

ARTICLE I

INTRODUCTION AND GENERAL 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: COMPLIANCE WITH ORDINANCE PROVISIONS

- (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.
- (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.
- (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
- (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.

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.

SECTION 1.050: RULES OF CODE CONSTRUCTION

- (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.
- (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.

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.

- (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.
- (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.

SECTION 1.080: BACKGROUND

The amendments reflected throughout the Tillamook County Land Use Ordinance and listed in the table attached to this Section (below) are the result of the 2015 Tillamook County Code Modernization Project, a Department of Land Conservation and Development (DLCD) technical assistance grant funded project that updated key provisions of the Tillamook County Land Use Ordinance (TCLUO) 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.

Project work tasks included:

- 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
- 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;

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

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
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
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	No Change

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
Assessments	
3.140 Estuary Development Standards	No Change
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
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	Moved to Section 3.575

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
Overlay Zone (NT-PRD)	
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
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	Moved to Section 4.120

SECTION NUMBER PRIOR TO MAY 27, 2015	SECTION NUMBER AFTER MAY 27, 2015
Limitations	
5.130 General Exception for the Location of Recreational Vehicles and Mobile Homes	Moved to Section 5.050
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
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

SECTION 1.090: ADOPTION

The Board of Commissioners finds that the enactment of this Ordinance is necessary for the public health, safety and general welfare, that an emergency exists and this ordinance shall take effect immediately upon passage by the Board of Commissioners.

Adopted this 30th day of December, 1981. Amended May 27, 2015.

BOARD OF COUNTY COMMISSIONERS OF TILLAMOOK COUNTY, OREGON

Tim Josi, Chairman

Mark Labhart, Commissioner

Bill Baertlein, Commissioner

APPROVED AS TO FORM: William Sargent, County Counsel

RECORDING SECRETARY: Sue Becraft, Board Secretary

ARTICLE II

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

- | | | |
|-------|-----|-----------------------------|
| 3.040 | 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 |

ESTUARY ZONES

- | | | |
|-------|-----|----------------------------------|
| 3.100 | | Estuary Zones |
| 3.102 | EN | Estuary Natural |
| 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

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
- 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
- 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

SECTION 2.020: LOCATION OF ZONES

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.

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 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;
- (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.

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.

ARTICLE III
ZONE REGULATIONS

RESOURCE ZONES

- 3.002 Farm Zone (F-1)
- 3.004 Forest Zone (F)
- 3.006 Small Farm and Woodlot-20 (SFW-20)
- 3.008 Small Farm and Woodlot-10 (SFW-10)

RESIDENTIAL ZONES

- 3.010 Rural Residential 2 Acre and 10 acre (RR-2, RR-10)
- 3.011 Community Single Family Residential (CSFR)
- 3.012 Community Low Density Urban Residential (CR-1)
- 3.014 Community Medium Density Urban Residential (CR-2)
- 3.016 Community High Density Urban Residential (CR-3)
- 3.018 Residential Mobile Home (RMH)

COMMERCIAL ZONES

- 3.020 Rural Commercial (RC)
- 3.022 Community Commercial (CC)
- 3.024 Community Public Use (CP)

INDUSTRIAL ZONES

- 3.030 Rural Industrial (RI)
- 3.031 Community Industrial (CI)
- 3.032 General Industrial (M-1)

RECREATIONAL/RESORT ZONES

- 3.040 Recreation Management (RM)
- 3.042 Recreation Natural (RN)
- 3.044 Recreation Development (RD)
- 3.045 Planned Destination Resort
- 3.046 Water-Dependent Development (WDD)

3.100 ESTUARY ZONES

- 3.102 Estuary Natural (EN)
- 3.104 Estuary Conservation Acuaculture (ECA)
- 3.106 Estuary Conservation 1 (EC1)
- 3.108 Estuary Conservation 2 (EC2)
- 3.110 Estuary Development (ED)
- 3.120 Regulated Activities and Impact Assessments
- 3.140 Estuary Development Standards

UNINCORPORATED COMMUNITY ZONES

- 3.300 Neahkahnie Urban Residential Zone (NK-7.5, NK-15, NK-30)

OCEANSIDE ZONES

- 3.310 Residential Oceanside Zone (ROS)
- 3.312 Commercial Oceanside Zone (COS)
- 3.314 Park Oceanside Zone (POS)

