

SECTION 3.002 FARM ZONE (F-1)

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(1) PURPOSE

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

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

## (2) DEFINITIONS

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

- (a) **ACCEPTED FARMING PRACTICE:** A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.
- (b) **ACCESSORY STRUCTURE:** A detached structure, the use of which is customarily incidental to that of the primary structure or the primary use of the land and which is located on the same lot or parcel as the primary structure or use, and for which the owner files a restrictive covenant in the deed records of the county agreeing that the accessory structure will not be used as a residence or rental unit.
- (c) **ASSOCIATED TRANSMISSION LINES:** Transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.
- (d) **AGRICULTURAL BUILDING:** Any structure that is considered to be an “agricultural building” under the State Building Code (Section 326) that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner (1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and (2) files a restrictive covenant in the deed records of the county agreeing that the agricultural building will not be used as a residence or rental unit.
- (e) **AGRI-TOURISM:** A common, farm-dependent activity that is incidental and subordinate to a working farm and that promotes successful agriculture and generates supplemental income for the owner. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally-based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals. Except for small, farm-themed parties, regularly occurring celebratory gatherings, weddings, parties or similar uses are not Agri-tourism.
- (f) **ARABLE LANDS:** Lands that are cultivated or suitable for cultivation, including high-value farmland soils.
- (g) **BED AND BREAKFAST ENTERPRISE:** An accessory use in a single-family dwelling in which lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. A bed and breakfast facility must be within the residence of the operator and be compliant with the requirements of ORS 333-170-0000(1) A bed and breakfast facility may be

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

- (h) **CAMPGROUND:** An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
- (i) **CONTIGUOUS:** Connected in such a manner as to form a single block of land.
- (j) **DATE OF CREATION AND EXISTENCE:** When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- (k) **EVENT, TEMPORARY:** A temporary event is one that has an expected attendance of no more than 3,000 people, that will not continue for more than three consecutive days, and that will be located in a rural or resource area. Temporary Events are permitted through a Type I process and are not considered “outdoor mass gatherings” as defined by ORS 433.735 or Agri-tourism events as provided for by ORS 215.283(4).
- (l) **FARM OPERATOR:** A person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- (m) **FARM OR RANCH OPERATION:** means all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.
- (n) **FARM USE:** As defined in ORS 215.203. As used in the definition of "farm use" in ORS 215.203 and in this ordinance:
  - 1. “Preparation” of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and
  - 2. “Products or by-products raised on such land” means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.
- (o) **FEE-BASED ACTIVITY TO PROMOTE THE SALE OF FARM CROPS OR LIVESTOCK (as applied to farm stands):** An agri-tourism activity as defined in Subsection (2) that is directly related to the sale of farm crops or livestock sold at the farm stand, and that meets the standards of Subsection (4)(g).

- (p) **GOLF COURSE:** An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of this ordinance means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
1. A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
  2. A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
  3. Non-regulation golf courses are not allowed. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.
- (q) **HEALTH HARDSHIP:** "Health hardship" means a temporary circumstance caused by serious illness or infirmity, not to exceed two years in duration, and authorized by a licensed medical practitioner (Medical Doctor, Physician's Assistant or Nurse Practitioner).
- (r) **HIGH VALUE FARMLAND:**
1. Land in a tract composed predominantly of soils that are:
    - a. Irrigated and classified prime, unique, Class I or II; or
    - b. Not irrigated and classified prime, unique, Class I or II.
  2. In addition to that land described in paragraph 1, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa;
  3. In addition to that land described in paragraph 1, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in paragraph 1 and the following soils:

- a. Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;
  - b. Subclassification IIIw, specifically, Brenner and Chitwood;
  - c. Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and
  - d. Subclassification IVw, specifically, Coquille.
4. In addition to that land described in paragraph 1, high-value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in paragraph 1 and the following soils:
- a. Subclassification IIIw, specifically, Ettersburg Silt Loam and Crofland Silty Clay Loam;
  - b. Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and
  - c. Subclassification IVw, specifically, Huffling Silty Clay Loam.
- (s) **HOME OCCUPATION:** A limited business activity that is accessory to a residential use. Home occupations are conducted primarily within a residence or a building normally associated with uses permitted in the zone in which the property is located and are operated by a resident or employee of a resident of the property on which the business is located.
- (t) **IRRIGATED:** Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this ordinance, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.
- (u) **LIVING HISTORY MUSEUM:** A facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.
- (v) **LOT:** A single unit of land that is created by a subdivision of land as provided in ORS 92.010.
- (w) **MINING, AGGREGATE:** For purposes of this Article, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining

operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or non-surface impacts of underground mines.

- (x) NET METERING POWER FACILITY: A facility for the production of energy that:
1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;
  2. Is intended to offset part of the customer-generator's requirements for energy;
  3. Will operate in parallel with a utility's existing transmission and distribution facilities;
  4. Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;
  5. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

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

4. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (z) **OPEN PLAY FIELD:** A large, grassy area with no structural improvements intended for outdoor games and activities by park visitors. The term does not include developed ballfields, golf courses or courts for racquet sports.
- (aa) **OUTDOOR MASS GATHERING:** A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4).
- (bb) **PRINCIPALLY ENGAGED IN FARM USE:** As it refers to primary farm dwellings and accessory farm dwellings, a person is principally engaged in the farm use of the land when the amount of time that an occupant of the dwelling is engaged in farm use of the property is similar to the average number of hours that is typically required for a full-time employee of the relevant type of farm use, whether that person is employed off the farm or not. Only one resident of a household need meet the “principally engaged” test, or the test may be met collectively by more than one household member.
- (cc) **PARCEL:** A single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).
- (dd) **PERSONAL USE AIRPORT:** An airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.
- (ee) **PRIVATE PARK:** Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above, but does not include tracks
- (ff) **PROCESSED:** As it applies to farm stands, processed crops and livestock means farm products that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, including the addition of incidental ingredients, but not including the conversion of farm products into food items that are prepared on-site or intended for on-site consumption.
- (gg) **PUBLIC PARK:** A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, state or federal agency,

or park district and that may be designated as a public park in the applicable comprehensive plan and zoning ordinance.

- (hh) **RELATIVE:** As it applies to relative farm help dwellings and temporary health hardship dwellings, a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.
- (ii) **TEMPORARY STRUCTURE OR USE:** A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.
- (jj) **TRACT:** one or more contiguous lots or parcels under the same ownership.
- (kk) **UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE:** Unless otherwise specified in this Article, any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.
- (ll) **YURT:** A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

### (3) DEVELOPMENT STANDARDS

- (a) Land divisions and development in the F-1 Zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
  - 1. Land divisions are subject to Subsection (14).
  - 2. The minimum lot width at the front building line for all uses except farming shall be 100 feet.
  - 3. The minimum lot depth for all uses except farming shall be 100 feet.
  - 4. The minimum front and rear yards shall be 20 feet.
  - 5. The minimum side yard shall be 10 feet where adjacent to land in the F-1 or SFW-20 zones. Otherwise the minimum side yard shall be 20 feet.
  - 6. For accessory structures where there is contiguous ownership of two acres or less, where the yard requirements shall be the same as in the RR zone, and where Section 5.040 (1) (b) shall apply, the minimum rear yard shall be 3 feet.



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

(4) USE STANDARDS

- (a) A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.
- (b) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Subsection (2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.
- (c) To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm.
- (d) A temporary health hardship dwelling is subject to the following:
  1. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
    - a. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required;
    - b. The county shall review the permit authorizing such manufactured homes every two years.

- c. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.
  2. A temporary residence approved under this section is not eligible for replacement per Table 1. Department of Environmental Quality review and removal requirements also apply.
  3. As used in this section “hardship” means a health hardship or hardship for the care of an aged or infirm person or persons.
  4. A temporary health hardship dwelling is subject to the Conditional Use Criteria as described in Subsection (5).
- (e) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:
  1. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
  2. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.
- (f) A farm stand may be approved if:
  1. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock.
  2. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
  3. As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
  4. As used in this section, "local agricultural area" includes Oregon.

5. Farm Stand Development Standards
  - a. Adequate off-street parking will be provided pursuant to provisions of Section 4.030.
  - b. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
  - c. All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
  - d. No farm stand building or parking is permitted within the right-of-way.
  - e. Approval is required from the County Public Works Department regarding adequate egress and access. All egress and access points shall be clearly marked.
  - f. A Clear-Vision Area shall be maintained at street intersections pursuant to Section 4.010.
  - g. Signs are permitted consistent with Section 4.020
6. Permit approval is subject to compliance with the County On-Site Sanitation Division, Department of Agriculture requirements, County Public Works requirements and with the development standards of this zone.

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

(h) A home occupation.

1. A home occupation shall:
  - a. Be operated by a resident or employee of a resident of the property on which the business is located;
  - b. Employ on the site no more than five full-time or part-time persons at any given time;
  - c. Shall be operated substantially in:
    - i. The dwelling; or
    - ii. Other buildings normally associated with uses permitted in the zone in which the property is located, except that such

other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences;

- d. Not unreasonably interfere with other uses permitted in the zone in which the property is located.
2. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery and is operated in association with the winery:
    - a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
    - b. The meals may be served at the bed and breakfast facility or at the winery.
  3. The home occupation shall be accessory to an existing, permanent dwelling on the same parcel.
  4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.
  5. All off-street parking provided pursuant to Section 4.030 must be provided on the subject parcel where the home occupation is operated.
    - a. Employees must use an approved off-street parking area.
    - b. Customers visiting the home occupation must use an approved off-street parking area. No more than three vehicles from customers/visitors of the home occupation can be present at any given time on the subject parcel.
  6. Signage is subject to the provisions of Section 4.020.
  7. Retail sales shall be limited or accessory to a service.
  8. Home occupations shall be subject to a conditional use permit process, pursuant to Subsection (5), unless all of the requirements of Subsection (9) can be met.
  9. An in-home commercial activity is not considered a home occupation and does not require a land use permit where all of the following criteria can be met. The in-home activity:
    - a. Meets the criteria under paragraphs 1.c and d; 3 and 4.

- b. Is conducted within a dwelling only by residents of the dwelling.
  - c. Does not occupy more than 25 percent of the combined floor area of the dwelling including attached garage and one accessory structure.
  - d. Does not serve clients or customers on-site.
  - e. Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage.
  - f. Does not include the outside storage of materials, equipment or products.
- (i) Facilities that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- (j) Mining , crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:
- 1. A land use permit is required for mining more than one thousand (1,000) cubic yards of martial or excavation preparatory to mining of a surface area of more than one (1) acre.
  - 2. A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the comprehensive plan.
- (k) A personal-use airport, as used in this Section, prohibits aircraft other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.
- (l) Land Application of Reclaimed or Process Water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in a Farm Zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of 215.246, 215.247, 215.249 and 215.251.
- (m) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

1. A public right of way;
2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
3. The property to be served by the utility.

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

1. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:
  - a. Show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
    - i. Technical and engineering feasibility;
    - ii. The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
    - iii. Lack of available urban and nonresource lands;
    - iv. Availability of existing rights of way;
    - v. Public health and safety; and
    - vi. Other requirements of state and federal agencies.
  - b. Costs associated with any of the factors listed in subparagraph a of this paragraph may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
  - c. The owner of a utility facility approved under paragraph (n)1 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond

or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

- d. The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
  - e. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use in Table 1 when project construction is complete. Off-site facilities allowed under this paragraph are subject to Subsection (5) Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.
  - f. In addition to the provisions of subparagraphs 1.a to d of this paragraph, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.
  - g. The provisions of subparagraphs 1.a to d of this paragraph do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
2. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of subparagraph a or subparagraph b of this paragraph.
- a. An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:
    - i. The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
    - ii. The associated transmission line is co-located with an existing transmission line;

- iii. The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
    - iv. The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.
  - b. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs 2.c and 2.d, two or more of the following criteria:
    - i. Technical and engineering feasibility;
    - ii. The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
    - iii. Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
    - iv. Public health and safety; or
    - v. Other requirements of state or federal agencies.
  - c. As pertains to paragraph 2.b, the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
  - d. The county may consider costs associated with any of the factors listed in subparagraph 2.b, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.
- (o) Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are



transported in one vehicle. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Table 1.

