEHICLE.	
URBAN or URBANIZABLE LAND: Only those lands within or surrounding an incorporated city which are contained by an Urban Growth Boundary.	
URBAN GROWTH BOUNDARY: A line established by the governing body and placed on a zoning map, which distinguishes urbanizable land adjacent to an incorporated city from surrounding rural land.	
UTILITY CARRIER CABINETS: A small enclosure used to house utility equipment intended for offsite service, such as electrical transformer boxes, telephone cable boxes, cable TV boxes, fire alarm boxes, police call boxes, traffic signal control boxes, and other similar apparatus.	
USE: The purpose for which a structure is designed, arranged, or intended, or for which a unit of land is developed, occupied or maintained.	
UTILITY FACILITIES: Structures, pipes, or transmission lines which provide the public with electricity, gas, heat, steam, communication, water, sewage collection, or other similar service.	

DRAFT LUO ARTICLE 11	NOTES
VARIANCE: A grant of relief from one or more of the standards contained in this Ordinance.	
WASTE RELATED: Waste-related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site for transfer to another location, uses which collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material. Waste-related uses also includes uses which receive hazardous wastes from others and which are subject to the regulations of OAR 340.100-110, Hazardous Waste Management.	
WETLANDS: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.	
WIND ENERGY CONVERSION SYSTEM (WECS): A system for converting energy from moving air masses into electrical energy. A single WECS with a tower height less than 150 feet and which produces no more electricity than the average annual consumption of the owner shall not be considered a COMMERCIAL FACILITY under ORS 215.213, even though it may sell excess power to the local utility.	
WINDMILL: A system for converting energy from moving air masses into a form of energy other than electricity.	
YARD: Any portion of a lot or parcel that is not occupied by a structure, unless specifically allowed by this Ordinance.	
YARD, FRONT: The area between side lot lines, measured horizontally and at right angles to the front lot line, to the nearest point of a structure.	
YARD, REAR: The area between side lot lines or between a street and the opposite side lot line, measured horizontally and at right angles to the rear lot line, to the nearest point of a structure.	
YARD REQUIREMENT: The portion of a lot or parcel that shall not be occupied by a structure, unless specifically provided for in this ordinance. This has the same meaning as "required yard", "minimum yard", or "setback".	
YARD, SIDE: The area between the front and rear yard, measured horizontally and at right angles to the side lot line, to the nearest point of a structure.	
YARD, STREET SIDE: The area adjacent to a street or private way, located between the front and rear yards, measured horizontally and at right angles from the street side lot line to the nearest point of a structure.	

Land Division Ordinance Draft

The following describes a recommended reorganization and re-write of the Tillamook County Land Division Ordinance (LDO), which contains the County's standards for the division of land in Tillamook County outside of incorporated cities. Staff is recommending that the existing LDO be replaced with a new LDO that is consistent with Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions, and accurately reflects existing County procedures and practices.

The proposed LDO reflects organizational modifications and depicts both existing as well as proposed new code language. Table 1 provides a key to the larger organizational changes made, as well as how specific sections in the existing LDO have been incorporated, modified or eliminated from the proposed LDO.

Table 2 contains the proposed LDO. The left column contains proposed code language and the right column provides commentary indicating areas where existing language was used and/or new language was drafted.[1]

[1] The Oregon Transportation and Growth Management Department's Model Development Code and User's Guide for Small Cities ("Model Code")[1] was a resource for the structure and procedural language; adopted language from other Counties was also used as guidance, and in some instances modified for Tillamook County.

Table 1: LDO Modification Key

ORIGINAL SECTION	NEW SECTION
SECTION 1: PURPOSE	Section 010: Purpose
SECTION 2: DEFINITIONS	Section 020: Definitions. *Removed definitions that did not appear in the LUO or LDO. Updated definitions to reflect current statutory requirements.*
SECTION 3: SCOPE OF REGULATIONS	Renamed: "Section 030: General Provisions."
SECTION 4: PRE-APPLICATION MEETING; BACKGROUND INFORMATION	Deleted. Procedural requirements now included in LUO Article 10.
	New: "Section 040: Preliminary Plat Approval Process" *Incorporates Model Code, Section 15, and Section 30.*
SECTION 5: LARGE LOT AND LAND DIVISIONS	Renamed: "Section 050: Pre-Planning for Large Sites." *Section largely replaced with new language.*
	New Section 060: Preliminary Plat Submission Requirements. *Incorporates old Section 12 and Section 21.*
	New Section 070: Preliminary Plat Approval Criteria
	New Section 080: Land Division-Related Variances
SECTION 10: PURPOSE AND SCOPE OF MAJOR PARTITION REVIEW	Deleted. Contents moved to Section 3.
SECTION 11: APPLICATION FOR PARTITION	Deleted. Contents moved to (new) LUO Article 10.
SECTION 12: PREPARATION OF A TENTATIVE PLAN	Replaced with "Section 090: Tentative Plan Submission Requirements"
SECTION 13: TECHNICAL REVIEW OF A TENTATIVE PLAN	Deleted. Included in Section 12.
SECTION 14: PREPARATION OF FINAL PLAN	Included in Section 060: Final Plat Submission Requirements and Section 070: Final Plat approval Criteria" Includes Sections 31, 32, 33, 34.
SECTION 15: EXTENSIONS OF TENTATIVE PLAT APPROVAL; SUBMISSION OF FINAL PLAT	Deleted. Included in Section 040.
SECTION 16: REVIEW OF A FINAL PLAN FOR A MAJOR PARTITION	Deleted.
SECTION 17: MAJOR PARTITION APPROVAL LETTER	Deleted.
SECTION 20: APPLICATION AND FILING FEES; DISTRIBUTION OF TENTATIVE PLAT; NOTIFICATION AND HEARING	Deleted. Addressed in (new) LUO Article 10.
SECTION 21: TENTATIVE PLAT; GENERAL	Deleted. Included in Section 060: Preliminary Plat

ORIGINAL SECTION	NEW SECTION
INFORMATION	Submission Requirements.
SECTION 22: TENTATIVE PLAT; EXISTING CONDITIONS	Deleted. Included in Section 060: Preliminary Plat Submission Requirements.
SECTION 23: TENTATIVE PLAT; PROPOSED PLAN OF LAND DIVISION	Deleted. Included in Section 060: Preliminary Plat Submission Requirements.
SECTION 24: TENTATIVE PLAT; SUPPLEMENTAL INFORMATION	Deleted. Included in Section 060 Preliminary Plat Submission Requirements
SECTION 25: REVIEW OF TENTATIVE PLAT	Deleted. Included in Section 040: Preliminary Plat Approval Process.
SECTION 30: EXTENSIONS OF TENTATIVE PLAT APPROVAL; SUBMISSION OF FINAL PLAT	Deleted. Included in Section 040: Preliminary Plat Approval Process.
SECTION 31: FINAL PLAT; INFORMATION REQUIRED	Deleted. Included in Section 090: Final Plat Submission Requirements and Approval Criteria
SECTION 32: FINAL PLAT; SUPPLEMENTARY INFORMATION	Deleted. Included in Section 090: Final Plat Submission Requirements and Approval Criteria
SECTION 33: TECHNICAL REVIEW OF THE FINAL PLAT	Deleted. Included in Section 090: Final Plat Submission Requirements and Approval Criteria
SECTION 34: FINAL PLAT APPROVAL AND RECORDING	Deleted. Included in Section 090: Final Plat Submission Requirements and Approval Criteria
SECTION 35: CLUSTER SUBDIVISIONS	Renumbered: Section 100
	New Section 110: Minor Revisions to Preliminary Approved Land Divisions
	New Section 120: Re-Platting and Vacation of Plats
	New Section 130: Property Line Adjustments
SECTION 40: IMPROVEMENT PROCEDURES	Renumbered: Section 140
SECTION 41: IMPROVEMENT REQUIREMENTS	Renamed: Section 150 Development Standards for Land Divisions Includes Section 41 and part of Section 42 (Easements, Lots)
SECTION 42: IMPROVEMENT STANDARDS	Renamed: Section 170: Improvement Standards. Street standards are retained in new Section 160.
SECTION 43: IMPROVEMENT SPECIFICATIONS	Deleted: Include in Public Works procedures.
SECTION 50: IMPROVEMENT EXCEPTIONS FOR LARGE-SCALE DEVELOPMENTS	Deleted. Include in Article 8 and (new) Article 10.
SECTION 51: VARIANCE APPLICATION	Deleted. Included in Section 80 and Article 8.
SECTION 52: PLANNING COMMISSION HEARING	Deleted. Included in Section 110

ORIGINAL SECTION	NEW SECTION
SECTION 53: APPEAL	Deleted. Included in (new) LUO Article 10
SECTION 54: INTERPRETATION	Renumbered: Section 170
SECTION 55: VALIDITY	Renumbered: Section 180
SECTION 66: ENFORCEMENT	Renumbered: Section 190
SECTION 57: REPEALER	Renumbered: Section 200
SECTION 58: ADOPTION	Renumbered: Section 210
SECTION 59: PROHIBITION	Renumbered: Section 220

Table 2: Proposed LDO and Notes

DRAFT LDO Development Approval Procedures	Notes
Section 010: Purpose Section 020: Definitions Section 030: General Provisions Section 040: Preliminary Plat Approval Process Section 050: Pre-planning for large sites Section 060: Preliminary Plat Submission Requirements Section 070: Preliminary Plat Approval Criteria Section 080: Land Division-Related Variances Section 090: Final Plat Submission Requirements and Approval Criteria Section 100: Cluster Subdivisions Section 110: Minor Revisions to Preliminary Approved Land Decisions Section 120: Re-Platting and Vacation of Plats Section 130: Property Line Adjustments Section 140: Improvement Procedures Section 150: Development Standards for Land Divisions Section 160: Street Improvements Section 170: Interpretation Section 180: Validity Section 190: Enforcement Section 200: Repealer Section 210: Adoption Section 220: Prohibition	New Table of Contents
INTRODUCTION	
SECTION 010: PURPOSE	

DRAFT LDO Development Approval Procedures	Notes
(1) The purpose of this Ordinance is to establish standards for ~~lot~~ property line adjustments~~,~~ for the division of land by way of partition or subdivision and for the development of improvements for areas of Tillamook County outside the urban growth boundaries of incorporated cities.	Subsection (1) amended to include ~~lot~~ property line adjustments.
(2) These regulations are necessary: (a) In order to provide uniform procedures and standards for the division of land; (b) To coordinate proposed developments with development plans for highways, utilities, and other public facilities; (c) To provide for the protection, conservation and proper use of land, water, and other natural resources; (d) To carry out the policies and intent of the County Comprehensive Plan; (e) To ensure adequate lot and parcel sizes for homesites; (f) To encourage safe and convenient access for vehicles, pedestrians, and bicyclists; (g) To ensure adequate sanitation and water supply services; (h) For the equitable allocation of costs for improvements such as roads, sewers, water, and other service facilities; (i) For the protection of the public from pollution, flood, slides, fire, and other hazards to life and property; (j) To provide for energy efficient land use and the use of renewable energy systems; (k) To provide for the accurate and timely recording in the office of the County Clerk all newly created property boundaries, street, roads, right-of-ways and easements; and (l) To protect in other ways the public health, safety, and general welfare.	(f) Amended "adequate width" with "encourage safe and convenient access" for vehicles, pedestrians and bicyclists.