NESKOWIN ZONES

- 3.320 Neskowin Rural Residential Zone (NeskRR)
- 3.322 Neskowin Low Density Rural Residential Zone (NeskR-1)
- 3.324 Neskowin High Density Rural Residential Zone (NeskR-3)
- 3.326 Neskowin Commercial Zone (NeskC)
- 3.328 Neskowin Recreation Management Zone (NeskRM)

PACIFIC CITY/WOODS ZONES

- 3.330 Pacific City/Woods Park Zone (PCW-P)
- 3.331 Pacific City/Woods Rural Residential (PCW-RR)
- 3.332 Pacific City/Woods Low Density Residential (PCW-R1)
- 3.333 Pacific City/Woods Medium Density Residential (PCW-R2)
- 3.334 Pacific City/Woods High Density Residential (PCW-R3)
- 3.335 Pacific City/Woods Airpark Zone (PCW-AP)
- 3.337 Pacific City/Woods Neighborhood Commercial (PCW-C1)
- 3.338 Pacific City/Woods Community Commercial (PCW-C2)

NETARTS ZONES

- 3.340 Netarts Medium Density Urban Residential Zone (NT-R2)
- 3.342 Netarts High Density Urban Residential Zone (NT-R3)
- 3.344 Netarts Residential Manufactured Dwelling Zone (NT-RMD)
- 3.348 Netarts Neighborhood Commercial Zone (NT-C1)

3.500 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)
- 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)

ARTICLE IV

DEVELOPMENT STANDARDS

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.

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;
- (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.

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 unincorporated 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.
 - (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.
- (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.

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.
- (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.
- (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).
- (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.

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.

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.

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.

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.

- (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.
- (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

- (1) **PURPOSE:** The purpose of the EXCEPTIONS described in this Section is to provide a measure of ministerial relief from the requirements for yards in certain areas or zones when those requirements are unnecessarily restrictive.
- (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.
- (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 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).

(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

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.

SECTION 4.130: DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS

- (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;
 - (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.
- (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.
- (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.
- (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.

- (6) The GEOLOGIC HAZARD analysis shall include the following:
 - (a) In landslide areas [(1) (a) and (1) (b)];
 - i. Soils and bedrock types,
 - ii. Slope,
 - iii. Orientation of bedding planes in relation to the dip of the surface slope,
 - iv. Soil depth,
 - v. Other relevant soils engineering data,
 - vi. Water drainage patterns, and
 - vii. Identification of visible landslide activity in the immediate area.
 - (b) In areas prone to mudflow [(1) (c)];
 - i. History of mud or debris flow, and
 - ii. Areas likely to be affected by future mudflow.
 - (c) In Brallier peat soils [(1) (d)];
 - i. Boring log,
 - ii. Bearing capacity, and
 - iii. Drainage patterns.
 - (d) Ocean front bluffs subject to coastal erosion and sliding [(1) (e)];
 - i. Information required by (6) (a) above, and
 - 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.
- (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.

SECTION 4.140: REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION

- (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, whichever is most landward. Setbacks for rivers, streams, and coastal lakes shall be measured horizontal and perpendicular from the ordinary high water line.

- (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.

- (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;
 - i. Less than 95 feet in places where the area of riparian vegetation is 50 feet wide; or
 - 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.

- (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 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.

SECTION 4.150: DEMOLITIONS OR ALTERATIONS OF HISTORIC STRUCTURES

- (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.
- (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 Hangars.
 - (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.

SECTION 4.160: PROTECTION OF ARCHAEOLOGICAL SITES

- (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.
- (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.

SECTION 4.170: MIXED USE DEVELOPMENT (MUD)

- (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.

- (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 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.

- (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:

- 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.
 - ii. A topographic map rendered in the same scale as the map in (1) above.
 - iii. Housing unit densities for areas of residential development.
 - iv. Proposed uses and ownership and maintenance arrangements for all areas to be left in open space, and the ownership status of all streets.
 - v. Proposed property lines upon the completion of the project.
 - vi. A preliminary grading and drainage plan.
 - vii. The method of water supply and sewage disposal.
 - viii. An outline of proposed deed restrictions, if any.
 - 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.
 - x. The proposed time frame for completion of the entire development.
 - xi. A Geologic Hazard report where required by the Land Use Ordinance.
 - xii. A map indicating flood hazard areas if required by this Ordinance.
 - 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 complete plan is submitted.
 - (f) The Commission shall apply the following criteria in the consideration of all MUD requests:
 - i. The proposed plan is internally cohesive and is consistent with Comprehensive Plan Policies for the vicinity.