- (p) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
- (q) A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.
- (r) A community center may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
- (s) Public parks may include:
  - 1. All uses allowed under Statewide Planning Goal 3;
  - 2. The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:
    - a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
    - b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;

- c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;
  - d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;
  - e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;
  - f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
  - g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and
  - h. Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.
3. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:
- a. Meeting halls not exceeding 2000 square feet of floor area;
  - b. Dining halls (not restaurants).
- (t) Schools as formerly allowed pursuant to ORS 215.283(1)(a) that were established on or before January 1, 2009, may be expanded if:
- 1. The Conditional Use Review Criteria in Subsection (5) are met; and
  - 2. The expansion occurs on the tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot that was owned by the applicant on January 1, 2009.

- (u) Private Campgrounds. Private Campgrounds are subject to the following:
1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
  2. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed by paragraph 3.
  3. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
  4. A campground shall be permitted as either a Recreation Campground or a Primitive Campground.
    - a. Recreation Campgrounds are also subject to provisions in Section 4.060. Where the standards of this section conflict with the standards of Section 4.060, the more restrictive shall apply.
    - b. Primitive Campgrounds are also subject to the provisions in Section 4.065. Where the standards of this section conflict with the standards of Section 4.065, the more restrictive shall apply.
- (v) Accessory uses provided as part of a golf course shall be limited consistent with the following standards:
1. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf

tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;

2. Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
3. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

(w) General Standards

1. Three-mile setback. For uses subject to this subsection
  - a. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
  - b. Any enclosed structures or group of enclosed structures described in paragraph 1 within a tract must be separated by at least one-half mile. For purposes of this Subsection, “tract” means a tract that is in existence as of June 17, 2010.
  - c. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this ordinance.
2. Single-family dwelling deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

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

(5) **CONDITIONAL USE REVIEW CRITERIA**

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

- (a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(6) **DWELLINGS CUSTOMARILY PROVIDED IN CONJUNCTION WITH FARM USE**

- (a) Large Tract Standards. On land not identified as high-value farmland as defined in Subsection (2), a dwelling may be considered customarily provided in conjunction with farm use if:
  1. The parcel on which the dwelling will be located is at least 160 acres.
  2. The subject tract is currently employed for farm use.
  3. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
  4. Except for an accessory dwelling, there is no other dwelling on the subject tract.
- (b) **Farm Capability Standards.**
  1. On land not identified as high-value farmland as defined in Subsection (2), a dwelling may be considered customarily provided in conjunction with farm use if:
    - a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile from the perimeter of the subject tract;
    - b. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same

commercial farm or ranch tracts used to calculate the tract size in subparagraph a;

- c. The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subparagraph a;
- d. The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;
- e. Except for an accessory dwelling, there is no other dwelling on the subject tract;
- f. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
- g. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subparagraph (c).

2. In order to identify the commercial farm or ranch tracts to be used in subparagraph 1, the potential gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the county pursuant to OAR 660-033-0135(2)(c).

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

1. The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:
  - a. At least \$40,000 in gross annual income from the sale of farm products; or
  - b. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and
2. Except for an accessory dwelling, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;

3. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1; and
  4. In determining the gross income required by paragraph 1:
    - a. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
    - b. Only gross income from land owned, not leased or rented, shall be counted; and
    - c. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- (d) Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
1. The subject tract is currently employed for the farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and
  2. Except for an accessory dwelling, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and
  3. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1;
  4. In determining the gross income required by paragraph 1:
    - a. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
    - b. Only gross income from land owned, not leased or rented, shall be counted; and
    - c. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- (e) Additional Farm Income Standards.
1. For the purpose of Subsections (c) or (d), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels may not be used to qualify a dwelling in the other part of the state.

2. Prior to the final approval for a dwelling authorized by Subsections (c) and (d) that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" to OAR chapter 660, division 33 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
    - a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary health hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
    - b. The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
  3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;
  4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;
  5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section;
  6. The planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
- (f) Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm as defined in subparagraph g if:
1. The subject tract will be employed as a commercial dairy as defined in subparagraph g;



2. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
  3. Except for an accessory dwelling, there is no other dwelling on the subject tract;
  4. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;
  5. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
  6. The Oregon Department of Agriculture has approved the following:
    - a. A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
    - b. A Producer License for the sale of dairy products under ORS 621.072.
- (g) As used in this section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Paragraph (c) or (d), whichever is applicable, from the sale of fluid milk.
- (h) Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:
1. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by paragraph (c) or (d), whichever is applicable;
  2. The subject lot or parcel on which the dwelling will be located is:
    - a. Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by paragraph (c) or (d), whichever is applicable; and
    - b. At least the size of the applicable minimum lot size under Section (14);
  3. Except for an accessory dwelling, there is no other dwelling on the subject tract;

4. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph 1; and
5. In determining the gross income required by paragraph 1 and subparagraph 2.a:
  - a. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
  - b. Only gross income from land owned, not leased or rented, shall be counted.

(7) ACCESSORY FARM DWELLINGS

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

1. Each accessory farm dwelling meets all the following requirements:
  - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;
  - b. The accessory farm dwelling will be located:
    - i. On the same lot or parcel as the primary farm dwelling;
    - ii. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;
    - iii. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;
    - iv. On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of

Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

- v. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and
  - c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
2. In addition to the requirements in paragraph 1, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
- a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:
    - i. At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
    - ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;
  - b. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the

farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

- c. It is located on a commercial dairy farm as defined in Section (6)(g); and
  - i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;
  - ii. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
  - iii. A Producer License for the sale of dairy products under ORS 621.072.
3. No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this ordinance, a parcel may be created consistent with the minimum parcel size requirements in (14)a.
4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Table 1.
5. For purposes of this Subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.
6. No accessory farm dwelling unit may be occupied by a relative of the owner or operator of the farmworker housing. "Relative" means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.

## (8) OWNERSHIP LOT OF RECORD DWELLINGS

### A. Ownership of Record Dwelling

1. A dwelling may be approved on a pre-existing lot or parcel if:
  - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph 5:

- i. Since prior to January 1, 1985; or
    - ii. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
  - b. The tract on which the dwelling will be sited does not include a dwelling;
  - c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;
  - d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;
  - e. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in paragraphs 3 and 4; and
  - f. When the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.
2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;
3. Notwithstanding the requirements of subparagraph 1.e, a single-family dwelling may be sited on high-value farmland if:
- a. It meets the other requirements of paragraphs 1 and 2;
 

The lot or parcel is protected as high-value farmland as defined in Section (2)(r)(1);
  - b. The Planning Director determines that:
    - i. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.

- (a) For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use.
  - (b) Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms.
  - (c) A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;
    - ii. The dwelling will comply with the provisions of Section (5); and
    - iii. The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (9)(a)1.
4. Notwithstanding the requirements of subparagraph 1.e, a single-family dwelling may be sited on high-value farmland if:
- a. It meets the other requirements of paragraphs 1 and 2;
  - b. The tract on which the dwelling will be sited is:
    - i. Identified in Section (2)(r)(3);
    - ii. Not high-value farmland defined in Section (2)(r)(1); and
    - iii. Twenty-one acres or less in size; and
  - c. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

- d. The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
  - e. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:
    - i. “Flaglot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
    - ii. “Geographic center of the flaglot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.
5. For purposes of Subsection (A)(1), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;
  6. The county assessor shall be notified that the governing body intends to allow the dwelling.
  7. An approved single-family dwelling under this section may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.
  8. The county shall provide notice of all applications for ownership of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.

(9) DWELLINGS NOT IN CONJUNCTION WITH FARM USE

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

1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
2. The following applies to a non-farm dwelling subject to Subsection (9):
  - a. The dwelling is situated upon a new parcel, or a portion of an existing lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and
  - b. A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a new parcel or portion of an existing lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the new parcel or portion of the existing lot or parcel is not "generally unsuitable". A new parcel or portion of an existing lot or parcel is presumed to be suitable if is composed predominantly of Class I-IV soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
  - c. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must



not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in subparagraphs 3.a through c. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in subparagraphs 3.a through c.
  - a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;
  - b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections A and Section 2.11, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and
  - c. Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it

more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

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

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

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

1. The dwelling to be altered, restored or replaced has, or formerly had:
  - a. Intact exterior walls and roof structure;
  - b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - c. Interior wiring for interior lights;
  - d. A heating system; and
  - e. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.
2. Notwithstanding Subsection (a)1.e., if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
  - a. The destruction (i.e, by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or
  - b. The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or

former owner did not request removal of the dwelling from the tax roll.

- (b) For replacement of a lawfully established dwelling:
1. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
    - a. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
    - b. If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
    - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
  2. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
  3. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- (c) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
1. The siting standards of paragraph 2 apply when a dwelling qualifies for replacement because the dwelling:
    - a. Formerly had the features described in paragraph (a)1;
    - b. Was removed from the tax roll as described in paragraph (a)3; or

- c. Had a permit that expired as described under paragraph (d)3.
  - 2. The replacement dwelling must be sited on the same lot or parcel:
    - a. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
    - b. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
  - 3. Replacement dwellings that currently have the features described in paragraph (10)(a)1 and that have been on the tax roll as described in paragraph (10)(a)2 may be sited on any part of the same lot or parcel.
- (d) A replacement dwelling permit that is issued under this ordinance:
  - 1. Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:
    - a. Formerly had the features described in paragraph (10)(a)1; or
    - b. Was removed from the tax roll as described in paragraph (10)(a)3;
  - 2. Is not subject to the time to act limits of ORS 215.417; and
  - 3. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:
    - a. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and
    - b. Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished, or converted.