DRAFT LDO Development Approval Procedures	Notes
(3) It is expressly not the purpose or intent of this Ordinance to encourage the division of land or the provision or extension of roads or sewer lines into lands designated for resource use by the Tillamook County Land Use Ordinance. Thus Subdivisions ~~shall not~~shall be limited to ~~be allowed in zones other than~~ those zones designated for residential, commercial or industrial use. All references to sewer lines in this Ordinance apply only to lands where such services conform to the intent and purposes of the County Comprehensive Plan.	This section has been modified to indicate that subdivisions are allowed in all industrial zones (Rural, Community and General).
SECTION 020: DEFINITIONS	
As used in this Ordinance, unless it is apparent from the context that different meanings are intended, the words and phrases below shall have the following meanings. Other words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage, and to give this Ordinance its most reasonable application. Words used in the present tense include the future; words in the singular include the plural, and words in the plural include the singular. The word "building" includes the "structure". The word "shall" is mandatory and not directory.	
AASHTO: American Association of State Highway and Transportation Officials ACCESS: The legally established route by which pedestrians and vehicles enter and leave property from a public way which can be developed for safe access. ALLEY: A narrow public way through a block provided for access to the back or side of properties fronting on a street. BICYCLE LANE: That part of the roadway or highway, adjacent to the roadway or	

DRAFT LDO Development Approval Procedures	Notes
highway, designated by official signs or markings for use by persons riding *bicycles* except as otherwise specifically provided by law. **BICYCLE PATH:** A public way, not part of a roadway or highway, that is designated by official signs or markings for use by persons riding *bicycles* except as otherwise specifically provided by law. BOARD: The Tillamook County Board of Commissioners. BUILDOUT: The number of parcels or lots possible within a tract if developed to capacity meeting all requirements of development. BUILDING LINE: A line on a preliminary plat or map indicating the limit beyond which buildings or other structures may not be erected.	
CLUSTER SUBDIVISION: A Subdivision which includes undeveloped land or park facilities ("open space") belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract. COMMISSION: The Tillamook County Planning Commission.	
DEPARTMENT: The Tillamook County Planning Department. DEVELOPER: Any person proposing to or completing a division of land into lots	-

DRAFT LDO Development Approval Procedures	Notes
or parcels for eventual sale, lease, or trade through a partition or Subdivision. DEVELOPMENT: Any ~~man-made~~human-caused purposeful alteration or division of, or construction upon, improved or unimproved land, excluding farming or forestry practices. DIRECTOR: The Director of the Tillamook County Planning Department, or a designee thereof.	
EASEMENT: A grant of the right to use a strip of land for specific purposes, such as ingress, egress, the placement of utilities or access to solar radiation. INSOLATION: The incident solar radiation available at a building site for utilization by a solar energy system. LAND DIVISION: The creation of any new lot or parcel by partition or subdivision. See definition for "Partition". See definition for "Subdivision".	
LOT: A unit of land intended for eventual lease, transfer of ownership, or development, that is created by a Subdivision. (1) CORNER LOT: A lot with at least two adjacent sides which abut streets other than alleys, provided that the angle of street intersection does not exceed 135 degrees. (2) FLAG LOT: A generally "L" shaped lot or parcel for which the only portion of the property line adjacent to a street consists of a 25-foot minimum to a 40-	

DRAFT LDO Development Approval Procedures	Notes
foot maximum utilized for street access. (3) THROUGH LOT: A lot fronting on two parallel or approximately parallel streets other than alleys.	
PARCEL: A unit of land intended for eventual lease, transfer of ownership, or development, that is created by a partition. A parcel may be a corner parcel, flag parcel, or through parcel as described for lots above.	

DRAFT LDO Development Approval Procedures	Notes
PARTITION: The division of a tract of land into not more than three parcels of land within one calendar year when such land exists as a single unit or contiguous units of land under single ownership at the beginning of the same year. PARTITION does not include: (1) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots; (2) Adjusting a property line as property line adjustment is defined in this section; (3) Dividing land as a result of the recording of a subdivision or condominium plat; (4) Selling or granting by a person to a public agency or public body of property for state highway, county road or other right of way purposes if the road or right of way complies with the comprehensive plan and uses permitted in the Farm (F-1) Zone. However, any property sold or granted for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned; or (5) Selling or granting by the County of excess property resulting from the acquisition of land by the the County for county roads or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.	Definition has been modified to be consistent with ORS 92.010. Language in Subsection (4) references the LUO instead of ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (2)(p) to (r) and 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (2)(q) to (s).
PEDESTRIAN WAY: A right-of-way for pedestrian traffic.	
PERSON: An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, including a trustee, receiver, assignee, or other similar representative thereof.	
PLAT: A final subdivision plat, replat or partition plat.	Definition modified to be consistent with ORS 92 definition.

DRAFT LDO Development Approval Procedures	Notes
PRIVATE STREET or ROAD: A private way that is created by the developer to provide vehicular access to one or more parcels of land, and is reserved for use by an identifiable set of persons.	-
RIGHT-OF-WAY: A legally described portion or strip of land which is condemned, reserved, or dedicated for specific purposes such as streets , water and sewer lines, or other traffic or utility uses.	
ROAD: a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes. The terms "street", "access drive" and "highway" for the purposes of this Ordinance shall be synonymous with the term "road".	
ROAD, COUNTY: A public way under County jurisdiction which has been accepted into the County road maintenance system by order of the board of county Commissioners. ROAD, PUBLIC: A public way dedicated or deeded for public use but not accepted into the County road maintenance system, intended primarily for vehicular circulation and access to abutting properties. ROADWAY: The portion or portions of a street right-of-way or easement which is developed for vehicular traffic.	-
SIDEWALK: A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb~~[~~, drainage facility (e.g.,	Original definition has been replaced to provide a clearer distinction between a "sidewalk" (paved)

DRAFT LDO Development Approval Procedures	Notes
ditch or swale),~~]~~ or planter strip.	and a pedestrian way. Original definition: A pedestrian walkway with surfacing suitable for pedestrian or bicycle traffic.
SOLAR ENERGY SYSTEMS: Any device, structure, mechanism or series of mechanisms which uses ~~insulation~~ insolation for heating, cooling or electrical energy.	
STREET: See definition for "Road."	
STREET FUNCTIONAL CLASSIFICATION: The classification for streets based on the type of use of the street. For purposes of this ordinance the following functional classifications are used: ARTERIAL: A street of considerable continuity which is primarily for ~~intercommunication~~ connectivity among developed areas. Arterial streets shall be as designated by the Tillamook County Functional Classification List. COLLECTOR: A street supplementary to an arterial street that provides ~~intercommunication~~ connectivity between arterial and local streets. Collector streets shall be as designated by the Tillamook County Functional Classification List. LOCAL STREET: A street designed primarily for access to abutting properties, and further subclassified as follows: A. Major Local - A local street with truck traffic (industrial, timber or farm) or ADT greater than ~~250~~400 vehicles per day. B. Minor Local - A local street with no truck traffic (industrial, timber or	

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farm) and ADT of ~~250~~400 or ~~less~~ fewer vehicles per day. C. Minimum Local - A local street accessing 4 or less residences. STREET DOES NOT INCLUDE: A private driveway providing access to a single parcel fronting on a street. A road created to provide access to a parcel in conjunction with the use of such a parcel for forestry, mining or agricultural purposes.	
SUBDIVISION: A tract of land divided into four or more units, or lots, within a single calendar year, for the purpose of eventual lease, transfer of ownership or building development.	
TURNAROUND: The area defined as a cul-de-sac or area designated for vehicles to maneuver, i.e., emergency vehicles, etc. Turnarounds shall be located within designated rights-of-way or easements.	
~~TERRAIN CLASSIFICATION:~~	Terrain classifications are not used in the LDO. Original language recommended for deletion: TERRAIN CLASSIFICATION: This refers to the general character of a specific route corridor based on the topography of the land traversed by the roadway. For purposes of this ordinance the following terrain classifications are used: "LEVEL" terrain is where highway sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made to be so without construction difficulty or major expense.

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	"ROLLING" terrain is where the natural slopes consistently rise above and fall below the road grade and where occasional steep slopes offer some restriction to normal horizontal and vertical roadway alignment. "MOUNTAINOUS" terrain is where longitudinal and transverse changes in the elevation of the ground with respect to the road are abrupt and where benching and side hill excavations are frequently required to obtain acceptable horizontal and vertical alignment.
~~URBAN DENSITY.~~ UNINCORPORATED COMMUNITY BOUNDARY: The boundary of any unincorporated community designated in the Tillamook County Comprehensive Plan, including the community boundaries of Neahkahnie, Mohler, Idaville, Barview/Twin Rocks/Watseco, Oceanside, Netarts, Pacific City, Neskowin, Beaver, Hebo, Cloverdale and Siskeyville.	This term not used in LDO and it was not clear if it was referring to gross or net acre Original language recommended for deletion: URBAN DENSITY. Four dwelling units per acre or greater.
SECTION 030: GENERAL PROVISIONS (1) Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation according to the following two steps: (a) The preliminary plat ~~must~~ shall be approved, by the Tillamook County Planning Commission, before the final plat can be submitted for approval consideration; and (b) ~~The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.~~ Compliance with all conditions of approval of the preliminary plat shall be demonstrated prior to final plat	Changed section heading from SCOPE OF REGULATIONS. Retained original language for Subsections (3), (4) and (5); other subsections are new. Note that these provisions, as proposed, are valid for all plats. For "major partitions" the County currently requires the following (Section 10, Subsection 5): *All roads created through a Major Partition shall be recorded within 30 days of final*

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approval. (2) All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and partitions. (3) No deed for a parcel created through a Partition shall be filed in the office of the County Clerk without the prior approval, by the Department, of the Partition. (4) No Subdivision shall be filed in the office of the County Clerk without the signature of the Chair of the Planning Commission and all other signatures required by law. (5) Approval of a final plat shall be void 30 days after the final approving signature is made thereon, unless the plat has been recorded in the office of the County Clerk. (6) All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant with Section 150. These systems shall be located and constructed underground where feasible. (7) All partition and subdivision proposals shall demonstrate that lots have adequate surface water drainage facilities or that these will be provided in order to reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant with Section 150. (8) All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant with Section 150.	*approval of the Major Partition map. Approval of any road created through a Major Partition that is not so recorded shall be void.*
SECTION 040: PRELIMINARY PLAT APPROVAL PROCESS (1) **Review Procedures.** Preliminary plats for partitions shall be processed using the Type II procedure under Article 10 Section 070. Preliminary plats for subdivisions shall be processed using the Type III procedure under Article 10 Section 080. All preliminary plats are subject to the approval criteria in Section	This new Section incorporates elements of Subsections 15 (partition tentative plat extensions) and 30 (subdivision tentative plat extensions). Note that, as proposed, this new Section is applicable to both partitions and subdivisions. New criteria are proposed for