- ii. There are special development objectives that the project will satisfy which warrant review under these provisions.
 - iii. The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.
 - iv. Proposed uses which are not otherwise permitted by the zoning on the parcel are accessory uses within the entire development.
 - 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.
 - 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.
- (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.

SECTION 4.180: HOME OCCUPATION PERFORMANCE STANDARDS

- (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.
- (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".
- (3) **STANDARDS:**
- (a) All HOME OCCUPATIONS shall meet the following standards or conditions in addition to other applicable ordinance requirements:
 - i. The HOME OCCUPATION is operated by the resident of the property upon which the activity is located, within the residence or accessory structures.
 - ii. The HOME OCCUPATION will employ no more than five full- or part-time persons.
 - 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.

- 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.
 - 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:
- i. Those employed in the HOME OCCUPATION must be members of the family residing on the premises.
 - 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.
 - iii. Complaints from neighbors may be cause for requiring a 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.

ARTICLE V

SPECIAL USE STANDARDS AND EXCEPTIONS

SECTION 5.010: MOBILE HOME, MANUFACTURED HOME AND RECREATIONAL VEHICLE SITING CRITERIA

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 underlying zone.

- (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.
- (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.
- (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.
- (4) A mobile home or manufactured home shall be anchored with required tie-downs.
- (5) A mobile home or manufactured home shall have a continuous skirting of non-decaying material within ninety (90) days of placement.
- (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.
- (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.
- (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.
- (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.
- (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.

SECTION 5.020: MOBILE AND MANUFACTURED HOME PARK STANDARDS

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/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 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.

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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (7) Screening consisting of sight-obscuring fence and/or buffer strip of vegetation may be required along all property lines.
- (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.
- (9) A mobile or manufactured home permitted in the park shall meet the standards as stipulated in Section 5.010 of this Ordinance. All recreational vehicles shall be tied down.
- (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.
- (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.
- (12) The standards contained in this Section are minimum standards. Different standards may be required where necessary to meet other requirements of this Ordinance.

- (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.
- (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.
- (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.

SECTION 5.030: RECREATIONAL CAMPGROUND STANDARDS

(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 or 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 Sections of the Ordinance pertaining to such use shall apply, including Section 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 RECREATIONAL CAMPGROUND shall have:
 - i. A minimum size of 1 acre or the minimum lot size of the zone, whichever is greater;
 - ii. A minimum number of 4 sites;
 - iii. A minimum width of space 23 feet or state minimum which ever is greater,for each site;
 - 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;
 - 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;
 - 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;
 - vii. A minimum distance between actual units of 15 feet;
 - viii. Minimum distance between actual unit and community or service buildings of 10 feet;
 - 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;
 - 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;
 - 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;
 - xii. A sight-obscuring fence and/or buffer strip of vegetation may be required on every side of a RECREATIONAL CAMPGROUND;.
 - 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;

- 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;
- 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;
- 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;
- 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.
- 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:
 1. The RECREATIONAL CAMPGROUND is in compliance with all State regulations and County Sanitation regulations; and
 2. Master Plans and review fees are submitted to the department no later than December 31, 1986; and
 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.

- 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.
- xx. New full hook-up parks requiring a community septic/sewer system are permitted only within adopted unincorporated community boundaries.

SECTION 5.040: PRIMITIVE CAMPGROUND STANDARDS

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 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.
- (2) Each space shall be a minimum of 1,200 square feet.
- (3) Each campsite shall be provided with a fire pit or ring.
- (4) Tables shall be provided at all campsites.
- (5) Natural vegetation or landscaping surrounding campsites shall remain intact.
- (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.
- (7) A house, mobile home or manufactured home may be located within the campground for the owner, manager or caretaker of the campground.
- (8) Other camp-related buildings may be permitted, if approved through the Conditional Use process.
- (9) No recreational vehicle, tent, or other building or structure shall be within 20 feet of any property line.
- (10) Access and interior roadways must be approved by the County Public Works Department.
- (11) The campground may be adequately screened with vegetation and/or natural features around its exterior boundary lines.
- (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.
- (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.
- (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

SECTION 5.050: GENERAL EXCEPTIONS FOR THE LOCATION OF RECREATIONAL VEHICLES AND MOBILE AND MANUFACTURED HOMES

- (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

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.