(11) WINERIES

- (a) A winery may be established as a permitted use if the proposed winery will produce wine with a maximum annual production of:
  - 1. Less than 50,000 gallons and the winery:
    - a. Owns an on-site vineyard of at least 15 acres;
    - b. Owns a contiguous vineyard of at least 15 acres;

- c. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
    - d. Obtains grapes from any combination of subparagraph a, b or c; or
  - 2. At least 50,000 gallons and the winery:
    - a. Owns an on-site vineyard of at least 40 acres;
    - b. Owns a contiguous vineyard of at least 40 acres;
    - c. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
    - d. Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
    - e. Obtains grapes from any combination of subparagraph a, b, c or d.
- (b) In addition to producing and distributing wine, a winery established under this section may:
  - 1. Market and sell wine produced in conjunction with the winery.
  - 2. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
    - a. Wine tastings in a tasting room or other location on the premises occupied by the winery;
    - b. Wine club activities;
    - c. Winemaker luncheons and dinners;
    - d. Winery and vineyard tours;
    - e. Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
    - f. Winery staff activities;
    - g. Open house promotions of wine produced in conjunction with the winery; and
    - h. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

3. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:
    - a. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
    - b. Served in conjunction with an activity authorized by paragraph (b)2, 4 or 5.
  4. Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to Subsection (e).
  5. Host charitable activities for which the winery does not charge a facility rental fee.
- (c) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection (b)3. Food and beverage services authorized under Subsection (b)3 may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
  - (d) The gross income of the winery from the sale of incidental items or services provided pursuant to Subsection (b)3 to 5 may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of the county, the winery shall submit to the county a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.
  - (e) A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery. If a winery conducts agri-tourism or other commercial events authorized under this Section, the winery may not conduct agri-tourism or other commercial events or activities authorized by (12)(a) to (d).
  - (f) A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.
  - (g) Prior to the issuance of a permit to establish a winery under Subsection (a), the applicant shall show that vineyards described in Subsection A have been planted or that the contract has been executed, as applicable.
  - (h) Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

1. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and
  2. Provision of direct road access and internal circulation.
- (i) In addition to a winery permitted in Subsections (a) to (l), a winery may be established if:
1. The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;
  2. The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in paragraph (i)1; and
  3. The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this subsection.
- (j) In addition to producing and distributing wine, a winery described in Subsection (l) may:
1. Market and sell wine produced in conjunction with the winery;
  2. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
    - a. Wine tastings in a tasting room or other location on the premises occupied by the winery;
    - b. Wine club activities;
    - c. Winemaker luncheons and dinners;
    - d. Winery and vineyard tours;
    - e. Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
    - f. Winery staff activities;
    - g. Open house promotions of wine produced in conjunction with the winery; and
    - h. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;

3. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:
    - a. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
    - b. Served in conjunction with an activity authorized by paragraph (b)2, 4 or 5;
  4. Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
    - a. Are directly related to the sale or promotion of wine produced in conjunction with the winery;
    - b. Are incidental to the retail sale of wine on-site; and
    - c. Are limited to 25 days or fewer in a calendar year; and
    - d. Host charitable activities for which the winery does not charge a facility rental fee.
- (k) A winery's income from the sale of incidental items is subject to paragraphs 1 and 2.
1. The gross income of the winery from the sale of incidental items pursuant to paragraph (j)3 and services provided pursuant to paragraph (j)4 may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
  2. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant, that certifies compliance with paragraph 1 for the previous tax year.
- (l) A winery permitted under Subsection (i):
1. Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.
  2. May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.
- (m) Additional Requirements.



1. A winery shall obtain a permit if the winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under Subsection (j)4 occurring on more than 25 days in a calendar year.
  2. In addition to any other requirements, a local government may approve a permit application under this subsection if the local government finds that the authorized activity:
    - a. Complies with the standards described in Subsections (5)(a) and (b);
    - b. Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and
    - c. Does not materially alter the stability of the land use pattern in the area.
  3. If the local government issues a permit under this subsection for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.
- (n) A person may not have a substantial ownership interest in more than one winery operating a restaurant under Subsection (l).
- (o) Prior to the issuance of a permit to establish a winery under Subsection (l), the applicant shall show that vineyards described in Subsection (l) have been planted.
- (p) A winery operating under Subsection (l) shall provide for:
1. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and
  2. Direct road access and internal circulation.
- (q) A winery operating under Subsection (l) may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the winery received a permit in similar circumstances before August 2, 2011.
- (r) As used in this section:
1. “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

2. "On-site retail sale" includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

(12) AGRI-TOURISM AND OTHER COMMERCIAL EVENTS

The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established:

- (a) A single agri-tourism or other commercial event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:
  1. The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;
  2. The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;
  3. The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;
  4. The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;
  5. The agri-tourism or other commercial event or activity complies with the standards described in Subsections (5)(a) and (b);
  6. The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and
  7. The agri-tourism or other commercial event or activity complies with conditions established for:
    - a. Planned hours of operation;
    - b. Access, egress and parking;
    - c. A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and
    - d. Sanitation and solid waste.
- (b) In the alternative to Subsections (a) and (c), the county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is

personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

1. Must be incidental and subordinate to existing farm use on the tract;
2. May not begin before 6 a.m. or end after 10 p.m.;
3. May not involve more than 100 attendees or 50 vehicles;
4. May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
5. May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;
6. Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
7. Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to Subsections (a) and (b), the county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

1. Must be incidental and subordinate to existing farm use on the tract;
2. May not, individually, exceed a duration of 72 consecutive hours;
3. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
4. Must comply with the standards described in Subsections (5)(a) and (b);
5. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and
6. Must comply with conditions established for:

- a. The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;
  - b. The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
  - c. The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;
  - d. Traffic management, including the projected number of vehicles and any anticipated use of public roads; and
  - e. Sanitation and solid waste.
7. A permit authorized by this subsection shall be valid for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of Subsection (c), any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.
- (d) In addition to Subsections (a) and (c), the county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with Subsections (a) to (c) if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:
- 1. Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
  - 2. Comply with the requirements of (c)3 through (c)6;
  - 3. Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and
  - 4. Do not exceed 18 events or activities in a calendar year.
- (e) A holder of a permit authorized by a county under Subsection (d) must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:
- 1. Provide public notice and an opportunity for public comment as part of the review process; and

2. Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Subsection (d).
- (f) Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.
  - (g) The authorizations provided by section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

(13) COMMERCIAL FACILITIES FOR GENERATING POWER

- (a) Commercial Power Generating Facility. Permanent features of a power generation facility shall not preclude more than:
  1. 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or
  2. 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
  3. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.
- (b) Wind Power Generation Facility.
  1. For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities

for temporary workforce housing for workers constructing a wind power generation facility.

- a. Temporary workforce housing described in Subsection (13)(b)1 must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.
- b. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

2. For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

- a. Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
  - i. Technical and engineering feasibility;
  - ii. Availability of existing rights of way; and
  - iii. The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under subparagraph b;
- b. The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
- c. Costs associated with any of the factors listed in subparagraph (a) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

- d. The owner of a wind power generation facility approved under paragraph 2 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
  - e. The criteria of paragraph 3 are satisfied.
3. For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:
- a. The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
  - b. The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
  - c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
  - d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other

undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

4. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of subparagraph 3.d are satisfied.
5. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in paragraphs 3 and 4, the approval criteria of paragraph 3 shall apply to the entire project.

(c) Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

1. “Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
2. “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.
3. “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.
4. “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.
5. “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all



existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

6. For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:
  - a. The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;
  - b. The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
  - c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

- d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;
- e. The project is not located on high-value farmland soils unless it can be demonstrated that:
  - i. Non high-value farmland soils are not available on the subject tract;
  - ii. Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
  - iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and
- f. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
  - i. If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
  - ii. When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or

acreage in farm use in a manner that will destabilize the overall character of the study area.

7. For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:
  - a. The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
    - i. Nonarable soils are not available on the subject tract;
    - ii. Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
    - iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;
  - b. No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;
  - c. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
    - i. If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.
    - ii. When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished

opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

- d. The requirements of subparagraphs 6.a, b, c and d are satisfied.
8. For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 250 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:
- a. The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
    - i. Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
    - ii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
  - b. No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
  - c. No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;
  - d. The requirements of subparagraph 6.d are satisfied;
  - e. If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a

cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

f. If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife species of concern as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

g. The provisions of paragraph f are repealed on January 1, 2022.

9. The project owner shall sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

10. Nothing in this section shall prevent the county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

#### (14) LAND DIVISIONS

(a) Minimum Parcel Size. The minimum size for creation of a new parcel shall be 80 acres.

- (b) A division of land to accommodate a conditional use, except a residential use, smaller than the minimum parcel size provided in Subsection (a) may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (c) A division of land to create up to two new parcels smaller than the minimum size established under Subsection (a), each to contain a dwelling not provided in conjunction with farm use, may be permitted if:
  - 1. The nonfarm dwellings have been approved under paragraph (9);
  - 2. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
  - 3. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection (a);
  - 4. The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection (a); and
  - 5. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
- (d) A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:
  - 1. The nonfarm dwellings have been approved under paragraph (9);
  - 2. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
  - 3. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection (a) but equal to or larger than 40 acres;
  - 4. The parcels for the nonfarm dwellings are:
    - a. Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber; and
    - b. Composed of at least 90 percent Class VI through VIII soils;
  - 5. The parcels for the nonfarm dwellings do not have established water rights for irrigation; and

6. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
- (e) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
  - (f) This section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
  - (g) This section does not allow division of a lot or parcel identified in Table 1 as a family farm help dwelling or health hardship dwelling or non-farm dwelling.
  - (h) This section does not allow division of a lot or parcel that separates a processing facility from the farm operation specified.
  - (i) A division of land may be permitted to create a parcel with an existing dwelling to be used:
    1. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section (9) and
    2. For historic property that meets the requirements of an historic replacement dwelling.
  - (j) Additional Requirements.
    1. Notwithstanding Subsection (a), a division of land may be approved provided:
      - a. The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
      - b. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
    2. A parcel created pursuant to this subsection that does not contain a dwelling:
      - a. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

- b. May not be considered in approving or denying an application for siting any other dwelling;
  - c. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
  - d. May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
- (k) A division of land smaller than the minimum lot or parcel size in Subsection (a) may be approved provided:
  - 1. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;
  - 2. The church has been approved as a non-residential use under this ordinance;
  - 3. The newly created lot or parcel is not larger than five acres; and
  - 4. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection (a) either by itself or after it is consolidated with another lot or parcel.
- (l) Notwithstanding the minimum lot or parcel size described Subsection (a), a division for fire service facilities providing rural fire protection services, if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (m) The County may not approve a division of land for nonfarm use under subsection (b), (c), (d), (e), (f), (g), or (h) unless any additional tax imposed for the change in use has been paid.
- (n) Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

(15) USE TABLE

- (a) Table 1 identifies the uses permitted in the Farm Zone. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type 1, 2, or 3 review, unless otherwise specified on Table 1. All



uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this ordinance.

- (b) Permitted uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance.

**Table 1: Use Table for Farm Zones**

**HV = High value farmland**

**A= Allowed 1 = Review Type 1 2 = Review Type 2 3 = Review Type 3**

**X = Prohibited**

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
<b>Farm, Forest, and Natural Resource Uses</b>			
Farm use.	A	A	
Other buildings customarily provided in conjunction with farm use.	A	A	
Propagation or harvesting of a forest product.	A	A	
Creation of, restoration of, or enhancement of wetlands.	A	A	
Composting limited to accepted farming practice in conjunction with and auxiliary to farm use on the subject tract.	A	A	
A facility for the processing of farm crops	1	1	(4)(a)
A facility for the processing of biofuel or poultry.	2	2	(4)(a), (5)
A facility for the primary processing of forest products.	2	2	(4)(b), (5)
The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.	2	2	(5)
<b>Residential Uses</b>			
Primary farm dwelling.	1	1	(6) (4)(w)
Relative farm help dwelling.	1	1	(4)(c) (4)(w)
Accessory farm dwelling.	1	1	(7) (4)(w)
Ownership of record dwelling.	1	1	(8) (4)(w)
Non-farm dwelling.	2	2	(9), (4)(w), (5)
Replacement dwelling for historic property.	1	1	(4)(w)
Replacement dwelling.	1	1	(10) (4)(w)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Temporary health hardship dwelling.	2	2	(4)(d), (5)
Residential home or facility as defined in ORS 197.660, in existing dwellings	2	2	(4)(w), (5)
Room and board arrangements for a maximum of five unrelated persons in existing residences.	2	2	(4)(w), (5)
<b>Commercial Uses</b>			
Dog training classes or testing trials.	2	2	(4)(e), (5)
Farm stand.	1	1	(4)(f)
Winery.	1	1	(11), (5)
Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, up to 6 events per year	1	1	(12)(a), (b) or (c)
Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, more than 6 events per year	2	2	(12)(d) & (e), (5)
Destination resort.	3	3	(4)(g), (5)
Parking of up to seven log trucks.	A	A	
Parking of more than seven log trucks	2	2	(5)
Home occupations.	2	2	(4)(h), (5)
Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Subsection (4)(e).	2	2	(5)
Aerial fireworks display business.	X	X	
A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.	2	2	(5)
Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Section (4)(a).	2	2	(5)
<b>Mineral, Aggregate, Oil and Gas Uses</b>			
Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.	A	A	
Operations for the exploration for minerals as defined by ORS 517.750.	A	A	