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070 of this ordinance. (2) **Approval Period.** Preliminary plat approval shall be effective for a period of two (2) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided within the two-year period. The Planning Commission may approve phased subdivisions with an overall time frame of more than two (2) years between preliminary and final plat approvals pursuant to Subsection 040(4). (3) **Extensions.** The County may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period provided that all of the following criteria are met: (a) All requests for extensions of preliminary plat approval shall be received in the Department office at least 360 days prior to the expiration date of the approval. (b) Where there has been substantial improvement after two (2) years from the date of original plat approval, the Department may extend preliminary plat approval for a single 2-year period under a Type I procedure, pursuant to Article 10 Section 060. Substantial improvement will have occurred where the layout of improvements completed at the time of the request for an extension precludes the alteration of either street placement or the number of lots within the tract. (c) If the developer requests an extension beyond 2-years from preliminary plat approval and no substantial improvement has occurred, as described in (3)(b)., the request shall be reviewed through a Type III procedure, pursuant to Article 10 Section 080. The Department shall review the conditions of preliminary plat approval to determine their relevance, given changes in Ordinance requirements, State laws, or development circumstances in the vicinity of the proposed Subdivision. In making such a determination, the Department may consult with any other County Department. The Department shall present its review	phased subdivisions (Subsection 040(4)). The term "preliminary plat" is used uniformly in proposed ordinance language (current LDO uses the terms somewhat interchangeably, relying predominantly on "tentative plat.") As proposed, the "substantial improvement" period for both partitions and subdivisions is 2 years (currently it is 1 year for partitions). The approval period for both is proposed to be 2 years. The following Subsections have been eliminated or partially eliminated: *15(3)(a) Requests for extensions of tentative plat approval which require review as set forth in Section 30 (3) of this Ordinance shall be subject to fees identical to those set for Commission review of Conditional Uses. Any request for an extension that is not received at least 60 days prior to the expiration date of tentative plat approval shall be charged double the applicable fees.* *30(4) All requests for an extension of tentative plat approval beyond 36 months from the Commission's original approval may be subject to either new conditions or denial by the Commission following its consideration of the Department's review as described in Section 30 (3). A denial of a request for an extension shall not preclude an application for preliminary plat approval as set forth in Sections 20 through 25 of this Ordinance.*

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and any suggested changes in the conditions of preliminary plat approval to the Commission for its review. (d) All requests for an extension of preliminary plat approval may be subject to either new conditions or denial by the Commission following its consideration of the Department's review as described in Subsection 3(c). (e) A denial of a request for an extension shall not preclude an application for preliminary plat approval as set forth in Section 070 of this Ordinance. (f) No preliminary plat shall be approved for a period greater than ~~48 months~~4 years. (4) Phased Subdivisions. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided applicant's proposal meets all of the following criteria: (a) In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than two (2) years; (b) Public facilities shall be constructed in conjunction with or prior to each phase; (c) The phased development shall not result in requiring the County or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal; (d) The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and (e) Planning Commission approval is required for modifications to phasing plans.	
SECTION 050 – PRE-PLANNING FOR LARGE SITES	Section 5 (Large Lot Land Division) has been

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(1) Pre-planning of large sites is required within ~~Community Growth~~Unincorporated Community Boundaries as designated in the Land Use Ordinance, or that are within one mile of either Urban or Unincorporated Community ~~Growth~~ Boundaries in conjunction with applications for partitions or phased subdivisions, the purpose of which is to avoid piecemeal development with inadequate public facilities. (2) This section applies to land use applications affecting more than 11,000 square feet in size of land under the same contiguous ownership, even where only a portion of the site is proposed for subdividing. For the purposes of this Section, the same contiguous ownership means the same individual, or group of individuals, corporations, or other entities, controls a majority share of ownership. ~~(3)~~ Prior to submittal of a land division application for an area subject to this Section, a conceptual master plan shall be submitted to the ~~County Planning Official~~Director with the required pre-application materials for the project or proposal. The conceptual master plan shall illustrate the type and location of planned streets, utility corridors, open spaces, and land uses for the ultimate buildout of the subject property and all lands under contiguous ownership~~. The plan shall demonstrate how future development, including any proposed phasing, can meet the guidelines under Subsection (4), below.~~ ~~(4)~~(3) ~~The conceptual master plan required under Subsection (3) above is not required to be engineered but shall have a sufficient level of detail so that the County officials can determine that it meets~~ and demonstrate that the following design guidelines can be met: (a) Streets are interconnected and are shown with logical extensions to neighboring parcels and to the planned transportation system. (b) Water, sewer and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations,	renamed and a "conceptual master plan" is required. The requirement still only applies to urban and "urban fringe" areas and for parcels greater than 11,000 sq. ft. and the "consent" form (new Subsection (5)) is still required. The requirement as proposed requires submittal of a conceptual master plan with pre-application materials; currently the requirement is tied to tentative plan or plat submittal/review.

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etc.) in the future, the plan shall describe conceptually how such improvements can be accommodated. ~~(c) The plan reserves land needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.~~ ~~(d)~~(c) Within Unincorporated Community ~~Growth~~ Boundaries, the plan demonstrates that housing densities and urban uses can be accommodated, consistent with the Comprehensive Plan and ~~Development Code~~Tillamook County Land Use Ordinance. ~~(5) The conceptual master plan required under Subsection (3) above shall be accompanied by consent forms signed by the property owner agreeing to connect to, and to pay their equitable share of costs for, any sanitary sewer, storm drainage, or road improvements that may be necessary to serve the proposed development in the future. Such forms shall stipulate that the agreement is to run with the land, and shall be binding on all subsequent purchasers. The forms shall be filed in the office of the County Clerk prior to final approval of the proposed land division.~~	
SECTION 060: PRELIMINARY PLAT SUBMISSION REQUIREMENTS (1) Applications for Preliminary Plat approval shall contain the following information: (a) General Preliminary Plat Requirements. Information required for a Type II Review (for partitions) or Type III Review (for subdivisions), pursuant to Article 10 Section 070 and Section 080, respectively. (b) Preliminary Plat Information. In addition to the general information described in Subsection (a) above, the Preliminary Plat application shall consist of drawings and supplementary material adequate to provide the following information, in quantities determined by the ~~Planning Official~~County Surveyor and Tillamook County Planning Commission.	Sections 12 (Preparation of a Tentative Plan) and 21 (Tentative Plat; General Information) have been incorporated into this new Section, which is applicable to both partitions and subdivisions. Some new language is proposed, including new (1)(a) and introductory language in (1)(b). Preliminary plat "general information" has been modified from Section 21. "Existing conditions" and "proposed development" subsections are also new. Subsection (1)(c) is existing Section 24 (Tentative

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i. General Information. 1. For subdivisions, the proposed name~~. This name~~ shall not duplicate or resemble the name of another land division in the County, and shall be approved by the County Surveyor~~Commission~~. 2. Date, north arrow, scale of drawing. 3. Location of the development sufficient to define its location, boundaries, and a legal description of the site. 4. Zoning of parcel to be divided, including any overlay zones. 5. A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey. 6. Clear identification of the drawing as a "Preliminary Plat" and date of preparation. 7. Name and addresses of the owner(s), developer, and the engineer or surveyor. ii. Existing Conditions. Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions: 1. Existing streets or roads (public or private), including location, names, right-of~~f~~-way and pavement widths on and abutting the site; and location of existing access point 2. Width, location and purpose of all existing easements of record on and abutting the site; 3. The location and present use of all structures on the	Plat: Supplemental Information). Note that, with this proposed language, the County retains discretion to waive specific submittal requirements ("required except where the Director deems certain information is not relevant.") The County currently requires "spot elevations" for slopes less that 10%; for slopes over 10%, the required elevation contours depends on the percentage slope (Section 22(4)). Proposed Subsection (ii.)(6) simplifies the requirement, but requires a greater detail (2-foot interval) for an entire site. *SECTION 12: PREPARATION OF A Tentative Plan* *(1) A Tentative Plan for a Partition shall consist of materials adequate to provide the following information:* *(a) A map of the tract proposed to be divided, showing the proposed parcels and their approximate dimensions.*

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site and indication of which, if any structures are to remain after platting; 4. Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards; 5. Location of all existing subsurface sewerage systems, including drainfields and associated easements on the site. 6. Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Director may waive this standard for partitions when grades, on average, are less than 10 percent; 7. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes); 8. Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes and tide flats; 9. A~~For a~~ny plat that is five (5) acres or larger, or proposes 50 lots or greater, shall include~~;~~ the Base Flood Elevation, per FEMA Flood Insurance Rate Maps, 10. North arrow and scale; and 11. Other information, as deemed necessary by the Planning Director for review of the application. The	

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County may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements. iii. Proposed Development. Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development: 1. Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified; ~~1.~~2. City boundary lines when crossing or adjoining the subdivision; ~~2.~~3. Easements: location, width and purpose of all proposed easements; ~~3.~~4. Proposed deed restrictions, if any, in outline form. ~~4.~~5. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts; ~~5.~~6. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use; ~~6.~~7. On slopes exceeding an average grade of 10%, as shown on a submitted topographic survey, the	

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preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards; ~~7.~~8. Preliminary utility plans for sewer, water and storm drainage when these utilities are to be provided. This information may be included ~~don ehon~~ the preliminary plat map provided all information is legible. ~~8.~~9. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable; ~~9.~~10. Evidence of compliance with applicable overlay zones, including but not limited to the Flood Hazard Overlay (FH) zone; ~~10.~~11. Evidence of contact with the applicable road authority for proposed new street connections; and ~~11.~~12. Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development. (c) Any of the following information may be required by the Department to supplement a proposed subdivision plan: i. If the Subdivision plat occupies only part of a tract owned or controlled by a developer, a sketch of preliminary street layout in the undivided portion. ii. Special studies of areas which appear to be hazardous due to local geologic conditions. iii. Where the plat includes natural features subject to the conditions or requirements contained in the County's Land Use Ordinance, materials shall be provided to demonstrate that	

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those conditions and/ or requirements can be met.

iv. Approximate center line profiles of streets, including extensions for a reasonable distance beyond the limits of the proposed Subdivision, showing the proposed finished grades and the nature and extent of construction.

v. Profiles of proposed drainage ways.

vi. In areas subject to flooding, materials shall be submitted to demonstrate that the requirements of the Flood Hazard Overlay (FHO) zone of the County's Land Use Ordinance will be met.

vii. If lot areas are to be graded, a plan showing the nature of cuts and fills, and information on the character of the soil.

viii. Proposed method of financing the construction of common improvements such as street, drainage ways, sewer lines and water supply lines.

(d) Fifteen (15) legible "to scale" hard copies, or a lesser amount as deemed necessary by the Director, and one digital copy of the preliminary plat and all supplementary ~~maps~~ materials shall be submitted to the Department.