SECTION 5.070: TEMPORARY USES

- (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.
 - i. Applications for a temporary use permit shall be made on forms provided by the Department. Applications shall include:
 - 1. The applicant's name, address, and telephone number.
 - 2. The written permission of the property owner.
 - 3. Organizational affiliation or sponsorship, if any.
 - 4. Description of the planned activity.

- 5. Days and hours of operation.
 - 6. Provisions for parking, access, and litter control, if necessary.
- ii. Applications will be reviewed by the Tillamook County Public Works, Planning, Health, Sheriff's Department; Parks Department where applicable.
 - 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.
 - 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:
- i. No fee shall be charged if the applicant is a bonafide nonprofit, charitable organization.
 - 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.
 - 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

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

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 5.085 for mobile homes, mobile homes shall:

- (1) Be multi-sectional, and not single wide.
- (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 5.100 NESKOWIN EROSION CONTROL AND STORMWATER MANAGEMENT

- (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 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 Boundary as set forth on the Tillamook County Comprehensive Plan map;
 - (b) All development subject to approval by Tillamook County pursuant to Section 3.520, Section 3.525, Section 3.045, Section 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 minimize 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,

- (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 1.

ARTICLE VI

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.
- (2) The Director shall act administratively according to the procedure set forth in 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 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.
- (3) No CONDITIONAL USE permit shall be invalidated because of failure to receive the notice provided for in Section 10.070.

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.
- (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 5.010:

- (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 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;
- (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.

ARTICLE VII

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.
- (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 3.510 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 3.510 Flood Hazard Overlay Zone.

- (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 3.510 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 3.510 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 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 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.
- (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 4.140 Requirements for Protection of Water Quality and Streambank Stabilization.
- (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 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:
 - 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 site survey or similar information to assist in making these determinations.

(12) **MAJOR REVIEW:** Application is made under the fee and procedure for a Type II Administrative Review and is 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.

The Department may require the applicant to submit a site survey or similar information to assist in making these determinations.

ARTICLE VIII

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.
- (2) The Director shall act administratively according to the procedure set forth in 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 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.
- (3) No approved VARIANCE request shall be invalidated because of failure to receive the notice provided for in Section 10.070.

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 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.

ARTICLE IX

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; notice of a proposed AMENDMENT shall be distributed according to the provisions of a Type III or Type IV review.
- (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.
 - (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 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.
- (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.
 - (6) A copy of all zone MAP AMENDMENTS shall be forwarded to the County Assessor's office.

SECTION 9.030: TEXT AMENDMENT PROCEDURE

- (1) 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 COMPREHENSIVE PLAN or ORDINANCE AMENDMENT shall arrange a pre-application conference with the Department, pursuant to Section 10.030.
- 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.
- (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 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.

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.

ARTICLE X

DEVELOPMENT APPROVAL PROCEDURES

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.
- (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 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.
- (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.
- (4) Review Types. All land use and development permit applications 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

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.

(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. 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.

(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.

(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.
 - (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.
- (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.

(a) Application types. Table 10.1 below provides a list of all application types and their associated review procedure, review authority and appeal authority.

Type I= Ministerial Review

Type II= Administrative Review

Type III= Quasi-judicial Review

Type IV= Legislative Review

TABLE 10.1: REVIEW PROCEDURES SUMMARY			
Permit/Application	Procedure Type	Review Authority	
		Decision	Appeal
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	Planning Commission
Conditional Use Review	Type II	Director	Planning Commission
Conditional Use (as deemed by Director)	Type III	Planning Commission	Board of County Commissioners
Comprehensive Plan Amendment	Type III	Board of County Commissioners (with recommendation by Planning Commission)	LUBA
Development Permit Review for Development in Estuary or Floodway	Type II	Director	Planning Commission