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.	3	3	(5)
Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	3	3	(5)
Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.	2	2	(4)(j), (5)
Processing of other mineral resources and other subsurface resources.	2	2	(5)
<b>Transportation Uses</b>			
Climbing and passing lanes within the right of way existing as of July 1, 1987.	A	A	
Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	A	A	
Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	A	A	
Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	A	A	
Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.	2	2	(5)
Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	2	2	(5)
Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.	2	2	(5)
Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.	2	2	(5)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.	2	2	(4)(k), (5)
<b>Utility/Solid Waste Disposal Facilities</b>			
Non-commercial/stand alone power generating facility associated with an approved use	A	A	
Net metering power facility associated with an approved use	A	A	
Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	2	2	(5)
Land application of reclaimed water, agricultural or industrial process water.	1	1	(4)(l)
Utility facility service lines.	1	1	(4)(m)
Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.	1	1	(4)(n)
Transmission towers over 200 feet in height.	2	2	(5)
Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities.	3	3	(13)(a), (5)
Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.	3	3	(13)(b), (5)
Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.	3	3	(13)(c), (5)
A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation not on high value farmland.	X	3	(4)(w), (5)
Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060.	X	3	(4)(o) (4)(w), (5)
<b>Parks/Public/Quasi-public Uses</b>			
Fire service facilities providing rural fire protection services.	A	A	
Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.	A	A	
A site for the takeoff and landing of model aircraft.	1	1	(4)(p)

Use	HV Type	Non-HV Type	SUBJECT TO 3.002
Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	2	2	(5)
Living history museum as defined in (2)	2	2	(4)(w), (5)
Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.	2	2	(4)(r) (4)(w), (5)
Public parks and playgrounds.	2	2	(4)(s) (4)(w), (5)
A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1).	2	2	(5)
Operations for the extraction and bottling of water.	2	2	(5)
Churches and cemeteries in conjunction with churches.	X	3	(4)(w), (5)
Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	X	2	(4)(t) (4)(w) (5)
Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	X	2	(4)(u) (4)(w), (5)
Golf courses not on high-value farmland as defined in X.02 and ORS 195.300.	X	3	(4)(v) (4)(w), (5)
<b>Outdoor Gatherings</b>			
An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735.	1	1	
Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763.	2	2	(5)

SECTION 3.004 FOREST ZONE (F)

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(1) PURPOSE

- (a) The purpose of the Forest (F) Zone is to protect and maintain forest lands for grazing, and rangeland use and forest use, consistent with existing and future needs for agricultural and forest products. The F zone is also intended to allow other uses that are compatible with agricultural and forest activities, to protect scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.
- (b) The F zone has been applied to lands designated as Forest in the Comprehensive Plan. The provisions of the F zone reflect the forest land policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-006. The minimum parcel size and other standards established by this zone are intended to promote commercial forest operations.

(2) DEFINITIONS

Words used in the present tense include the future; the singular number includes the plural; and the word “shall” is mandatory and not directory. Whenever the term “this ordinance” is used herewith, it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted.

For the purpose of this zone, the following definitions apply:

- (a) Definitions contained in ORS 197.015 and the Statewide Planning Goals.
- (b) **ACCESSORY STRUCTURE OR BUILDING:** A detached structure, the use of which is customarily incidental to that of the primary structure or the primary use of the land and which is located on the same lot or parcel as the primary structure or use, and for which the owner files a restrictive covenant in the deed records of the county agreeing that the accessory structure will not be used as a residence or rental unit.
- (c) **AGRICULTURAL BUILDING:** Any structure that is considered to be an “agricultural building” under the State Building Code (Section 326) that is on a parcel of at least 10 acres in size, that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner (1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and (2) files a restrictive covenant in the deed records of the County agreeing that the agricultural building will not be used as a residence or rental unit.
- (d) **AUXILIARY:** A use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- (e) **BED AND BREAKFAST ENTERPRISE:** an accessory use in a single-family dwelling in which lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. A bed and breakfast facility must be within the residence of the operator and be compliant with the requirements of ORS 333-170-0000(1) A bed and breakfast facility may be reviewed as a home occupation in the Forest Zone.
- (f) **CAMPGROUND:** An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
- (g) **COMMERCIAL POWER GENERATING FACILITY:** A facility for the production of energy and its related or supporting facilities that:
  1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, thermal power, geothermal power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones that allow “Farm Use” and 215.283(1)(r) and 215.283(2)(a) in the EFU zone;
  2. Is intended to provide energy for sale; and

3. Does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.
- (h) **COMMERCIAL TREE SPECIES:** Trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.
  - (i) **CONTIGUOUS:** Lots, parcels or lots and parcels that have a common boundary. "Contiguous" includes, but is not limited to, lots, parcels, or lots and parcels separated only by an alley, street, or other right-of-way.
  - (j) **CUBIC FOOT PER ACRE PER YEAR:** The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.
  - (k) **CUBIC FOOT PER TRACT PER YEAR:** The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.
  - (l) **DATE OF CREATION AND EXISTENCE:** When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.
  - (m) **EVENT, TEMPORARY:** A temporary event is one that has an expected attendance of no more than 3,000 people, that will not continue for more than three consecutive days, and that will be located in a rural or resource area. Temporary Events are permitted through a Type I process and are not considered "outdoor mass gatherings" as defined by ORS 433.735 or Agri-tourism events as provided for by ORS 215.283(4).
  - (n) **FOREST OPERATION:** Any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620(6).
  - (o) **GOVERNING BODY:** A city council, county board of commissioners, or county court or its designate, including planning director, hearings officer, planning commission or as provided by Oregon law.
  - (p) **HEALTH HARDSHIP:** A temporary circumstance caused by serious illness or infirmity, not to exceed two years in duration, and authorized by a licensed medical practitioner (Medical Doctor, Physicians Assistant or Nurse Practitioner)
  - (q) **HOME OCCUPATION:** A limited business activity that is accessory to a residential use. Home occupations are conducted primarily within a residence or a building normally associated with uses permitted in the zone in which the property is located



and are operated by a resident or employee of a resident of the property on which the business is located.

- (r) LOT: A single unit of land that is created by a subdivision of land as provided in ORS 92.010.
- (s) MINING, AGGREGATE: For purposes of this Section, “mining” includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. “Mining” does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant’s property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.
- (t) NET METERING POWER FACILITY: A facility for the production of energy that:
  - 1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel;
  - 2. Is intended to offset part of the customer-generator’s requirements for energy;
  - 3. Will operate in parallel with a utility’s existing transmission and distribution facilities;
  - 4. Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;
  - 5. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (u) NON-COMMERCIAL/STAND ALONE POWER GENERATING FACILITY: A facility for the production of energy that:
  - 1. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel;

2. Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to;
  3. Operates as a standalone power generator not connected to a utility grid; and
  4. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (v) **OUTDOOR MASS GATHERING:** A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4) and do not include a Temporary Event or Outdoor Event reviewed under Article 5 Section 150.
- (w) **PARCEL:** A single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).
- (x) **PRIVATE PARK:** Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above, but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.
- (y) **PUBLIC PARK:** A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, state or federal agency, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance.
- (z) **RELATIVE:** means a spouse, child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.
- (aa) **STORAGE STRUCTURES FOR EMERGENCY SUPPLIES:** Structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.
- (bb) **TEMPORARY STRUCTURE OR USE:** A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.
- (cc) **TRACT:** One or more contiguous lots or parcels in the same ownership.

- (dd) UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE: Unless otherwise specified in this Article, any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, dams & and other hydroelectric facilities, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.
- (ee) YOUTH CAMP: is a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.
- (ff) YURT: A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(3) DEVELOPMENT STANDARDS

- (a) Land divisions and development in the F-1 Zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
  1. The minimum lot width and minimum lot depth shall be 100 feet.
  2. The minimum front, rear, and side yards shall all be 30 feet.
  3. The height of residential structures shall not exceed 35 feet.

(4) RESIDENTIAL USE STANDARDS:

- (a) A large tract forest dwelling authorized under ORS 215.740 may be allowed on land zoned for forest use if it complies with other provisions of law and is sited on a tract that does not include a dwelling:
  1. of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to paragraph 3 for all tracts that are used to meet the acreage requirements of this subsection.
  2. A tract shall not be considered to consist of less than 160 acres because it is crossed by a public road or a waterway.
  3. Covenants, Conditions, and Restrictions

- a. Where one or more lots or parcels are required to meet minimum acreage requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as Exhibit A in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
- b. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(b) Ownership of record dwelling

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph 4:
  - a. Since prior to January 1, 1985; or
  - b. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
2. The tract on which the dwelling will be sited does not include a dwelling;
3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
4. For purposes of this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
5. The dwelling must be located on a tract that is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:
  - a. A United States Bureau of Land Management road; or
  - b. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

6. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and
  7. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
  8. Covenants, Conditions, and Restrictions
    - a. Where one or more lots or parcels are required to meet minimum acreage requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as Exhibit A in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
    - b. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
- (c) A single family “template” dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
1. Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:
    - a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
    - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
  2. Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
    - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
    - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
  3. Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

- a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
  - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
4. Lots or parcels within urban growth boundaries shall not be used to satisfy eligibility requirements.
5. A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.
6. Except as provided by paragraph 7, if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.
7. If a tract 60 acres or larger abuts a road or perennial stream, the measurement shall be made in accordance with paragraph 6. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:
  - a. Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
  - b. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.
8. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.
9. A proposed “template” dwelling under this ordinance is not allowed:
  - a. If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;
  - b. Unless it complies with the requirements of (9) Siting Standards for Dwellings and Structures in Forest Zones, and (10) Fire-Siting Standards for Dwellings and Structures.
  - c. Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (a)3 for the other lots or parcels that make up the tract are met; or

- d. If the tract on which the dwelling will be sited includes a dwelling.
- (d) Alteration, restoration or replacement of a lawfully established dwelling, where paragraphs (a) or (b) apply:
1. Alteration or restoration of a lawfully established dwelling that:
    - a. Has intact exterior walls and roof structures;
    - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - c. Has interior wiring for interior lights; and
    - d. Has a heating system;
  2. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- (e) A temporary health hardship dwelling is subject to the following:
1. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
    - a. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required;
    - b. The county shall review the permit authorizing such manufactured homes every two years; and
    - c. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.
  2. A temporary residence approved under this section is not eligible for replacement under Table 1. Department of Environmental Quality review and removal requirements also apply.
  3. As used in this section “hardship” means a health hardship or hardship for the care of an aged or infirm person or persons.

4. A temporary health hardship dwelling is also subject to the Conditional Use Criteria found in Section (8).

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

(5) COMMERCIAL USE STANDARDS

(a) A home occupation.

1. A home occupation shall:

- a. Be operated by a resident or employee of a resident of the property on which the business is located;
- b. Employ on the site no more than five full-time or part-time persons at any given time;
- c. Shall be operated substantially in:
  - i. The dwelling; or
  - ii. Other buildings normally associated with uses permitted in the zone in which the property is located, except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences.
- d. Not unreasonably interfere with other uses permitted in the zone in which the property is located.

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

- a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
- b. The meals may be served at the bed and breakfast facility or at the winery.

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

4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration,



noise, dust, smoke, odor, interference with radio or television reception, or other factors.