(e) Upon receipt of the preliminary plat and supplementary material, the Department shall furnish one copy each to the County Surveyor, the County Health Department, the County Sanitarian, the County Public Works Department, the County Assessor, and the appropriate school and fire districts. If the proposed Subdivision lies within one mile of the city limits of an incorporated city, or within the Urban Growth Boundary of a city, the Department shall furnish one copy to the ~~Planning Commission City~~or ~~City Engineer for that city~~. If the proposed Subdivision is within 500 feet of a state highway, one copy shall be furnished to the Oregon ~~State Highway Department~~Department of Transportation. Where the Department determines that it is necessary to do so, it shall furnish a copy of the plans to

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the ~~Natural Resources Conservation Service~~ Tillamook County Soil and Water Conservation District (SWCD), the appropriate water and sewer districts, the telephone service and electric service companies, and appropriate state or federal resource protection agencies.	
SECTION 070: PRELIMINARY PLAT APPROVAL CRITERIA (1) Approval Criteria. The Approval Authority (Director for partitions and Planning Commission for subdivisions) may approve, approve with conditions or deny a preliminary plat. The Approval Authority decision shall be based on findings of compliance with all of the following approval criteria: (a) The land division application shall conform to the requirements of this ordinance; (b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance – Article 3 Zone Regulations and the standards in Section 150 of this ordinance; (c) Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to the standards in Sections 150 and 160 of this ordinance; (d) The proposed plat name is not already recorded for another subdivision, does not bear a name similar to or pronounced the same as the name of any other subdivision within the County, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name; (e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within Unincorporated Community ~~Growth~~	New Section. -

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Boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications; (f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument; (g) Provisions for access to and maintenance of off-right-of-way drainage, if any; (h) Evidence that any required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and (i) Evidence that improvements or conditions required by the road authority, Tillamook County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met, including but not limited to: (i) Water Department/Utility District Letter which states that the partition or subdivision is either entirely excluded from the district or is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district. (ii) Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency. (2) Conditions of Approval. The Approval Authority may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.	
SECTION 080: LAND DIVISION-RELATED VARIANCES (1) Variances shall be processed in accordance with Article 8 of the Land Use Ordinance. (2) Applications for variances shall be submitted at the same time an application	New Section.

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for land division or property line adjustment is submitted; when practical the applications shall be reviewed concurrently.	
SECTION 090: FINAL PLAT SUBMISSION REQUIREMENTS AND APPROVAL CRITERIA Final plats require review and approval by the County per the requirements, approval criteria, and procedure below. These regulations are applicable to both partitions and subdivisions. (1) Submission Requirements. The applicant shall submit the final plat within two (2) years of the approval of the preliminary plat unless an extension is granted as provided by Section 040. (a) Additional Information for Final Plats. In addition to that otherwise specified by law, the following information shall be shown on the final plat for subdivisions: i. The date, scale, north arrow, legend, highways, and railroads contiguous to the plat perimeter; ii. Description of the plat perimeter; iii. The names and signatures of all interest holders in the land being platted, and the surveyor; and iv. Monuments of existing surveys identified, related to the plat by distances and bearings, and referenced to a document of record as follows: 1. Monuments or other evidence found on the ground and used to control the boundaries of the Subdivision; 2. Monuments of adjoining Subdivisions; or ~~3. City boundary lines when crossing or adjoining the Subdivision.~~ (b) All plats submitted for approval shall show the following, where applicable; all distances shall be shown to the nearest 0.01 foot, and no	Sections 14 (Preparation of Final Plan) and 31 (Final Plat; Information Required) have been incorporated into this new Section, which is applicable to both partitions and subdivisions. Text is from Sections 31 and 32. This approach is consistent with ORS 92.090, which identifies the "requisites for approval of tentative subdivision or partition plan or plat." Note that the time period would change from one (1) to 2 years for partition. Subsection (1)(b)(iii) and Subsections (3) and (4) are new.

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ditto marks shall be used: i. The exact location and width of all streets, pedestrian ways, easements, and any other rights-of-way located within the plat perimeter, including, where applicable, their center lines, bearings, central angles, radii, arc lengths, points of curvature, and tangent bearings. ii. Easements shall be denoted by fine dotted lines, and clearly identified as to their purpose. Their recorded reference shall be indicated. If the easement is being dedicated by the final plat, it shall be properly referenced in the owner's certificates of dedication. iii. Provisions for access to and maintenance of off-right-of-way drainage, if any. iv. Block and lot boundary lines, their bearings and lengths. v. Block numbers, beginning with the number "1", and continuing consecutively without omission throughout the Subdivision. Block numbers in an addition to a Subdivision of the same name shall be a continuation of the numbering in the original Subdivision. vi. Lot numbers, beginning with the number "1", and numbered consecutively within each block. If all lots in the Subdivision are to be consecutively numbered without repetition, then no block numbers shall be required. vii. The area, to the nearest hundredth of an acre, of each lot which is larger than one acre. viii. Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots intended for sale. (c) The following certificates, which may be combined where appropriate,	

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shall accompany the final plat for subdivisions. i. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recordation of the plat. ii. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map intended for public use except those parcels which are intended for the exclusive use of the lot owners in the Subdivision, their licensees, vendors, and tenants. iii. A certificate bearing the seal and signature of the engineer or surveyor responsible for the survey and the final map. iv. A certificate from the Water Department/Utility District indicating that the partition or subdivision is within the district for purposes of receiving services. v. A certificate, signed by the County Public Works Director, stating that the developer has complied with the requirements of Sections 180 and 190 of this Ordinance. (d) Any County Department involved in the review of the final plat for a subdivision may require any of the following materials to assist in the review of the final plat: i. A subdivision guarantee issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary for the preparation and recordation of the final plat, and their interest in the premises. ii. Sheets and drawings showing the following: 1. Coordinates of the corners in the Subdivision boundary and coordinates of all lot corners. 2. The computation of all distances, angles, and courses shown on the final map.	

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3. Ties to existing monuments, adjacent Subdivisions, street corners, and State Highway stationing. iii. A copy of any deed restrictions applicable to the Subdivision which are to be filed with the final plat. iv. A copy of any dedications requiring separate documents. (2) Technical Review of the Final Plat. (a) Upon receipt of the final plat and related documents as described in this Ordinance, the staff of the department shall review the final map and documents to determine that the plat conforms with the approved preliminary plat, including any special conditions of approval, and that there has been compliance with provisions of the law and of this Ordinance. (b) The County Surveyor shall examine the plat for compliance with requirements for accuracy and completeness, and shall collect such fees as are provided by State law. The County Surveyor may make checks in the field to verify that the map is sufficiently correct on the ground, and he may enter the property for this purpose. If it is determined that there is not full conformity, he shall advise the developer of the changes or additions that must be made, and afford the developer an opportunity to make such changes or additions. (c) When the County Surveyor determines that full conformity has been made, he shall so certify, and return the plat to the Department. (3) Approval Process and Criteria. By mears of a Type I Review, the Director shall review and approve or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria: (a) The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat and, if applicable, any modifications as approved pursuant to Section 140, and all conditions of approval have been satisfied;	

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(b) All public improvements required by the preliminary plat have been installed and approved by the County or applicable service provider if different than the County (e.g., road authority), or otherwise bonded in conformance with Section 150; (c) The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities; (d) All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat; (e) The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets and roads, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable; (f) As applicable, the applicant has furnished acceptable copies of Covenants, Conditions and Restrictions (CC&R's); easements, maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat; (g) Unless a subsurface sewerage permit or site evaluation approval has been issued from the appropriate agency for all the preliminary approved ~~lot or~~ parcels, a notation shall be placed on the plat stating that the allowance of the partition ~~or subdivision~~ does not warrant that sewer or ~~septic tanks~~site evaluation approval is or will be available to the ~~affected~~ approved ~~lots or~~ parcels; and (h) The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner approved by	

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the Tillamook County Surveyor for purposes of identifying its location.	
(4) Recording a. Within two (2) years of final review and approval, all final plats for land divisions shall be filed and recorded with the County Clerk, except as required otherwise for the filing of a plat to lawfully establish an unlawfully created unit of land. b. Prior to acceptance of a final subdivision or partition plat for recording by the County Clerk, a copy of all supplemental information that must be recorded, such as restrictive covenants, shall be attached to the final plat. Supplemental information that is required to be recorded shall be recorded immediately after recording the plat. The County Clerk shall note the document recording numbers on the plat. c. All subdivision plats shall be approved and signed by the County Surveyor, the County Assessor, and the Chairperson or Vice-Chairperson of the Tillamook County Planning Commission and Board of County Commissioners.	
SECTION 100: CLUSTER SUBDIVISIONS (1) All Cluster Subdivisions shall be reviewed according to the provisions contained in this Ordinance. Standards for improvements in Cluster Subdivisions shall be as set forth in this Ordinance. All applicable Land Use Ordinance standards shall be as set forth therein. Notwithstanding minimum lot size requirements found in the Land Use Ordinance, minimum lot sizes in Cluster Subdivisions for detached single-family dwellings shall be as follows:	Note: Section 50 (Improvement Exceptions for Large-scale Developments) allowed the Commission to modify improvement standards through a variance procedure for cluster subdivisions, as well as planned industrial areas and mixed use development. Section 50 is recommended to be deleted; standards for cluster developments, as well as mixed-use development, should be flexible enough that variances won't be frequently needed.

DRAFT LDO Development Approval Procedures	Notes
ZONE MINIMUM CLUSTER LOT SIZE (square feet) R-1 6,000 R-2 4,000 R-3 4,000 RR 12,000 Lot sized may be further reduced only in Cluster Subdivisions which involve condominiums or other types of attached, individually owned, dwellings.	
(2) Setbacks shall be as follows in Cluster Subdivisions for detached single family dwellings: Front/Rear yards 10 feet Side yards 5 feet Street side yards 10 feet The Department may require greater setbacks from collector or arterial roads. All multi-family dwellings must maintain 25-foot setbacks from all plat boundaries. Attached row houses or condominiums may be platted with no side yards. ~~No two buildings situated on multiple lots shall be constructed closer than 20 feet to each other, unless, based on topography, view enhancement, preservation of additional open space, or other similar benefits, a different separation standard is established by the Planning Commission in approving a Subdivision or planned development. This standard shall take into account applicable regulations which address public health and safety.~~	
(3) The plans submitted for review of Cluster Subdivisions, as defined in Section	

DRAFT LDO Development Approval Procedures	Notes
020 of this Ordinance, shall include the following, in addition to meeting the Subdivision review requirements of this Ordinance. (a) Preliminary Plan: An analysis of the allowable development density of the tract to be developed, according to the applicable provisions of the Tillamook County Land Use Ordinance, and calculated as follows: i. The total acreage of the tract to be developed, minus the total area of all existing easements, roads or road right-of-ways, and all other areas which cannot be developed due to the existence of sensitive natural features protected by the requirements of the Land Use Ordinance, is considered the gross acreage of the tract to be developed; ii. The gross acreage, reduced by fifteen percent (15%) for proposed roads and parking areas~~-~~, is considered to be the net acreage for development; iii. The net acreage of the tract shall be divided by the minimum lot size for lots for single-family dwellings in the applicable zone, under the applicable provisions for sewage disposal, to determine the maximum number of dwellings allowed in the Cluster. iv. A map of the proposed areas designated for common ownership, accompanied by a discussion of the nature of their proposed uses and the site limitations or justifications for creating a Cluster Subdivision on the tract. v. A map of the proposed lots and their building lines, showing that each can be built upon within setbacks. vi. A map showing parking areas and emergency access routes. vii. A draft of the legal documents providing for the ownership and	

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maintenance of the lands held in common, and preventing redivision of any land within the boundaries of the Cluster Subdivision under review.	
(b) Final Plat: i. The final plat for a Cluster Subdivision shall indicate that further division of any lot within the boundaries of the Subdivision shall not be permitted. ii. The final plat shall indicate that development will be permitted only in accordance with the land uses indicated on the final plat. iii. A copy of the final, recorded legal documents showing ownership, utilization and maintenance of all common areas shown on the final plat. All covenants and agreements shall be perpetual and recorded along with the final plat.	
SECTION 110: MINOR REVISIONS TO PRELIMINARY APPROVED LAND DIVISIONS (1) Minor revisions to preliminary approved land divisions involve a limited number of changes from the original application and typically should not alter any approval criteria and development standards which apply to the development proposal. ~~.~~Minor revisions to a preliminary approval for a land division may be made through a Type I procedure for the following: (a) Lot dimensions; (b) Street locations; (c) Lot patterns; and (d) Density decreases. ~~(2) Minor revisions shall meet the following standards:~~ ~~(a) Streets within a development that abut an adjacent property or an~~	New Section.