TABLE 10.1: REVIEW PROCEDURES SUMMARY

Permit/Application	Procedure Type	Review Authority	
		Decision	Appeal
Extension of Time Review	Type I	Director	Planning Commission
Extension of Time (as deemed by the Director)	Type III	Planning Commission	Board of County Commissioners
Final Plat Approval	Type I	Director	Planning Commission
Floodplain Development Permit Review (excluding development in Floodway or Estuary)	Type I	Director	Planning Commission
Farm and Forest Dwellings, New	Type II	Director	Planning Commission
Foredune Grading Permit Review	Type II	Director	Planning Commission
Geologic Hazard Report Review	Type I	Director	Planning Commission
Goal Exception	Type III	Planning Commission	Board of County Commissioners
Land Use Compatibility Statement	Type I	Director	Planning Commission

TABLE 10.1: REVIEW PROCEDURES SUMMARY

Permit/Application	Procedure Type	Review Authority	
		Decision	Appeal
Neskowin Coastal Hazard Area Permit	Type II	Director	Planning Commission
Nonconforming Review (Minor or Major)	Type II	Director	Planning Commission
Ordinance Amendment	Type IV	Board of County Commissioners (with recommendation by Planning Commission)	LUBA
Zoning Permit	Type I	Director	Planning Commission
Preliminary Plats - Partitions	Type II	Director	Planning Commission
Preliminary Plat - Subdivision	Type III	Planning Commission	Board of County Commissioners
Preliminary Plat Time Extension	Type I	Director	Planning Commission
Property Line Adjustment	Type I	Director	Planning Commission
Resource or Riparian Setback Exemption	Type II	Director	Planning Commission
Remedial Grading Permit Review	Type I	Director	Planning Commission

TABLE 10.1: REVIEW PROCEDURES SUMMARY

Permit/Application	Procedure Type	Review Authority	
		Decision	Appeal
Replacement Dwelling (Resource Zone)	Type I	Director	Planning Commission
Sanitation Review LUC	Type I	Director	Planning Commission
Temporary Use	Type I	Director	Board of County Commissioners
Variance	Type II	Director	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)	LUBA

- (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.
- (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
 - 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.
 - (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.
- (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.
- 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.
 - 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.
 - iii. Minor Modification. Minor modifications 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. 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 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.

- (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 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.

- (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.

SECTION 10.040 REVIEW TYPES

All land use applications will be reviewed by the County using one of the 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 through 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.

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, County departments, and County designated Citizen Advisory Committees. 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 (DLCDC). 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 DLCDC. 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.

SECTION 10.060 TYPE I PROCEDURES

- (1) Notice of 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 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.

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 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 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 public 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 subject site, including a map of the property in relation to the surrounding area.
 - 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 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 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.
- 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
- (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 of 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.
- (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.

- (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 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.

(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.

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 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)

(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.

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 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, 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 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.
- (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.

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 within 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.

ARTICLE XI

DEFINITIONS

SECTION 11.010: DEFINITIONS

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.

SECTION 11.020: APPLICABILITY

(1) **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.

(2) **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.

(3) 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.

(4) Words used in the present tense include the future; the word "building" includes the "structure"; and the word "shall" is mandatory and not discretionary.

SECTION 11.030: GENERALLY 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.

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 4.040.

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.

AWNING: A shade structure that is supported by both posts or columns and by a mobile home installed on a mobile home lot.

BASEMENT: A portion of a building which has less than one-half (1/2) of its height measured from finished floor to finished ceiling above the average elevation of the adjoining ground, but not an "underground structure" as defined in this ordinance. (See also Section 3.510: Flood Hazard Overlay (FH) Zone)

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;
 - 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 produce a useful product through a managed process of controlled biological decomposition. Composting may include amendments beneficial to the composting process. Vermiculture and vermicomposting are considered composting facilities. Composting facilities or sites may include sales of the finished product, as well as accessory products limited to topsoil, barkdust and aggregate commonly used in landscaping to wholesale and retail customers

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;

- (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 human-caused change to improved or unimproved land, including, but not limited to, buildings or other structures; mining; dredging; filling; grading; paving; 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.

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 purposes. 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;
- 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.

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 4.180 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.

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.

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.

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 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.

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.

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 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.

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.

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 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 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.

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.

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.