5. All off-street parking must be provided pursuant to Section 4.030 on the subject parcel where the home occupation is operated.
    - a. Employees must use an approved off-street parking area.
    - b. Customers visiting the home occupation must use an approved off-street parking area. No more than three vehicles from customers/visitors of the home occupation can be present at any given time on the subject parcel.
  6. Signage is subject to the provisions of Section 4.020.
  7. Retail sales shall be limited or accessory to a service.
  8. Home Occupations shall be subject to a Conditional Use Permit process, pursuant to Subsection (8), unless all of the requirements of Subsection (9) can be met.
  9. An in-home commercial activity is not considered a home occupation and does not require a land use permit where all of the following criteria can be met. The in-home activity:
    - a. Meets the criteria under 1.c and d; 3 and 4.
    - b. Is conducted within a dwelling only by residents of the dwelling.
    - c. Does not occupy more than 25 percent of the combined floor area of the dwelling including attached garage and one accessory structure.
    - d. Does not serve clients or customers on-site.
    - e. Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage.
    - f. Does not include the outside storage of materials, equipment or products.
- (b) Private seasonal accommodations for fee hunting operations are subject to the following requirements:
1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  2. Only minor incidental and accessory retail sales are permitted;

3. Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
- (c) Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:
1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  2. Only minor incidental and accessory retail sales are permitted;
  3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
  4. Accommodations must be located within one-quarter mile of fish-bearing Class I waters; and
- (6) UTILITY, POWER GENERATION, SOLID WASTE USES
- (a) A Commercial Utility Facility for the purpose of generating power shall not preclude more than 10 acres from use as a commercial forest operation.
- (7) PUBLIC AND QUASI-PUBLIC USES
- (a) Storage structures for emergency supplies are subject to the following requirements:
1. Areas within an urban growth boundary cannot reasonably accommodate the structures;
  2. The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction;
  3. Sites where the structures could be co-located with an existing use approved under this subsection are given preference for consideration;
  4. The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
  5. The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and
  6. Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.
- (b) Public parks may include:
1. All uses allowed under Statewide Planning Goal 3;

2. The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:
  - a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
  - b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;
  - c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;
  - d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;
  - e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;
  - f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
  - g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and
  - h. Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.
  - i. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:
    - i. Meeting halls not exceeding 2000 square feet of floor area;

ii. Dining halls (not restaurants).

(c) Campgrounds.

1. Campgrounds may be permitted, subject to the following.
  - a. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.
  - b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
  - c. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
  - d. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any six-month period.
2. Campsites within campgrounds meeting the requirement of (7)(c)1 and permitted pursuant to Section (8) must comply with the following:
  - a. Allowed uses include tent, travel trailer or recreational vehicle; yurts are also allowed uses, subject to paragraph 2.c.
  - b. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts.
3. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
4. A campground shall be permitted as either a Recreation Campground or a Primitive Campground.
  - a. Recreation Campgrounds are also subject to provisions in Section 4.060. Where the standards of this section conflict with the standards of Section 4.060, the more restrictive shall apply.
  - b. Primitive Campgrounds are also subject to the provisions in Section 4.065. Where the standards of this section conflict with the standards of Section 4.065, the more restrictive shall apply.

(8) CONDITIONAL USE REVIEW CRITERIA:

A use authorized as a conditional use under this zone may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands. Conditional uses are also subject to Article 6, Section 040.

1. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
2. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
3. A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-006-0025(5)(c).

(9) SITING STANDARDS FOR DWELLINGS AND STRUCTURES IN FOREST ZONES

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest zones. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. The County shall consider the criteria in this section together with the requirements of Section (10) to identify the building site:

- (a) The minimum lot width and minimum lot depth shall be 100 feet.
- (b) The minimum front, rear, and side yards shall all be 30 feet.
- (c) The height of residential structures shall not exceed 35 feet.
- (d) Dwellings and structures shall be sited on the parcel so that:
  1. They have the least impact on nearby or adjoining forest or agricultural lands;
  2. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  3. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
  4. The risks associated with wildfire are minimized.
- (e) Siting criteria satisfying Subsection (d) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

- (f) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:
1. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  2. A water use permit issued by the Water Resources Department for the use described in the application; or
  3. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.
- (g) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (h) Approval of a dwelling shall be subject to the following requirements:
1. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules;
  2. The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
  3. If the lot or parcel is more than 10 acres the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;
  4. Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and
  5. The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or

otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(10) FIRE-SITING STANDARDS FOR DWELLINGS AND STRUCTURES:

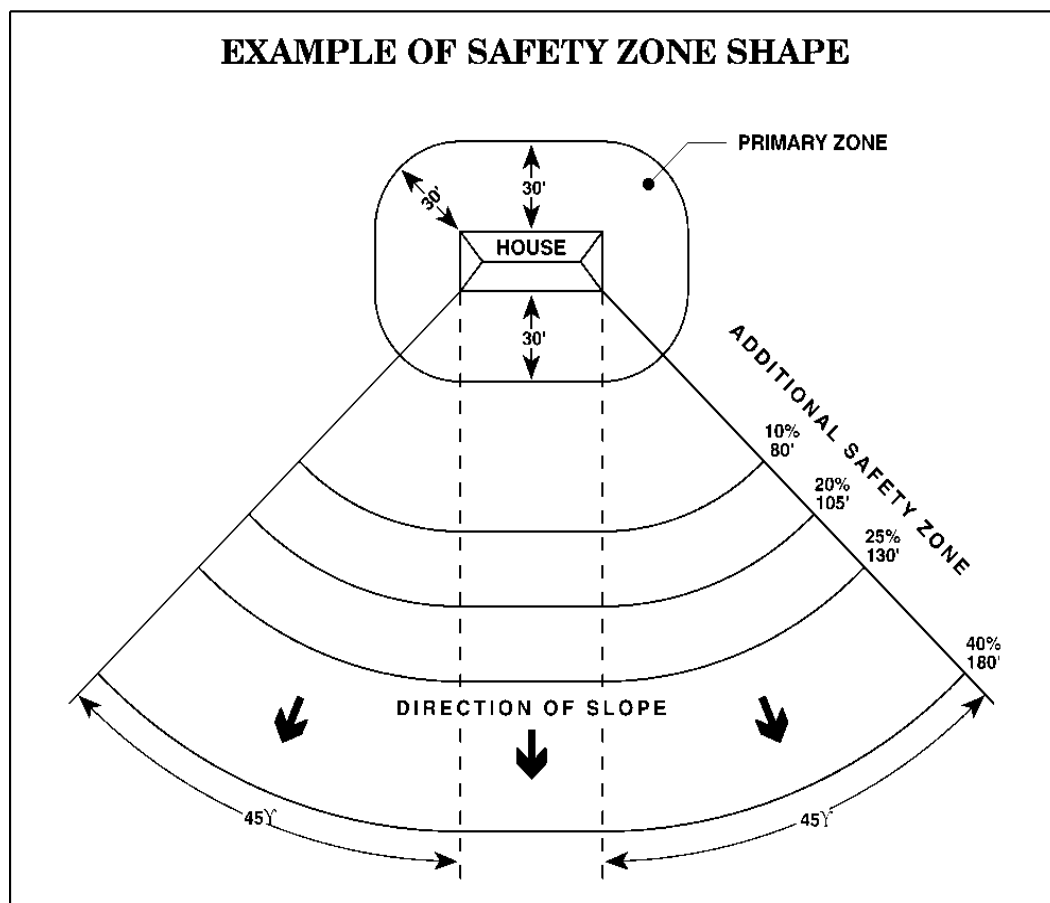
The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest zone:

- (a) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards that shall comply with the following:
  - 1. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
  - 2. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;
  - 3. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and
  - 4. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (b) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.
- (c) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry and shall demonstrate compliance with Table (10)(c)1

Table (1)(c)1 Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

Figure (10)(c)1 – Example safety zone



- (d) The dwelling shall have a fire retardant roof.
- (e) The dwelling shall not be sited on a slope of greater than 40 percent.
- (f) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.



(11) YOUTH CAMPS

- (a) The purpose of this section is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.
- (b) Changes to or expansions of youth camps established prior to the effective date of this section shall be subject to the provisions of ORS 215.130.
- (c) An application for a proposed youth camp shall comply with the following:
  - 1. The number of overnight camp participants that may be accommodated shall be determined by the County based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (c)2 a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.
  - 2. The governing body, or its designated may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under paragraph (c)1.
  - 3. Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.
  - 4. The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
  - 5. A campground as described in Subsection (7)(c) shall not be established in conjunction with a youth camp.
  - 6. A youth camp shall not be allowed in conjunction with an existing golf course.
  - 7. A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.
- (d) The youth camp shall be located on a lawful parcel that is:
  - 1. Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. A youth camp shall be located on a parcel of at least 40 acres.
  - 2. Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall

consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the County sets a different setback based upon the following criteria that may be applied on a case-by-case basis:

- a. The proposed setback will prevent conflicts with commercial resource management practices;
  - b. The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and
  - c. The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
3. Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate shall verify that a proposed youth camp will not result in the need for a sewer system.
- (e) A youth camp may provide for the following facilities:
1. Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.
  2. Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.
  3. Bathing and laundry facilities except that they shall not be provided in the same building as sleeping quarters.
  4. Up to three camp activity buildings, not including primary cooking and eating facilities.
  5. Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include

kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.

6. Covered areas that are not fully enclosed.
  7. Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.
  8. An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).
  9. A caretaker's residence may be established in conjunction with a youth camp prior to or after June 14, 2000, if no other dwelling exists on the subject property.
- (f) A proposed youth camp shall comply with the following fire safety requirements:
1. The fire siting standards in Section (10);
  2. A fire safety protection plan shall be developed for each youth camp that includes the following:
    - a. Fire prevention measures;
    - b. On site pre-suppression and suppression measures; and
    - c. The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
  3. Except as determined under paragraph 4, a youth camp's on-site fire suppression capability shall at least include:
    - a. A 1000 gallon mobile water supply that can access all areas of the camp;
    - b. A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;
    - c. A sufficient number of fire-fighting hand tools; and
    - d. Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
  4. An equivalent level of fire suppression facilities may be determined by the County. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if

the camp is within an area protected by ODF and not served by a local structural fire protection provider.

5. The provisions of paragraph (f)4 may be waived by the County, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.

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

## (12) LAND DIVISIONS

- (a) The minimum parcel size for new forest parcels is 80 (eighty) acres.
- (b) New land divisions less than the parcel size in Subsection (a) may be approved for any of the following circumstances:
  1. For the uses listed in 1.a through r below, provided that such uses have been approved pursuant to Section (8) and the parcel created from the division is the minimum size necessary for the use.
    - a. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
    - b. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.
    - c. Destination resorts.
    - d. Log scaling and weigh stations.
    - e. Permanent facility for the primary processing of forest products.
    - f. Permanent logging equipment repair and storage.
    - g. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under this ordinance (e.g., compressors, separators and storage serving multiple

wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.

- h. Television, microwave and radio communication facilities and transmission towers.
  - i. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
  - j. Reservoirs and water impoundments.
  - k. Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
  - l. Commercial utility facilities for the purpose of generating power.
  - m. Aids to navigation and aviation.
  - n. Firearms training facility.
  - o. Fire stations for rural fire protection.
  - p. Cemeteries.
  - q. Public parks.
  - r. Private parks and campgrounds.
2. For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:
- a. The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres; and
  - b. The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:
    - i. Meets the minimum land division standards of the zone; or
    - ii. Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.
  - c. The minimum tract eligible under Subsection (2) is 40 acres.

- d. The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321.
  - e. The remainder of the tract does not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.
3. To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection (a). Approvals shall be based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection (a) in order to conduct the forest practice. Parcels created pursuant to this paragraph:
- a. Are not eligible for siting of a new dwelling;
  - b. May not serve as the justification for the siting of a future dwelling on other lots or parcels;
  - c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
  - d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
    - i. Facilitate an exchange of lands involving a governmental agency; or
    - ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
4. To allow a division of a lot or parcel zoned for forest use if:
- a. At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  - b. Each dwelling complies with the criteria for a replacement dwelling;
  - c. Except for one parcel, each parcel created under this paragraph is between two and five acres in size;
  - d. At least one dwelling is located on each parcel created under this paragraph; and
  - e. The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the

landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

5. To allow a proposed division of land to preserve open space or parks as provided in ORS 215.783.
- (c) A lot or parcel may not be divided under paragraph (b)4 if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel
- (d) Restrictions
  1. An applicant for the creation of a parcel pursuant to paragraph (b)2 shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection (b).
  2. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.
- (e) A landowner allowed a land division under Subsection (b) shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

### (13) USE TABLE

Table 1 identifies the uses permitted in the F zone. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type 1, 2, or 3 review, unless otherwise specified on Table 1. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this ordinance.