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~~exterior adjacent street shall not be relocated more than one half (½) the width of the right of way, easement or tract; or relocated so they abut a different property than approved in the preliminary plat approval, or as required in the primary district;~~ ~~(b) Stub streets within a development that abut an adjacent property or an exterior adjacent street shall not be changed to permanent "dead-end" streets (e.g., cul-de-sac or hammerhead) within the development;~~ ~~(c) Permanent "dead-end" streets within a development shall not be changed to a stub street which abuts an adjacent property or connected to an exterior adjacent street;~~ ~~(d) The revisions shall comply with the circulation standards in Section 160 of this Ordinance. However, where connections were approved as direct, they must remain direct. Where connections were approved as circuitous, they must remain circuitous. The street network must maintain the planned functional classification of new and existing roads in the area.~~ ~~(e) Density decreases shall not exceed five (5) percent and must meet the minimum density standards required in the applicable land use district;~~ ~~(f) Lot dimensions and lot patterns: Minor changes to lot dimensions and lot patterns may occur, but the overall lotting pattern shall remain the same as the original.~~ ~~(3)~~(2) All other revisions shall be processed as a new application and shall be subject to the standards~~.~~ deemed necessary that are in effect at the time the new application is submitted.	
SECTION 120: RE-PLATTING AND VACATION OF PLATS (1) Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed, or vacated pursuant to subsection (5) or (6). (2) The same procedure and standards that apply to the creation of a plat	New Section. -

DRAFT LDO Development Approval Procedures	Notes
(preliminary plat followed by final plat) shall be used to re-plat a recorded plat. (3) Limitations on replatting include, but are not limited to, the following: (a) a replat shall only apply to a recorded plat; (b) a replat shall not vacate any public street or road; and (c) a replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions. (4) A re-plat application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable County standards. (5) Vacation of lot lines: Quasi-judicial Review. One or more interior lot lines in a recorded plat may be vacated either by private petition or by public resolution as prescribed in ORS 368.~~326~~-366. A lot line vacation under this provision is a quasi-judicial action subject to an established fee, petition/application, notice and hearing before the Planning Commission. (6) Vacation of lot lines: Owner Consent. Notwithstanding the above provision, and as authorized in ORS 368.~~351~~, one or more interior lines in an approved subdivision or partition may be vacated upon written consent from 100 percent of those who own the private property proposed to be vacated; or in cases involving public property, written consent shall be obtained from 100 percent of property owners abutting the public property proposed to be vacated. (a) A pre-application conference and administrative action fee shall be required. Property owner consent shall be obtained by the applicant and submitted to the Planning Department on forms provided by the County. Those owners whose consent signature is required shall be identified by the Planning Department. Property owner consent signatures shall be verified by sending a copy of the signed consent form to each identified property owner. (b) The line vacation shall be approved:	

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i. Upon verification of the required consent signatures, and ii. After the Director or the Public Works Director file a written report finding that the action 1. Complies with applicable land use regulations; 2. Facilitates development of the private property subject to the vacation; and, 3. Any vacation of public property is in the public interest. (c) If the required owner consent signatures cannot be obtained, then in order to continue with the proposed lot line vacation, the applicant(s) shall remit the additional fee required for an quasi-judicial lot line vacation and proceed under the provisions of Section 120.5.	
SECTION 130: PROPERTY LINE ADJUSTMENTS (1) A Property Line Adjustment is the modification of a parcel or lot boundary when no parcel or lot is created. The Director reviews applications for Property Line Adjustments pursuant with the Type I procedure under Article 10 Section 060. The application submission and approval process for Property Line Adjustments is as follows: (a) Submission Requirements. All applications for Property Line Adjustment shall be made on forms provided by the County and shall include information required for a Type I review, pursuant with Article 10 Section 060. The application shall include a preliminary ~~lot~~ property line map drawn to scale and based upon the Director's determination, may be required to identify~~ing~~ all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; ~~location of lands subject to the~~ a FEMA FIRMette identifying the subject properties and demonstration of compliance to Section 3.060: Tillamook County Flood Hazard Overlay zone; existing fences and walls; and any other	New Section.

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information deemed necessary by the Director for ensuring compliance with County codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots. (b) Approval Criteria. The Director shall approve or deny a request for a property line adjustment in writing based on all of the following criteria: i. Parcel Creation. No additional parcel or lot is created by the lot line adjustment; ii. Lot standards. 1. All lots and parcels conform to the applicable lot standards of the zone~~ing district~~ including lot area, dimensions, setbacks, and coverage, except where 2. or 3. applies. 2. For properties entirely outside ~~the boundary of a Community Growth Boundary~~an Unincorporated Community Boundary, where one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable ~~district~~ zone before the property line adjustment, one property ~~must~~ shall be as large or larger than the minimum lot or parcel size for the applicable ~~district~~ zone after the adjustment. 3. For properties entirely outside ~~a Community Growth Boundary~~an Unincorporated Community Boundary, both abutting properties are smaller than the minimum lot size for the applicable ~~district~~ zone before and after property line adjustment. 4. As applicable, all lots and parcels shall conform the Tillamook County Flood Hazard Overlay Zone. iii. Access and Road authority Standards. All lots and parcels	

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conform to the standards or requirements of Section 150: Development Standards for Land Divisions, and all applicable road authority requirements are met. If a lot is nonconforming to any road authority standard, it shall not be made less conforming by the property line adjustment. (c) Recording Property Line Adjustments i. All property line adjustments shall comply with ORS Chapter 92 and be executed by deed ~~and must comply with ORS Ch. 92.~~. ii. ~~Within two (2) years of approval, all~~All deeds necessary to execute a property line adjustment shall be filed and recorded with the Tillamook County ~~Department of Records~~Clerk's Office. (2) Property Line Adjustments in Subdivisions and Partitions (a) Except as provided for in subsection (b), all property line adjustments within recorded plats shall be accomplished by replatting in accordance with Section 120. (b) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments set forth in Section 130, rather than by replatting, when the director determines that: i. The property line or lines to be adjusted will not result in a substantial reconfiguration, as deemed by the Director, of the affected lots or parcels; and ii. All of the other requirements for property line adjustments set forth in 130 will be met.	
SECTION 140: IMPROVEMENT PROCEDURES (1) Before final approval of any land division action, the developer shall install all improvements required by this Ordinance, and shall repair existing streets and other public facilities damaged in the process of development, or shall provide	

DRAFT LDO Development Approval Procedures	Notes
assurance of completion as provided in this Section. (2) All improvements shall conform to the requirements of this Ordinance and improvement standards and specifications adopted by the County or required by the Public Works Department, and shall be installed according to the following procedure: (a) Work shall not commence until the County has been notified in advance, and improvement plans drawn by a licensed professional have been reviewed for adequacy and approved by the County Public Works Department. (b) Required improvements shall be inspected by and constructed to the satisfaction of the County. The Public Works Department may require changes in typical sections or details if unusual conditions arising during construction warrant such changes. (c) All subsurface improvements ~~placed beneath streets by the developer~~ shall be constructed and inspected prior to street surfacing. Stubs for service connections to underground improvements shall be placed so as to avoid the need to disturb paved surfaces when service connections are made. (d) A map showing the as-built location and the nature of public improvements shall be filed with the Public Works Department upon completion of installation.	
(3) In lieu of completing improvements prior to filing the final plat, the developer may execute and file with Tillamook County an agreement between himself and the County, specifying the period in which the required improvements and repairs shall be completed. Such agreement shall provide that if the work is~~n~~ not completed within the specified period, the County may complete or contract to complete the work and recover the full cost and expense thereof from the developer. The agreement may provide for the construction of the	

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improvements in units and for an extension of time under specified conditions. (a) The developer shall file with the agreement, to assure his full and faithful performance thereof, one of the following: i. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the District Attorney. ii. In lieu of said bonds, the developer may elect either of the following alternatives: 1. A Time Certificate of Deposit naming Tillamook County as beneficiary, placed on file with Tillamook County by the developer. 2. Written Certification by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses and that an amount approved by the County Public Works Director will not be released until written authorization is received from the County Public Works Director. (b) All such Bonds, Deposits, Certificates, and agreements shall be for an amount deemed sufficient by the Public Works Director to cover the cost of said improvements, incidental expenses, the replacement and repair of existing improvements, and shall be at least one hundred and ten percent (110%) of the cost of all work to be done. (4) If the developer fails to carry out the provisions of the agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or deposit for reimbursement. If the amount deposited exceeds the cost and expense incurred by the County, the County shall release the remainder. If the amount deposited is less than the cost and expense incurred by the County, the developer shall be liable to the County for the difference.	

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SECTION 150: DEVELOPMENT STANDARDS FOR LAND DIVISIONS The following requirements and standards shall apply to all land divisions: (4) WATER SUPPLY: All lots or parcels shall either be served by a public domestic water supply system conforming to State of Oregon specifications, or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the Sanitarian considers adequate for soil and water conditions. Lot sizes in areas without public water supplies shall be adequate to maintain a separation of at least 100 feet between each well and sewage disposal facility, and shall be at least 100 feet wide and 20,000 square feet in area. (5) SEWAGE: All lots or parcels shall either be served by a public or community sewage disposal system conforming to state specifications and the policies and intent of the Comprehensive Plan, or the lot size shall be increased to provide sufficient area for an individual subsurface sewage disposal system. Such systems shall be approved by the County Sanitarian, considering soil and water conditions and the nature of the water supply. (6) STREETS, GENERAL: The developer shall grade and improve all streets in the subdivision or partition, and shall extend such streets to the paving line of existing streets, in conformance with standards contained in this Ordinance. Street improvements shall be provided consistent with the standards in Sections 150 and 160, and shall include curbs and shoulders to the extent that they are required by the density or character of development. Improvements may be required by the Public Works Department on streets serving, but not within the boundaries of, the Subdivision or through the Partition of a parcel with a buildout potential of 5 or more parcels. Such improvements which are required in areas not within the plat perimeter shall be limited to the extent required to serve the proposed Subdivision or Partition. (3) ACCESS: (a) All parcels created by a partition shall abut a public road or a private easement for at least 25 feet for access. All private easements serving	New "Development Standards for Land Divisions" incorporates Section 41 (Improvement Requirements) and portions of Section 42 (Improvement Standards). Street standards have been left in a stand-alone Section. Introduction language to Section 150 has been changed from "The following improvements shall be installed at the expense of the developer." Subsection (4)(a) is from (existing) Section 10 (Purpose and Scope of Major Partition Review). The original "Drainage" requirements have been replaced/modified with "Storm Drainage Systems" standards and include access easement requirements. Requirements for "Blocks" and "Lots" have been included in this Section (originally in Section 42).

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four or fewer lots shall be at least 25 feet wide, unless a lesser width is approved by the Public Works Department. (b) All parcels or lots created by a subdivision shall abut a street or private road, other than an alley, for ~~a minimum of~~at least 25 feet at a point which can be developed for safe access. (5) STORM DRAINAGE SYSTEMS: Such grading shall be performed and drainage facilities installed conforming to Tillamook County Public Works Department specifications as are necessary to provide proper drainage within the development and other affected areas in order to secure safe, healthful and convenient conditions for the residents of the Subdivision and the general public. When feasible, and when such off-site drainage facilities have the capacity to carry the increased drainage flow, drainage facilities in the development shall be connected to drainage facilities outside the development. Areas subject to inundation shall comply with the applicable provisions of the Tillamook County Land Use Ordinance. Provisions for the access and maintenance of storm drainage facilities that are not located in a public right of way shall be provided as required in accordance with adopted County standards. An easement or tract with adequate width for access and maintenance of drainage facilities shall be provided. (a) *Design exceptions to these standards may be approved by the* ~~County Engineer~~Tillamook County Public Works Director. For subdivisions, such approval is subject to approval ratification by the Planning Commission. The County Engineer may, in concurrence with the Community Development Department, approve design exceptions to these standards for partitions. Design exceptions may only be approved if the provisions of Section 110: Minor Revisions to Preliminary Approved Land Divisions are met (b) When lot sizes are increased to provide separation of water sources and sewage disposal systems, but are likely to be capable of further division as described in Section 050 of this Ordinance, the requirements of	

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Section 050 must be met. (6) BLOCKS: (a) GENERAL: The length, width and shape of blocks shall take into account the need for adequate lot size and street width, and shall recognize the limitations of the topography. (b) SIZE: No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street or unless topography or the location of adjoining streets requires otherwise. The recommended minimum length of blocks along an arterial is 2,000 feet. (7) BUILDING LINES (a) If special building setback lines are to be established in the Subdivision, they shall be shown on the preliminary Subdivision plat. If setbacks are proposed which are less than the minimum ~~yard~~ requirements contained either in the Land Use Ordinance or in Section 100 of this Ordinance, the Planning Commission may approve such special setbacks only in accordance with the requirements of Section 080 of this Ordinance. Special setback lines shall not be established which would preclude the use of ~~insulation~~ insolation for alternative energy production on adjacent lots. (8) LAND FOR PUBLIC PURPOSES (a) If the County has an interest in acquiring any portion, besides dedicated roads, of any proposed Subdivision for a public purpose, or if the County has been advised of such interest by a school district or other public agency, and there is written notification to the developer from the County that steps will be taken to acquire the land, then the Commission may require that those portions of the Subdivision be reserved, for a period not to exceed one year, for public acquisition at a cost not to exceed the value of the land.	

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(9) DEDICATIONS. The Commission may require as a condition of approval the dedication to the public of rights-of-way for public purposes~~, on or off of the property subject to the approval.~~ . All dedications must appear on the final plat, and be approved by the County prior to ~~recordation~~recording.	
(10) EASEMENTS (a) UTILITY LINES: Easements for ~~sewers, water mains, electric lines, or other public~~ utilities shall be dedicated whenever necessary. ~~The easements shall be at least 10 feet wide. Utility line tieback easements may be 5 feet wide.~~ ~~(b) WATER COURSES: If a Subdivision is traversed by a watercourse such as a drainage way, channel or stream, a storm water easement or drainage right-of-way shall be created.~~ ~~(c)~~(b) PEDESTRIAN WAYS: When desirable for public convenience, pedestrian ways may be required to connect cul-de-sacs or to pass through unusually long or oddly-shaped blocks.	Easement widths are determined by the district/agency.
(11) LOTS (a) SIZE: Lot sizes shall conform to standards contained in the Tillamook County Land Use Ordinance. Lots reserved for commercial or industrial purposes shall be adequate to provide off-street parking and service facilities required by the type of use proposed~~contemplated~~. (b) In areas that will not be served by a public water supply or a public sewer, minimum lot sizes shall conform to the requirements of the County Health Department and shall take into consideration requirements for water supply and sewage disposal. (c) ACCESS: Each lot shall abut upon a street or private road, other than an alley, for a width of at least 25 feet.	

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(d) THROUGH LOTS: Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. (e) LOT SIDE LINES: Where possible, the side lines of lots shall run at right angles to the street upon which the lots face, unless a different angle is required to provide optimum solar orientation, or is necessary to conform to topography or road orientation. (f) ~~LOT~~ GRADING: ~~Lot~~ Ggrading shall conform ~~to the following standards unless topography, soil type, or other physical conditions require otherwise. In such cases, grading shall conform to~~ to a plan approved by the County Public Works Director. ~~(g) CUT SLOPES: Cut slopes shall not exceed one and one half feet horizontally to one foot vertically.~~ ~~(h) FILL SLOPES: Fill slopes shall not exceed two feet horizontally to one foot vertically.~~ ~~(i) SOIL CHARACTER: The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.~~ ~~(j)~~(g)	
SECTION 160: STREET IMPROVEMENTS The design, improvement, and construction of all roads and streets resulting from the division of land shall comply with the following standards and requirements, to the extent possible given topography, aesthetics, safety, or other design considerations. (1) STREETS GENERAL	~~Development standards related to streets (originally in Section 42, Improvement Standards) have been retained in this Section.~~ ~~The AASHTO reference has been moved from "standards" to "general" and has been updated.~~ ~~Provisions to allow minor changes (existing~~

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(a) The design of improvements governed by these standards shall, in general, conform to policies set forth in the current editions of the following publications by the American Association of State Highway and Transportation Officials (AASHTO): i. "A Policy on Geometric Design on Highways and Streets". ii. "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT <400)" ~~(b) Standards in Section 160 apply to both public and private streets.~~ (b) Standards in Section 160 apply to both public and private streets. ~~(c) These standards apply to improvements required within the land division and for any street improvements required to access the land division.~~ (c) These standards apply to improvements required within the land division and for any street improvements required to access the land division. (d) Except for design exceptions to standards as provided in Section 150, deviations from the standards may only be approved through the Variance procedures in Article 8.	~~Section 42, Subsection (A)(1)(d)) have been replaced by Section 140, Minor Revisions to Preliminary Approved Land Divisions.~~ ~~Note that a roadway maintenance agreement can be required as part of the final plat submission/approval criteria (Section 100).~~
(2) ROADWAY WIDTH AND ALIGNMENT STANDARDS (a) The design, improvement, and construction of all streets resulting from the division of land or creation of an access easement shall comply with the County Public Road Improvement Ordinance ~~[or adopted TSP]~~ design standards, as well as the following standards and requirements. (b) Average Daily Traffic (ADT) for design is to be determined based on the anticipated future usage of the roadway based on maximum density	The "standards" now reference the adopted Public Road Improvement Ordinance and/or adopted TSP, not AASHTO standards.

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allowed by the zoning. For residential developments the ADT is assumed to be 10 vehicles per day per residence. (c) The traveled way shall be paved except for: i. Minimum Local Streets, and ii. Minor Local Streets in zones with minimum lot sizes of greater than ten (10) acres. (d) All roadways with a profile grade in excess of 12% shall be paved, including the exceptions listed.	
(3) MINIMUM RIGHT-OF-WAY WIDTHS: (a) The minimum Right-of-Way width for roadways shall be based on their functional classification as follows: Width Arterial & Collectors 60 ft. Major Local 60 ft. Minor Local 50 ft. Minimum Local ~~25~~ 30 ft. (b) Side slope easements are required whenever roadway cuts or fills extend beyond the right-of-way. (c) Additional right-of-way may be required when features such as left turn refuges or deceleration tapers are needed. (d) Any right-of-way less than 50 feet wide shall be a private street and be dedicated as an easement.	-
(4) DEAD END STREETS	-

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(a) A dead end street is allowed if all of the following conditions exist: i. The street is a Minor Local Street or a Minimum Local Street, and ii. the street is not more than 2000 feet in length, and iii. the street serves no more than 18 dwellings. (b) A dead end street shall terminate with a turnaround adequate for emergency vehicle turn-around. Temporary dead end streets shall have temporary turnarounds within temporary easements which may expire upon the extension of the street into adjacent land.	
(5) FUTURE EXTENSION OF STREETS: (a) Streets shall be extended to the parcel boundary where they are necessary to serve adjoining properties or to improve traffic circulation in and around the tract. (b) Public streets may be required through the subdivisions when it is necessary to: i. provide for continuation, through projection, of an existing principal street in the surrounding areas; or ii. permit future subdivision of adjoining land.	-
(6) INTERSECTIONS (a) Streets shall be in alignment with existing streets by continuations of the centerlines thereof. Staggered street alignment resulting in T-intersections shall, wherever practical, leave a minimum distance of 250 feet between the center lines of intersecting. Such intersections shall not be less than 125 feet apart. (b) Streets shall be laid out to intersect as near to right angles as practical. In no case shall the angle be less than 60 degrees unless there is a special	

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intersection design. (c) Arterial or collector streets shall have at least 100 feet of tangent adjacent to any intersection. Local streets shall have at least 50 feet of tangent adjacent to any intersection.	
(7) IMPROVEMENTS TO EXISTING STREETS: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way and surfacing shall be provided by the applicant as part of the Subdivision or Partition. (8) STREET NAMES: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. (9) FRONTAGE STREETS: Where a Subdivision abuts or contains an existing or proposed arterial, the County may require limited access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation, or other treatment necessary to afford separation of through and local traffic and incompatible land uses.	-
(10) ALLEYS: Alleys shall be provided in commercial and industrial ~~districts~~zones, unless other permanent provisions for access to utilities and off-street parking and loading facilities are approved by the Commission. (11) FEATURES PROHIBITED IN PUBLIC STREETS: Roadway gates, parking lots and islands are not allowed in public street right~~s~~-of-way~~s~~.	
SECTION 170: INTERPRETATION Where the provisions of this Ordinance are less restrictive than the provisions of any	

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other Ordinance, resolution or regulation, or are inconsistent in their requirements, the more restrictive provisions shall be applied.	
SECTION 180: VALIDITY If, for any reason, a provision of this Ordinance is judged invalid or unconstitutional, such judgment shall not affect the validity or applicability of the rest of the Ordinance.	
SECTION 190: ENFORCEMENT This Ordinance may be enforced in any manner authorized by State or local law, including ORS Chapters 92, 203, 215 and Tillamook County Ordinance No. 35, the Tillamook County Citation Ordinance.	
SECTION 200: REPEALER Tillamook County Ordinance No. 34, effective March 30, 1982, is repealed upon the effective date of this Ordinance. Any use of land which was illegal under the provisions of Ordinance No. 34 is a violation of this Ordinance, and may be the subject of enforcement action pursuant to Section 31 hereof. SECTION 210: ADOPTION This Ordinance shall be in full force and effect immediately upon its adoption. SECTION 220: PROHIBITION Any use of land by any person which is contrary to the terms of this Ordinance or of any permit or other approval issued hereunder is prohibited.	Will need to be updated to reflect effective date of the current LDO.