- (a) As used in Table 1:

1. The “Subject To” column identifies any specific provisions of to which the use is subject.
2. “N” means the use is not allowed.
3. “Permitted uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance.

**Table 1: Use Table for Forest Zones**

A= Allowed 1 = Review Type 1 2 = Review Type 2 3 = Review Type 3

N= Prohibited

USE	REVIEW	SUBJECT TO 3.004
<b>Forest, Farm and Natural Resource Uses</b>		
Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash.	A	
Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	A	
Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.	A	
Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.	A	
Farm use as defined in ORS 215.203.	A	
Uninhabitable structures accessory to fish and wildlife enhancement.	A	
An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building to another use.	A	
Log scaling and weigh stations.	2	(8)
Forest management research and experimentation facilities that require a Building Permit.	2	(8)
<b>Residential Uses</b>		
Caretaker residences for public parks and public fish hatcheries.	A	(4)(f)
Large tract forest dwelling	1	(4)(a) (4)(f)



USE	REVIEW	SUBJECT TO 3.004
Ownership of record dwelling	1	(4)(b) (4)(f)
Template dwelling.	1	(4)(c) (4)(f)
Alteration, restoration or replacement of a lawfully established dwelling.	1	(4)(d) (4)(f)
Temporary health hardship dwelling	2	(4)(e) (8)
<b>Commercial Uses</b>		
Temporary portable facility for the primary processing of forest products.	A	
Temporary forest labor camps.	A	
Private hunting and fishing operations without any lodging accommodations.	A	
Destination resort.	3	
Parking of up to seven dump trucks and trailers.	A	
Parking of more than seven dump trucks and trailers.	2	(8)
Home occupations.	2	(5)(a) (8)
Permanent facility for the primary processing of forest products.	3	(8)
Permanent logging equipment repair and storage.	2	(8)
Private seasonal accommodations for fee hunting operations.	3	(5)(b) (8)
Private accommodations for fishing occupied on a temporary basis.	2	(5)(c) (8)
<b>Mineral, Aggregate, Oil and Gas Uses</b>		
Exploration for mineral and aggregate resources as defined in ORS chapter 517.	A	
Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.	A	
Mining and processing of oil, gas or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted (e.g. compressors, separators and storage servicing multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517.	3	(8)
Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	2	(8)

USE	REVIEW	SUBJECT TO 3.004
<b>Transportation Uses</b>		
Widening of roads within existing rights-of-way in conformance with the transportation element of the comprehensive plans and public road and highway projects	A	
Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.	2	(8)
Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	2	(8)
Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.	2	(8)
Expansion of existing airports.	3	(8)
<b>Utility, Power Generation, Solid Waste Uses</b>		
Local distribution lines (e.g. electric, telephone, natural gas) & accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.	A	
Water intake facilities, canals and distribution lines for farm irrigation and ponds.	A	
Non-commercial/stand alone power generating facility associated with an approved use	A	
Net metering power facility associated with an approved use	A	
Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation	1	
Television, microwave and radio communication facilities and transmission towers.	2	(8)
New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210.	2	(8)
New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) resulting in the acquisition of rights-of-way 50 feet or less in width.	2	(8)
Water intake facilities, related treatment facilities, pumping stations and distribution lines.	2	(8)
Reservoirs and water impoundments.	2	(8)

USE	REVIEW	SUBJECT TO 3.004
Disposal site for solid waste approved by the governing body and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.	3	(8)
Commercial utility facilities for the purpose of generating power.	2	(6) (8)
<b>Public and Quasi-public Uses</b>		
Towers and fire stations for forest fire protection	A	
Youth camps	2	(11) (8)
Aids to navigation and aviation	2	(8)
Firearms training facility.	2	(8)
Fire stations for rural fire protection.	A	(8)
Cemeteries.	2	(8)
Storage structures for emergency supplies.	2	(7)(a) (8)
Public parks and campgrounds.	2	(7)(b) (8)
Private parks and campgrounds.	2	(7)(c) (8)
<b>Outdoor Gatherings</b>		
An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735.	1	
Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period.	2	(8)

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

### (1) PURPOSE

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

### (2) RESIDENTIAL SITING

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

### (3) PERMITTED USES

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

### (4) DEVELOPMENT STANDARDS

- (a) The minimum lot width at the front building line for all uses except farm or forest uses shall be 100 feet.
- (b) The minimum lot depth for all uses except farm or forest uses shall be 100 feet.
- (c) The minimum front and rear yards shall be 20 feet.
- (d) The minimum side yard shall be 10 feet where adjacent to land in the F-1, F or SFW-20 zones. Otherwise the minimum side yard shall be 20 feet, except on a contiguous ownership of two acres or less, where the yard requirements shall be the same as in the Rural Residential (RR) zone, and where Article 5 Section 040 (1) (b) shall apply.
- (e) The maximum building height for all non-farm structures shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the variance provisions of Article 8.
- (f) There are no restrictions on the location of livestock.

(5) LAND DIVISIONS

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

### 3.100 ESTUARY ZONES

- (1) GENERAL USE PRIORITIES AND AREAS INCLUDED: General priorities, from highest to lowest, for uses within all ESTUARY ZONES shall be:
- (a) Uses which maintain the integrity of the estuarine ecosystem.
  - (b) Water-dependent uses requiring an estuarine location, as consistent with the overall Oregon Estuarine Classification.
  - (c) Water-related uses which do not degrade or reduce the natural estuarine resources and values.
  - (d) Non-dependent, non-related uses which do not alter, reduce or degrade the estuarine resources and values.

ESTUARY ZONES shall be applied to all estuarine waters, intertidal areas, submerged and submersible lands and tidal wetlands up to the line of non-aquatic vegetation or the Mean Higher High Water (MHHW) line, whichever is most landward.

The application of a particular type of ESTUARY ZONE within a given estuary is dependent upon the classification of the estuary under L.C.D.C Rule No. OAR 660-17-010, and the criteria outlined in individual zone descriptions in Section 3.102 to 3.110. The Estuary Zones indicated on Tillamook County Zoning Maps are illustrative in nature and only approximate the zone boundaries.

Estuary Classification: Development. Estuaries: Nehalem, Tillamook. Permitted Zones: Estuary Development (ED), Estuary Conservation 2 (EC2), Estuary Conservation 1 (EC1), Estuary Conservation Aquaculture (ECA) and Estuary Natural (EN).

Estuary Classification: Conservation. Estuaries: Nestucca, Netarts, Neskowin Creek, Sutton Creek. Permitted Zones: Estuary Conservation 2 (EC2), Estuary Conservation 1 (EC1), Estuary Conservation Aquaculture (ECA) and Estuary Natural (EN).

- (2) USES PERMITTED OUTRIGHT (P): The following uses are permitted outright within all ESTUARY ZONES:
- (a) Maintenance and repair of existing structures or facilities not involving a regulated activity. (See Section 3.120). For the purpose of this ordinance, "existing structures or facilities" are defined as structures or facilities in current use or good repair as of the date of adoption of this ordinance (including structures or facilities which are in conformance with the requirements of this ordinance and non-conforming structures or facilities established prior to October 7, 1977).
  - (b) Dike maintenance and repair for:
    - (1) Existing serviceable dikes (including those that allow some seasonal inundation; and
    - (2) Dikes that have been damaged by flooding, erosion or tidegate failure where the property has not reverted to estuarine habitat; and

- (3) Dikes that have been damaged by flooding, erosion or tidegate failure where the property has reverted to estuarine habitat only if the property is in the Farm, F-1 zone and it has been in agricultural use for 3 of the last 5 years and reversion to estuarine habitat has not occurred more than 5 years prior.

Tillamook County will rely on the U. S. Army Corps of Engineers and the Division of State Lands to determine whether an area has reverted to estuarine habitat.

For the purpose of this Subsection, agricultural use means using the area for pasture several months of the year or harvesting this area once a year.

- (c) Low-intensity, water-dependent recreation, including but not limited to fishing, crabbing, clamming, wildlife observation, swimming and hunting.
- (d) Research and educational observation.
- (e) Grazing of livestock.
- (f) Fencing, provided that it is not placed across publicly-owned intertidal areas so as to restrict public access to, or recreational boating access across said lands and intertidal areas.
- (g) Passive restoration.

3.300 NEAHKAHNIE URBAN RESIDENTIAL ZONE (NK-7.5, NK-15, NK-30)

- (1) **PURPOSE:** The purpose of the NK-7.5, NK-15 and NK-30 zones is to designate area within the Neahkahnie Community Growth Boundary for relatively low-density, single-family, urban area has public sewer and water services. The permitted uses are those that appear most suitable for a coastal community that wished to maintain a primarily single-family residential character. The only differences in the three zoning designations are density provisions for the creation of new lots. These varying densities are designed to be consistent with physical constraints within the Neahkahnie Community.
- (2) **USES PERMITTED OUTRIGHT:** In the NK-7.5, NK-15 and NK-30 zones, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
  - (a) Single-family dwellings.
  - (b) Farm and forest uses.
  - (c) Public park and recreation areas.
  - (d) Utility lines.
  - (e) Utility structures that are less than 120 square feet in size.
  - (f) Mobile homes or recreational vehicles used for a period of no more than 12 months during the construction of a use for which a building permit has been issued.
  - (g) Signs, subject to Section 4.020.
  - (h) Home occupations within a residence or accessory structure which may employ no more than two persons who do not live within the home, provided that there are no external manifestations of a business and that an additional off-street parking site be provided for each non-resident employee.
- (3) **USES PERMITTED CONDITIONALLY:** In the NK-7.5, NK-15 and NK-30 zones, the following uses and their accessory uses are permitted subject to the provisions of Article VI and all applicable supplementary regulations contained in this ordinance.
  - (a) Planned developments subject to Section 3.080.
  - (b) Churches and schools.
  - (c) Nonprofit community meeting buildings and associated facilities.
  - (d) Utility substations.



- (e) Fire station.
  - (f) Ambulance station.
  - (g) Sewage collection system appurtenances larger than 120 square feet.
  - (h) Structures for water supply and treatment that are larger than 120 square feet.
  - (i) Communication structures that serve more than one residence.
  - (j) Bed and breakfast facilities within an owner-occupied primary residence which provide for no more than two guest rooms.
  - (k) Accessory apartment within a residence or accessory structure. Such a unit must be subordinate in size, location and appearance to the primary residence, and shall not be larger than 800 square feet.
  - (l) Temporary subdivision sales office located within an approved subdivision which shall sell only properties within that subdivision.
- (4) **STANDARDS:** Land divisions in the NK-7.5, NK-15 and NK-30 zones shall conform to the following standards, unless more restrictive supplementary regulations apply:
- (a) The minimum size for the creation of new lots or parcels shall be 7,500 square feet in the NK-7.5 zone; 15,000 square feet in the NK-15 zone and 30,000 square feet in the NK-30 zone with the following exceptions:
    - 1. The provisions of the “cluster subdivision” section of the Land Division Ordinance or of the PD Overlay zone in the Land Use Ordinance may be used to concentrate development on a portion of a contiguous ownership except that no lots shall be created that are less than 7,500 square feet.
    - 2. In the Neahkahnie Special Hazard Area, the minimum lot size shall be determined in accord with the requirements of Section 4.130 of the Land Use Ordinance, but such lots shall not be smaller than the minimums provided in the NK-7.5, NK-15 and NK-30 zones.
  - (b) The minimum lot width shall be 60 feet.
  - (c) The minimum lot depth shall be 75 feet.
  - (d) The minimum front yard setback shall be 20 feet.