Tillamook County

DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

1510-B Third Street
Tillamook, Oregon 97141

Land of Cheese, Trees and Ocean Breeze

Building (503)842-3407
Planning (503)842-3408
On-Site Sanitation (503)842-3409
FAX (503)842-1819
Toll Free 1 (800)488-8280

MEMO

Date: April 28, 2015
To: Board of County Commissioners
From: Sarah Absher, Senior Planner
Subject: OA-15-01: Tillamook County Code Modernization Project

Included with this memorandum are:

- Staff Report dated April 1, 2015
- Exhibit C: Pacific City/Woods CAC comments
- Exhibit D: List of Future Priorities
- Updated Farm (F-1), Forest (F) and Small Farm and Woodlot 20-Acre (SFW-20) Zones: One copy with mark-ups and one final draft copy.
- Amended Articles (with mark-ups) of the Tillamook County Land Use Ordinance including a Section Conversion Table to track the re-numbering of sections that are proposed to be relocated within the existing TCLUO or deleted.
- Amended Tillamook County Land Division Ordinance (with mark-ups)

The mark-ups shown in red and blue are those changes proposed by the Tillamook County Planning Commission, Citizen Advisory Committees, the Tillamook County Surveyor's Office, the Tillamook County Public Works Department, and local land surveyors.

One change proposed by the Tillamook County Planning Commission but not completed by staff at this time pertains to language written in Article 2 of the TCLUO. Staff is working with County Counsel on this specific language and will be prepared to visit with the Board about this matter during the hearing.

Copies of the Tillamook County Land Use Ordinance and Tillamook County Land Division Ordinance, without mark-ups shown, will be provided to the Board for their review after any additional edits and prior to the final hearing.

No comments have been received to date by any CAC other than Pacific City/Woods. The Neskowin CAC is preparing to submit a letter in support of the Code Modernization Project. A copy of this letter will be presented to the Board at the hearing. Copies of the amended Land Division Ordinance have been emailed to all County fire chiefs. No comments have been received.

Staff has worked with the Tillamook County Surveyor's Office on declaratory language for final approval of partition plats that have not obtained site evaluation approval or confirmation of sewer service. The proposed language to be recorded on partition plats would read, "The allowance of this partition plat does not warrant that site evaluation approval [or confirmation of sewer service] is or will be available to the approved parcels."

Lastly, concerns were raised at the Planning Commission hearing on April 9, 2015 regarding the current fee schedule, specifically about how the current fee schedule would be applied to Planning applications once the amended Tillamook County Land Division Ordinance and Tillamook County Land Use Ordinance are adopted. Due to changes in review process of some applications, i.e. Development Permits not within a Floodway or Estuary Zone and Partitions, the Board may want to consider amended some of these application review fees.

Tillamook County

DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

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ORDINANCE AMENDMENT OA-15-01: Tillamook County Code Modernization Project

TILLAMOOK COUNTY COMPREHENSIVE PLAN,

TILLAMOOK COUNTY LAND USE ORDINANCE (TCLUO)

AND TILLAMOOK COUNTY LAND DIVISION ORDINANCE (TCLDO)

AMENDMENTS

DEPARTMENT RECOMMENDATION:

APPROVAL AND ADOPTION OF PROPOSED AMENDMENTS

STAFF REPORT DATE: April 1, 2015
TILLAMOOK COUNTY PLANNING COMMISSION HEARING DATE: April 9, 2015
BOARD OF COMMISSIONERS HEARING DATE: May 6, 2015
PREPARED BY: Sarah Absher, Senior Planner

I. GENERAL INFORMATION

Requested actions: To amend the Tillamook County Land Use Ordinance (TCLUO) and the Tillamook County Land Division Ordinance (TCLDO) to conform to current state statutes and administrative rules, focused on accomplishing the following:

- Amended Farm and Forest Zones of TCLUO Article 3 to comply with state law;
- Amendments to Article 10 to include permitting procedures;
- Amendments to TCLUO Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11 for housekeeping purposes including the removal of Article 12 as all provisions will be carried into existing Articles of the TCLUO;
- Amendments to update the Tillamook County Land Division Ordinance to comply with state law; and
- Updated Comprehensive Plan policies if needed to ensure consistency with the plan and amended TCLUO ordinance provisions.

Initiated by: Tillamook County Department of Community Development

II. BACKGROUND AND SUMMARY OF PROPOSED AMENDMENTS

The Code Modernization Project is a Department of Land Conservation and Development (DLCD) technical assistance grant funded project that consists of a series of seven (7) work tasks listed and described below, with a clearly defined scope of work that includes updating key provisions of the Tillamook County Land Use Ordinance (TCLUO) and Tillamook County Land Division Ordinance (TCLDO) to conform to current state statutes and administrative rules, update requirements and procedures to be consistent with current practices and to achieve desired outcomes, and to generally improve the structure and content of the Tillamook County Land Use Ordinance.

Task #1: Draft Updates to the Tillamook County Land Use Ordinance (TCLUO), the Tillamook County Land Division Ordinance (TCLDO) and the Tillamook County Comprehensive Plan. Task #1 was divided into a series of sub-tasks that included:

- TCLUO Audit- A high-level review of the TCLUO in its entirety and identify/document areas that need improvement, including associated major policy decisions that will need to be made, in order to steer and prioritize future work.
- An updated Farm (F-1) Zone code section (TCLUO Section 3.002)
- An updated Forest (F) Zone code section (TCLUO Section 3.004)
- Revisions to Section 3.006: Small Farm and Woodlot-20 (SFW-20) to be consistent with state law
- Revisions to Article 10- Focus on land use permitting procedures ("Type" reviews) and compliance with ORS 215 and ORS 197
- An updated Land Division code to comply with ORS Chapter 92
- Comprehensive Plan Review- Goal 3 Element (Agricultural Lands) and Goal 4 Element (Forest Lands) and updates as necessary
- Formation of the Technical Advisory Committee (TAC) and establishment of a meeting schedule

Task #2: Hearings-Ready Draft TCLUO, TCLDO and Comprehensive Plan Amendments.

The end product of Task #2 consisted of hearings-ready drafts of amendments to the TCLUO and TCLDO, including reformatting and a matrix comparing the current TCLUO and TCLDO to the proposed TCLUO and TCLDO. The hearings-ready drafts included as exhibits to this report are based upon further refinement and feedback from meetings with the Technical Advisory Committee (TAC), the Tillamook County Planning Commission, County Citizen Advisory Committees, the Surveyor's Department, the Tillamook County Public Works Department, and input from local private surveyors.

Additionally, Planning Staff participated on the DLCD Western County Regional Team to assist in providing guidance on model resource zones. The County-specific ordinance language contained within the Farm (F-1) and Forest (F) zone sections are a reflection of the outcome of the work completed by the Western County Regional Team.

Task #3: TCLUO Audit to Identify and Prioritize Future Updates

This task included documentation and prioritization of areas of the TCLUO that have been identified as needing updated, beyond what can be accomplished through this targeted, policy neutral update. This audit was completed by the TAC with the consultant's assistance.

Those areas of the TCLUO identified include addressing major policy issues and needed amendments, including amendments to the Comprehensive Plan for consistency, and are outside of the scope of this project. A prioritization list reflective of this audit has been included for review and discussion has been included as "Exhibit D" of this report. It should be noted that the list of priorities are in no particular order and will be addressed as time and resources allow. It should also be noted that the Department has already began working on some of the priorities on the list.

Task #4: Comprehensive Plan Updates and Zoning Maps

Task #4 includes a review of how the County is currently depicting and sharing geographic information such as planned land uses, zoning, natural hazards and coastal resources in addition to identifying the role of County zoning maps in relation to TCLUO requirements. While identifying the role of the county zoning maps in relation to TCLUO requirements, this portion of the task also included determining whether or not specific TCLUO requirements are based on ordinance text or the associated map, and to identify where there may have been a need to create new or update existing maps.

It should be noted that review of Tillamook County Comprehensive Plan Goal Elements 1, 2, 3 and 4 in conjunction with this project confirms that no amendments are required at this time as all revisions and processes remain consistent with existing goals and policies of these Comprehensive Plan elements.

Task #5: Future Work Plan

As mentioned earlier, list of future projects has been created by the Department that is a reflection of those projects identified in meetings and as part of Task #3 (TCLUO Audit). It should be noted that this list is not part of the amendment process.

Task #6: Land Use Application Forms:

As of the date of this report, Staff has completed an audit of all existing land use application forms and is working with the consultant on new land use application forms that reflect updated procedures. This task remains open as forms are still in process of being amended but has an expected completion date of June 15th. Delivery on this product is predicated by the adoption of these proposed amendments.

Task #7: Adoption

This task includes providing public notice and notice to DLCD, preparation of the staff report and adoption of ordinances. This phase also includes legal review of the proposed TCLUO and TCLDO amendments. Copies of all proposed amendments have been provided to legal counsel for his review.

III. APPLICABLE STATE LAW, COUNTY ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS

1. Tillamook County Comprehensive Plan: The Planning Process (Statewide Planning Goal 1)
2. Tillamook County Comprehensive Plan: The Land Use Plan (Statewide Planning Goal 2)
3. Tillamook County Comprehensive Plan: Agricultural Lands (Statewide Planning Goal 3)
4. Tillamook County Comprehensive Plan: Forest Lands (Statewide Planning Goal 4)
5. Tillamook County Land Use Ordinance, Article IX, Amendment Process

IV. CITIZEN INVOLVEMENT

As mentioned earlier in this report, a Technical Advisory Committee (TAC) was formed to assist in review and evaluation of existing and proposed code provisions as well as to provide guidance for future ordinance modifications. The TAC was comprised of two Planning Commission members, one Citizen Advisory Committee (CAC) Chair, Planning Staff, and two DLCD staff members.

The TAC was formed in August 2014 and preliminary meetings were held with Department staff later that month. The initial kick-off meeting with the consultant was held in September 2014. The TAC has met regularly since August, at times on a bi-monthly basis. All four meetings with the consulting firm as required under Task #1 have been held.

In addition to the meetings with the TAC, planning staff have made Code Modernization Project presentations to the Barview/Twin Rocks/Watseco Citizen Advisory Committee, the Neskowin Citizen Advisory Committee, the Pacific City/Woods Citizen Advisory Committee, and are scheduled to make presentations at the Oceanside Neighborhood Association (Citizen Advisory Committee) at their next regularly scheduled meeting on April 4, 2015.

Three work sessions were also scheduled with the Tillamook County Planning Commission. The first work session took place in December of 2014 and two work sessions were held in

March 2015. The Planning Commission also received regular updates from the Department on a monthly basis during the Director's report at the end of each regularly scheduled Planning Commission meeting which takes place the second Thursday of each month.

Planning Staff also attended the February Board of Realtors meeting held in Tillamook, Oregon and gave a brief presentation of the Code Modernization Project.

Comments from the Pacific City/Woods Citizen Advisory Committee have been included as "Exhibit C". No additional comments have been received to date.

V. ANALYSIS

1. *Tillamook County Comprehensive Plan Goal 1 Element: The Planning Process.*

CITIZEN INVOLVEMENT POLICY. Tillamook County shall continue use of Citizen Advisory Committees and special advisory group to provide advice and recommendations on issues concerning maintenance, update and implementation of the Comprehensive Plan. The Tillamook County Planning Commission shall continue as the County's Committee for Citizen Involvement.

As stated previously, the Tillamook County Planning Commission as well as the County's Citizen Advisory Committees have had opportunities to provide advice and recommendations associated with this project and proposed amendments.

2. *Tillamook County Comprehensive Plan: Goal 2 Element: The Land Use Plan.*

MAINTENANCE OF THE COMPREHENSIVE PLAN: POLICY. The County shall review and provide necessary changes in this plan, including land use and zoning designations, within five years of the date of acknowledgment of this plan by the Land Conservation and Development Commission.

While the Department finds the proposed amendments do not conflict with the policies outlined in the Goal 2 element of the Comprehensive Plan, the policy above can be applied directly to this request. Statewide Planning Goal 2 is comprised of three parts: the first part being the establishment of a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions; the second part giving local jurisdictions the ability to adopt an exception to a goal; and the third part pertains to the use guidelines, requiring jurisdictions to review the guidelines set forth for the goals and either utilize these guidelines or develop alternative means that will achieve the goals. These guidelines include preparation of plans and implementation measures, regional, state and federal plan conformance to the comprehensive plans of cities and counties, that policies and other decisions set forth in the plan are factually based, the plan include specific elements that fit together and relate to one another for consistency, that plans be filed with the recorder and be available to the public as well as affected governmental units, to provide the public and affected agency an opportunity for review and comments for revisions or changes to the plan and implementation measures, the description of implementation measures, and the utilization of guidelines for the statewide planning goals so that implementation guidelines relate to the process of carrying out the

goals once they have been incorporated into the plan. All land-use plans must explain how the guidelines or alternative means achieve the goals.

Page 3 of the Goal 2 Element of the Tillamook County Comprehensive Plan lists the three legislative mandates that outline statutory requirements:

- ORS Chapter 215: Contains the original legislative authorization for County land use planning and regulations which are largely procedural in nature.
- ORS Chapter 92: Contains the legislative authorization for regulation of land subdivision and partitioning.
- ORS Chapter 197: Mandates the substance and effect of the Comprehensive Plan as described in Section 197.010 Policy.

The proposed revisions to update the Tillamook County Land Use Ordinance (TCLUO), specifically Article 10, and the Tillamook County Land Division Ordinance to be comply with these legislative mandates is consistent with the applicable policies of the Goal 2 Element of the Tillamook County Comprehensive Plan and Statewide Planning Goal 2.

3. Tillamook County Comprehensive Plan: Goal 3 Element: Agricultural Lands.

POLICY: Tillamook County will maintain its F-1 and SFW-20 Zones to protect farmland and farm practices from the unnecessary encroachment of nonfarm development. The County's Agricultural Lands Criteria will be used to establish priorities for the availability of farmland for conversion to nonfarm uses. Land will not be removed from the farm zones without appropriate consideration of need, consequences, alternatives and compatibility. Minimum lot size requirements will be enforced to help protect agricultural land from conversion to nonfarm use. The creation of parcels smaller than the prescribed minimum and/or the placement of dwellings on such parcels shall be permitted if approved by the County Planning Commission according to the criteria required by state law and following the procedures prescribed in the County's zoning ordinance.

While the Department finds the proposed amendments do not conflict with the policies outlined in the Goal 3 element of the Comprehensive Plan, the policy above can be applied directly to this request. The existing Farm (F-1) and Small Farm and Woodlot 20-Acre (SFW-20) zones are out of compliance with state law. As stated in the beginning of this report, the Farm (F-1) zone and Small Farm and Woodlot-20 (SFW-20) sections of the Tillamook County Land Use Ordinance have been amended to conform to current state statutes and administrative rules. While mixed farm/forest zones are recognized throughout the state, the SFW-20 zone is not consistent with state law due to the current minimum land size requirement of 80-Acres.

Due to the limited scope of work of the Code Modernization Project, the Department revised the SFW-20 zone language so that properties zoned SFW-20 now refer to the allowable uses and land division standards outlined in either Section 3.002: Farm (F-1) zone or Section 3.004: Forest (F) zone based predominant use of the property in 1993. The alternative to complying with state law would have been to re-zone all properties zoned SFW-20. The Department finds that code language revision was the most efficient and timely way to maintain consistency and compliance with Statewide Planning Goals 3 and 4 while also staying within the limited scope of work associated

with this project. The proposed code language supports the policies outlined in the Goal 3 Element of the Tillamook County Comprehensive Plan.

4. ***Tillamook County Comprehensive Plan: Goal 4 Element: Forest Lands.***

POLICY: Tillamook County will maintain its Forest zone (F) to retain forest land for forest use and to encourage the management of forest lands for the growing, harvesting and processing of forest crops consistent with the requirements of the Oregon Forest Practices Act. This zone will also continue to provide for other forest uses including watershed and soil protection, wildlife and fisheries habitat, outdoor recreation activities, open space and scenic preservation, and agricultural activities, free from the encroachment of conflicting nonforest uses and influences. All nonforest uses proposed for the Forest zone will be reviewed by the County Planning Commission to assure that they are compatible with forest and farm uses on adjacent and nearby land, and to assure that these uses meet all other criteria and standards described in the zoning ordinance. Before forest land is changed to another use, the productive capacity of the land in each use shall be evaluated. the County will not attempt to regulate actions on federal lands except to assure that those actions which significantly affect nonfederal lands are consistent with the County's comprehensive plan as provided for in Oregon's Coastal Zone Management Program and as required by the Federal Coastal Zone Management Act.

While the Department finds the proposed amendments do not conflict with the policies outlined in the Goal 4 element of the Comprehensive Plan, the policy above can be applied directly to this request. The existing Forest (F) zone is out of compliance with state law. As stated in the beginning of this report, the Forest (F) zone section of the Tillamook County Land Use Ordinance has been amended to conform to current state statutes and administrative rules. The proposed code language supports the policies outlined in the Goal 4 Element of the Tillamook County Comprehensive Plan.

5. ***Tillamook County Land Use Ordinance, Article IX, Amendment Process***

The Tillamook County Land Use Ordinance (TCLUO) Section 9.030, TEXT AMENDMENT PROCEDURE, subsection (3) requires notice of the proposed action to be provided according to the provisions of Land Use Ordinance, Section 10.060, NOTICE OF PUBLIC HEARING, subsection (3) (a) Legislative land Use Hearings to consider a Comprehensive Plan Amendment. This section requires publication in a newspaper of general circulation at least 10 days prior to the first meeting.

Notice of the public hearings scheduled before the Planning Commission and the Board of Commissioners on this matter were printed in the March 25, 2015 issue of the Headlight-Herald. In addition, notice of the proposed amendment was sent to the Department of Land Conservation and Development (DLCD) on March 4, 2015. No comments have been received from DLCD.

Article 9 also requires the Department and Commission consider the proposed amendments and the intent of the applicable Comprehensive Plan policies; the intent of the provisions being amended; the effect on the land use patterns in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed amendment.

The purpose of the Code Modernization Project is to update code provisions for conformance to current state statutes and administrative rules, update requirements and procedures to be consistent with current practices and to achieve desired outcomes, and to generally improve the structure and content of the Tillamook County Land Use Ordinance. It is not anticipated that there will be a significant impact on County administration or enforcement as a result of this request. There are no proposals to modify existing land use review application fees at this time. Should any fee amendments be considered in the future, those amendments shall be accomplished through a County Commission Board Order. The effects on productivity to resource lands in Tillamook County are not anticipated.

IV. RECOMMENDED CONCLUSIONS: Approval

Staff concludes that all criteria have been met for this request and based on the findings of fact and other relevant information contained within this report and exhibits, Staff recommends that the Planning Commission recommend approval of Ordinance Amendment request OA-15-01 to the Tillamook County Board of Commissioners.

EXHIBITS:

Exhibit A: Tillamook County Land Use Ordinance
Exhibit B: Tillamook County Land Division Ordinance
Exhibit C: Pacific City/Woods CAC email dated March 23, 2015
Exhibit D: Future Priorities Work List

(Links available on the Department of Community Development website http://www.co.tillamook.or.us/gov/ComDev/)

March 23, 2015

Tillamook County Planning Commission
c/o Bryan Pohl, Department of Community Development
1510 B Third Street
Tillamook, OR 97141

RE: Department of Community Development - Code Modernization Project

Dear Planning Commissioners:

The desire of the Department of Community Development's (DCD) current leadership to document and reorganize statements of procedure as reflected in the Code Modernization Project is highly commendable. The product of these efforts can only serve to improve the functioning of the Department and DCD staff interactions with individuals, developers, and other government agencies seeking to conduct such business in Tillamook County.

The Pacific City-Woods Citizens Advisory Committee (PC-W CAC) has completed a review of the proposed changes to the Land Division Ordinance and the Land Use Ordinance Articles 1 – 11 as presented on the DCD web site. Specific editing comments/observations have been forwarded to Director Bryan Pohl for his use as he sees fit.

The purpose of this letter is to give you, the Planning Commissioners, an overview of the PC-W CAC's observations.

We find the added language to be clear and succinct. We find the re-organization of the information in the LUO articles to be perfectly logical and, therefore, more easily accessible. This will greatly enhance the efficiency of communicating these complicated concepts and rules.

Definitions of words or terms contained in the body of the documents have been carefully worded and are located in one Article (11) for easy access. Again, we see enhanced efficiency for the county and the public.

In several instances care is taken to show fairness in the intent of new language and an atmosphere of cooperation and support of applicants for land use actions. Example: Article 10 includes a reference to the pre-application conference process as intended to aid the applicant, respond to requests of developers, etc. This language signals a new and long overdue openness and support for those parties interested in developing properties in the County.

In conclusion, at tonight's special meeting the PC-W CAC recommended (by a vote of 9 to 0) to support the outcome of the Code Modernization Project as reflected in the revised documents shown on the Department of Community Development's web page as of March 23, 2015.

Respectfully submitted on behalf of the PC-W CAC,

Sean Carlton
Chair, PC-W CAC

Cc: Tillamook County Board of Commissioners
Bryan Pohl, Director of Community Development

EXHIBIT C

LIST OF FUTURE PRIORITIES:

- Flood Hazard Overlay Zone
- Development Requirements for Geologic Hazard Areas (Goal 7)
- Beach and Dune Hazard Overlay Zone (Goal 18)
- Article 6: Conditional Uses
- Article 7: Non-Conforming Uses and Structures
- Unincorporated Community Plan Updates (Goal 14)
- Port of Tillamook Bay Master Plan
- Transportation Plan Amendments and incorporation of a Multi-Modal Transportation Plan
- Airport Overlay Zone Revisions (POTB Airport and Pacific City Airport)
- Stormwater Management Development Code for Unincorporated Communities
- Erosion Control and Grading Development Code for Unincorporated Communities
- Lighting Standards for Unincorporated Communities
- TCLUO Section 3.010- Consideration of amending the 100-foot setback requirement from resource zones for the placement of residential structures.
- Amendments to County airport overlay zones to be consistent with state and federal law requirements.
- Parking Standards
- Comprehensive Plan Amendments to those elements not already listed above.
- Land Division Ordinance Revisions- Consideration of forming a working task group comprised of DCD planning staff, local fire chiefs, two planning commission members, citizen representation (CACs), Tillamook County Public Works Department, Tillamook County Surveyor's Office and private surveyors.
- Building Height Definition and Calculation
- Regulation of Cannabis Dispensaries- Medical and Recreational
- Definitions
- Hazard Framework Plans
- Day use areas in Forest Zones
- Temporary Uses

EXHIBIT D