- (e) The minimum side yard setback shall be 5 feet, except on the street side of a corner lot where it shall be 15 feet.
- (f) The minimum rear yard shall be 20 feet, except on a street corner lot where it shall be 5 feet.
- (g) The maximum building height shall be 17 feet west of the line shown on the zoning maps and 24 feet east of that line. (That line is approximately 500 feet east of the Beach Zone Line.)
- (h) Livestock may be located no closer than 100 feet to a residential building on an adjacent lot.

(5) Building Heights within the Neah-Kah-Nie Community Growth Boundary

Within the Neah-Kah-Nie Community Growth Boundary, all buildings within five hundred (500) feet of the State Beach Zone Line shall be limited in height to seventeen (17) feet, and to twenty-four (24) feet otherwise. When the five hundred (500) foot measurement line divides a lot, the entire lot is subject to the seventeen (17) foot limitations. Higher buildings may be permitted only according to the provisions of Article 8.

(6) Special Drainage Enhancement Area Provisions for the South Neahkahnie Area

Section 2.9 of the Goal VII Element of the County Comprehensive Plan identifies a special drainage enhancement area in Neah-Kah-Nie south and east of Nehalem Road at its junction with Beach Street. Section 2.9 of the Goal VII Element also identifies, within the southwest portion of this area, a "potential development area" upon which one dwelling unit may be placed. These areas are further described in the Plan and are identified on the County's Zoning Map. Subject to the following exceptions, development, including fill, will be prohibited within this drainage enhancement area:

- (a) Ditching and tiling that improve drainage into or out of the Drainage Enhancement Area shall be permitted.
- (b) Activities such as landscaping and gardening, which do not include placement of structures, dikes, levees, or berms, or filling, grading or paving, and which will not restrict drainage into or out of the Drainage Enhancement Area, shall be permitted.
- (c) A pond may be created if it can be shown through the flood hazard area development permit process of Section 3.510 of the County's Land Use Ordinance that it will not adversely affect drainage in the area.
- (d) One dwelling unit, including necessary fill, shall be permitted within the "potential development area" portion of the Drainage Enhancement Area, providing that the area subject to development for this purpose is contiguous and does not exceed one-half the area of the "potential development areas".

## **SECTION 3.500 OVERLAY ZONES**

An Overlay Zone is a supplementary zoning designation placing special restrictions or allowing special uses of land beyond those required or allowed in the Base Zone. The Tillamook County Land Use Ordinance contains the following Overlay Zones.

- 3.505 Utilities Facility Overlay (UFO)
- 3.510 Flood Hazard Overlay (FH)
- 3.515 Scenic Waterway Overlay (SWO)
- 3.520 Planned Development Overlay (PD)
- 3.525 Coast Resort Overlay (CR)
- 3.530 Beach and Dune Overlay (BD)
- 3.545 Shoreland Overlay (SH)
- 3.550 Freshwater Wetlands Overlay (FW)
- 3.555 Mineral and Aggregate Resources Overlay Zone (MA)
- 3.560 Tillamook Airport Obstruction (TAO)
- 3.565 Pacific City Airport Obstruction Overlay Zone (PAO)
- 3.570 Neskowin Coastal Hazards Overlay Zone (Nesk-CH)
- 3.575 Netarts Planned Residential Development Overlay Zone (NT-PRD)

The boundaries of these overlay zones are generally indicated on the Tillamook County Zoning Map. Further information about the exact boundaries can be found within each overlay zone chapter.

Properties within overlay zones are subject to the provisions and standards of both the overlay zone and base zone. Where the standards of the base zone and overlay zone conflict, the more restrictive provisions shall apply unless otherwise stated.

### **SECTION 3.505: UTILITIES FACILITIES OVERLAY ZONE (UFO)**

- (1) **PURPOSE:** The purpose of the UFO zone is to accommodate the facilities necessary to supply the foreseeable utility needs of the County. The UFO zone is applied as an overlay upon existing zones in order to permit the installation of utility facilities in appropriate locations. Sites included in this zone should be of sufficient size and quality to provide the needed service, minimize off-site impacts, and preserve resource values in the area.
- (2) **USES PERMITTED OUTRIGHT:** In the UFO zone, in addition to the uses permitted outright in the underlying zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
  - (a) Electrical substations and switching facilities.
  - (b) Electrical transmission lines and line support structures.

- (c) Towers for communications, wind energy conversion systems, or structures having similar impacts.
  - (d) Energy generation systems.
  - (e) Water supply and treatment facilities, water control structures, pumping stations, storage tanks, and reservoirs.
  - (f) Waste treatment works, including any devices or systems used to store, treat, recycle, or reclaim municipal wastes; or to recycle or reuse waste water; including sewer lines, outfalls, and pumping facilities.
  - (g) Yards or structures for storage and/or repair of utility supplies and equipment.
  - (h) Utility offices.
- (3) **USES PERMITTED CONDITIONALLY:** In the UFO zone, uses other than, but related to, the uses listed in (2) above are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this Ordinance. Any of the utility uses listed in (2) above which are listed as Conditional Uses in the underlying zone shall be permitted outright upon the application of the UFO zone.
- (4) **STANDARDS:** In the UFO zone, the following standards shall apply to uses listed in (2) above, in lieu of standards contained in the underlying zone. The standards do not apply to any distribution lines providing services to residential, commercial, industrial, or other customers. All structures listed in this zone are subject to applicable supplementary regulations such as those contained in Sections 3.510, 3.545, 4.130, and 4.140 of this Ordinance.
- (a) Except as provided in this section, no utility structure shall be constructed closer than either 20 feet from a front property line or 10 feet from any other property line. Utility structures that are no greater than 36 square feet from these setbacks. Transmission lines and related structures are exempt from these setbacks, but they are subject to all requirements of the right-of-way, easement, or County franchise for such facilities.
  - (b) Minimum lot dimensions for specific utility uses are as follows:
    - (1) Electrical substation: 100 by 200 feet.
    - (2) Water storage tank: 100 by 100 feet.
  - (c) Buildings shall not exceed 35 feet in height. Other structures not used for human occupancy may exceed this height limitation, as provided in Section 4.120.

- (d) Outdoor storage areas within 200 feet of a residential use or zone shall be screened with a sight-obscuring fence.
- (e) Off-street parking and loading shall be provided in accordance with the standards set forth in Section 4.030.
- (f) Signs that are 16 square feet in area or less, and which are necessary for safety or other operational requirements, shall be permitted subject to the standards contained in Section 4.020.
- (g) Substations and other utility facilities shall utilize equipment, baffling structures, site excavation, and earthen berms or landscaped screening to limit objectionable noise and visual impacts upon adjacent residential uses or zones.
- (h) Any building providing a place of employment shall meet state and County Sanitation requirements for sewage disposal.
- (i) Fresh water wetlands identified by the Oregon Department of Fish and Wildlife, and adopted by the County as critical wildlife habitats, shall be protected according to site-specific recommendations provided by the Oregon Department of Fish and Wildlife.
- (j) Public Works Department requirements shall be met for any utility structure placed in a public right-of-way by a utility not having a franchise for such location. For those utilities having such a franchise, requirements of the franchise shall be met.

**SECTION 3.510: FLOOD HAZARD OVERLAY ZONE (FH)**

- (1) **PURPOSE:** It is the purpose of the FH zone to promote the public health, safety and general welfare and to minimize public and private losses or damages due to flood conditions in specific areas by provisions designed to:
  - (a) Protect human life and health;
  - (b) Minimize expenditure of public money for costly flood control projects;
  - (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;
  - (d) Minimize prolonged business interruptions;
  - (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards;

- (f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
  - (g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
  - (h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
  - (i) Maintain the functions and values associated with Special Flood Hazard Areas which reduce the risk of flooding.
- (2) **APPLICABILITY:** The FH zone is shown generally on the Tillamook County Floodplain Map, available at the County Planning Office and online. In cases where the boundary is unclear or disputed, the latest FEMA Flood Insurance Rate Map (FIRM) shall govern.
- (3) **CONTENT:** In order to accomplish this purpose, this Section of the Land Use Ordinance includes methods and provisions for:
- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
  - (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - (c) Maintaining the natural and existing flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
  - (d) Minimizing and controlling filling, grading, dredging, and other development which may increase flood damage or may increase flood hazards in other areas;
  - (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas;
  - (f) Encouraging mitigation and restoration programs in "exchange" (/in addition to) for alteration of Special Flood Hazard Areas, existing and natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters

- (4) **DEFINITIONS:** Unless specifically defined below or in Section 11.010 of this ordinance, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**AREA OF SHALLOW FLOODING:** Means a designated A0 or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. A0 is characterized as sheet flow and AH indicates ponding.

**AREA OF SPECIAL FLOOD HAZARD:** Means the land in the flood plain within the county subject to a one percent or greater chance of flooding in any given year. Designation includes the letters A or V.

**ADDITION:** An alteration to an existing structure that results in any increase in its ground floor area.

**BASE FLOOD:** Means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on maps always includes the letters A or V.

**BASEMENT:** Any area of a building having its flood subgrade (below ground level) on all sides.

**BREAKAWAY WALL:** Means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**COASTAL HIGH HAZARD AREA:** Means the area subject to high velocity waters, including but not limited to storm surge or tsunamis. The area is designated on the FIRM as Zones V1-V30, VE or V.

**DEVELOPMENT:** Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**ENHANCEMENT:** Means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity.

**EXISTING MANUFACTURED HOME PARK:** Is one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before August 1, 1978. The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

**FILL:** Means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed on land including existing and natural floodplains, or in waterways, for the purposes of development or redevelopment.

**FIRST FINISHED FLOOR:** The first finished floor is when all mechanical equipment is above minimum required base flood elevation of county. This can include but is not limited to ducting, and wiring located within joists (See Mechanical). If no mechanicals are located within floor joists, first finished floor shall be the subfloor above the required elevation above base flood.

**FLOOD OR FLOODING:** Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM):** Means the official map issued by the Federal Emergency Management Agency where the boundaries of the area of special flood hazards applicable to Tillamook County have been designated as Zone A, M and/or E.

**FLOOD INSURANCE RATE MAP (FIRM):** Means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:** Means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**FLOOD PLAIN:** Means any land area susceptible to being inundated by water from the sources specified in the flood(ing) definition.

**FLOOD PLAIN MANAGEMENT REGULATIONS:** Means the provisions of this ordinance in addition to the Land Division Ordinance, building codes, health regulations, and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOODWAY:** Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.



**HIGHWAY READY:** Refers to a recreational vehicle that is on wheels or a jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. This includes having a plan and making provision to remove the unit in the event of flood

**HYDROSTATIC LOADS:** Means those loads caused by water either above or below the ground surface, free or confined, which is either stagnant or moves at very low velocities, of up to five (5) feet per second. These loads are equal to the product of the water pressure times the surface area on which the water acts. The pressure at any point is equal to the product of the unit weight of water (62.5 pounds per cubic foot) multiplied by the height of water above that point or by the height to which confined water would rise if free to do so.

**HYDRODYNAMIC LOADS:** Means those loads induced on buildings or structures by the flow of flood water moving at moderate or high velocity around the buildings or structures or parts thereof, above ground level when openings or conduits exist which allow the free flow of flood waters. Hydrodynamic loads are basically of the lateral type and relate to direct impact loads by the moving mass of water, and to drag forces as the water flows around the obstruction.

**IRREVOCABLY COMMITTED:** Means any platted area with improved streets, sewer, water, and fire districts, as well as established commercial and high density residential uses as of June 2, 1978.

**LETTER OF MAP AMENDMENT (LOMA):** A LOMA is the result of an administrative procedure in which the Federal Insurance Administer reviews scientific or technical data submitted by the owner or lessee of property who believes the property has incorrectly been included in a designated Special Flood Hazard Area (SFHA). A LOMA amends the currently effective FEMA map and establishes that a property is not located in an SFHA.

**LETTER OF MAP REVISION (LOMR):** A LOMR is an official amendment to the currently effective FEMA map. It is used to change flood zones, flood delineations, flood elevations, and planimetric features. All requests for LOMRs must be made to FEMA through the chief executive officer of the community, since it is the community that must adopt any changes and revisions to the map. A LOMR is usually followed by a physical map revision

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

**MANUFACTURED DWELLING:** 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.

**MANUFACTURED HOME PARK OR SUBDIVISION:** Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL:** Means the average height of the sea for all stages of the tide.

**MECHANICAL EQUIPMENT:** Means Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities.

**MITIGATION:** Means the reduction of adverse effects of a proposed project by considering, in the following order:

- (a) Avoiding the impact all together by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
- (e) Mitigating for the impact by replacing or providing comparable substitute floodplain areas.

**NEW CONSTRUCTION:** Means structures for which the "start of construction" commenced on or after August 1, 1978.

**PERMANENT FOUNDATION:** Refers to a natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.

**REACH:** Means a hydraulic engineering term used to describe longitudinal segments along a stream of water. A reach will generally include a segment of the flood hazard area where flood heights are primarily controlled by man-made or natural obstructions or constrictions. In an urban area an example of a reach would be the segment of a stream or river between two consecutive bridge crossings.

**RECONSTRUCTION:** Means the repair of a structure damaged by any cause (not limited to flooding) without increasing the floor area of the structure.

**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 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.

**REHABILITATION:** Means any improvements and repairs made to the interior and exterior of an existing structure that do not result in an increase in the ground floor area of the structure. Examples include remodeling a kitchen, gutting a structure and redoing the interior, or adding a second story.

**REINFORCED PIER:** At a minimum, a reinforced pier must have a footing adequate to support the weight of the manufactured dwelling under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacking concrete blocks do not constitute reinforced piers.

**REPETITIVE LOSS:** Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before damage occurred.

**RESTORATION:** Means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the ecological structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

**SPECIAL FLOOD HAZARD AREA (SFHA):** Areas subject to inundation from the waters of a 100-year flood.

**START OF CONSTRUCTION:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement occurred within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of street and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STRUCTURE:** Anything constructed or installed or portable, the use of which requires a location on a parcel of land.

**SUBSTANTIAL DAMAGE:** Pertains to flood related damage where the cost of restoring the structure would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started, or

- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition SUBSTANTIAL IMPROVEMENT occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial Improvement applies to additions, reconstructions, rehabilitations, repetitive loss structures, and nonresidential construction at a cumulative 50% of market value, determined at the time of a building permit application. The market value of the structure will be determined through the records of the County Assessor at the beginning of the five year period.

Unless the addition meets the definition of Substantial Improvement, then only the actual addition needs to meet the requirements of the Flood Hazard Overlay Zone.

The term does not, however, include either:

- (3) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by local code enforcement activity and which are solely necessary to assure safe living conditions, or
- (4) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**WATER SURFACE ELEVATION:** Means the projected water heights in relation to mean sea level.

- (5) **GENERAL STANDARDS:** In all areas of special flood hazards the following standards are required:

#### ANCHORING

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All manufactured dwellings must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (See FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for techniques). A certificate signed by a registered architect or

engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval.

#### CONSTRUCTION MATERIALS AND METHODS

- (c) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (d) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (e) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be elevated to three feet above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### UTILITIES

- (f) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- (h) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### SUBDIVISION AND PARTITION PROPOSALS

- (i) All subdivision and partition proposals governed by the Land Division Ordinance shall be consistent with the need to minimize flood damage.
- (j) All subdivision and partition proposals governed by the Land Division Ordinance shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (k) All subdivisions and partition proposals governed by the Land Division Ordinance shall have adequate drainage provided to reduce exposure to flood damage.
- (l) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision and partition proposals governed

by the Land Division Ordinance and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

#### BUILDING AND MANUFACTURED DWELLING PERMITS

- (m) Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits and/or manufactured dwelling permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past floodings, etc., where available. Failure to elevate at least three feet above grade in these zones may result in higher insurance rates.
- (6) **SPECIFIC STANDARDS FOR NUMBERED A ZONES (A1-A30):** In all areas of special flood hazards where base flood data has been provided as set forth in Section 3.510 (2) or other base flood data are utilized, the following provisions are required:

#### RESIDENTIAL CONSTRUCTION

- (a) New construction and substantial improvement of any residential structure (including manufactured dwellings) shall have the lowest floor, including basement, at a minimum of three feet above base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or must meet or exceed the following minimum criteria:
  - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (2) The bottom of all openings shall be no higher than one foot above grade.
  - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### NONRESIDENTIAL CONSTRUCTION

- (c) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have either the lowest floor including basement elevated to

three feet above the level of the base flood elevation or higher; or, together with attendant utility and sanitary facilities, shall:

- (1) Be floodproofed so that the portion of the structure that lies below the portion that is three feet or more above the base flood level is watertight with walls substantially impermeable to the passage of water.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in compliance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Planning Director.
- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in the residential construction Section of this Section.
- (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

#### MANUFACTURED DWELLINGS

- (d) Any manufactured dwelling which incurs substantial damage as the result of a flood, must be elevated to the standard listed in (e) below.
  - (e) All manufactured dwellings to be placed or substantially improved within Zones A1-30, shall be elevated on a permanent foundation such that the lowest floor of the manufactured dwelling is at or above three feet above the base flood elevation and shall be securely anchored to an adequately anchored foundation system in accordance with the following chart:
- (7) **RECREATIONAL VEHICLES:** Recreational vehicles may occupy a site in a Special Flood Hazard Area for periods of 180 consecutive days or greater providing they are fully licensed and highway ready. Recreational vehicles that do not meet these criteria become manufactured dwellings and must be anchored and elevated pursuant to this ordinance.



- (8) **SPECIFIC STANDARDS FOR FLOODWAYS:** Located within areas of special flood hazard established pursuant to Section 3.510 (2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- (a) Encroachments including fill, new construction and substantial improvements are prohibited unless certification is provided by a professional registered architect or engineer certifying that the proposed encroachment, improvement, or development shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - (b) If Subsection 6 (c) (1) is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of Section 3.510 (4) and (5).
- (9) **SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD AREAS (V ZONES):** Located within areas of special flood hazard established pursuant to Section 3.510 (2) are Coastal High Hazard Areas, designed as Zones V1-V30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this Section the following provisions shall apply:
- (a) All new construction and substantial improvements in Zones V1-V30, VE and V shall be elevated on pilings and columns so that:
    - (1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above one foot above the base flood level: and
    - (2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
  - (b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (1) and (2) above. A certificate shall be submitted, signed by the registered professional engineer or architect that the requirements of this Section will be met.
  - (c) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V and whether or not such structures

contain a basement. The Planning Director shall maintain a record of all such information.

- (d) All new construction shall be located landward of the reach of mean high tide.
  - (e) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system, For the purpose of this Section a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
    - (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
    - (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
  - (f) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
  - (g) Prohibit the use of fill for structural support of buildings.
  - (h) Prohibit man-made alteration of sand dunes, including vegetation removal, which would increase potential flood damage.
- (10) **SPECIFIC STANDARDS FOR AREAS OF SHALLOW FLOODING (A0 ZONE):** Shallow flooding areas appear on FIRM's as A0 zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas the following provisions apply:

- (a) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

#### RESIDENTIAL

- (b) New construction and substantial improvements of residential structures (including manufactured dwellings) within A0 zones shall have the lowest floor (including basement) elevated one foot above the depth number specified on the FIRM (at least two feet above the highest adjacent grade if no depth number is specified).
  - (c) New construction and substantial improvements of nonresidential structures within A0 zones shall either:
    - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified): or
    - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to one foot above the depth number specified on the FIRM so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Subsection (6) (3) (3) of this Section.
- (11) **WARNING AND DISCLAIMER OF LIABILITY:** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Tillamook County, any officer or employee thereof, of the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (12) **SPECIAL ADMINISTRATIVE PROVISIONS FOR FH ZONE:**
- (a) The Planning Director of Tillamook County is hereby appointed to administer and implement the provisions of this Section by granting or denying development permit applications in accordance with its provisions.
  - (b) Duties of the Planning Director shall include, but not be limited to:

- (1) Review all development permit requests to assure that the requirements of this Section have been satisfied and that all other necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (2) Review all other permit applications to determine compliance with this Section.
- (3) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (4) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capability is not diminished.
- (5) Where base flood elevation data is provided through the Flood Insurance Study or required within this Section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (6) For all new or substantially improved floodproofed structures:
  - (a) Verify and record the actual elevation (in relation to mean sea level), and
  - (b) Maintain the floodproofing certifications required in this Section.
- (7) Maintain for inspection the affidavits of certification required in this Section. Affidavits of certification are required to be submitted by the permit applicant for elevations and structural requirements as specified in this Section, both pre- and post-construction, utilizing forms provided for this purpose by FEMA. Elevations may be certified by a licensed surveyor or a registered professional architect or engineer. Structural requirements may be certified by a registered professional architect or engineer.
- (8) Where interpretation is needed requiring the boundaries of the areas of special flood hazard, the Planning Director will make the necessary interpretation. The person contesting the location of the boundary or other decision shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
- (9) When base flood elevation had not been provided, the Planning director shall obtain, review and reasonably utilize any base flood data and floodway available

from federal, state, or other source in order to administer the provisions of Section 3.510.

- (10) All records pertaining to the provisions of this Section shall be maintained in the Tillamook County Planning Department and shall be open for public inspection.
  - (11) When a Variance is granted, the Planning Director shall give written notice that the structure will be allowed to be built with the lowest floor elevation at or below base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.
- (d) Restrict the location of structures placed on undeveloped parcels between Brooten Road and the Nestucca River, from the Woods Bridge downstream to map cross-section line F on the amended floodway map for the Nestucca River.

Such structures shall occupy no more than 62.5% of the lot width of the parcel to be built upon. This requirement does not apply if the structure is built upon piling with the area beneath the structure open to permit passage of flood water, or enclosed only with "breakaway walls" which are designed to give way to allow passage of flood waters.

Any such structure shall comply with all other requirements of this Section. The intent of this subsection is to maintain a minimum of 1000 feet of open space on the east bank of the Nestucca River, between Brooten Road and the river, from the Woods Bridge structure downstream to map cross-section line F on the amended floodway map for the Nestucca River.

- (e) Publicly owned open land recreation parks and accessory restroom facilities, where allowed in the underlying zone, shall be allowed in floodplain areas below the base flood elevation. The accessory restroom facilities shall be located outside of floodplain areas if possible. If it is not possible, the structures shall be located:
- (1) On the highest portion of the park grounds; and
  - (2) Be wet-floodproofed; and
  - (3) Maintain riparian setbacks.

If the structure is located in a designated floodway, it shall conform to 1 through 3 above and shall be small enough and positioned so that it will not divert floodwaters.

- (f) All residential and non-residential development and substantial improvements, within the Pacific City Airport Overlay Zone where the height is restricted by the PAO zone, below

that allowed by the underlying zone, shall conform to the FH zone regulations except that the first finished floor elevation and the floodproofing shall be certified at the base flood elevation given on the FIRM maps instead of the required three foot above base flood elevation level.

(13) **DEVELOPMENT PERMIT PROCEDURES:** A development permit shall be obtained before construction or development begins within any area of special flood hazard zone. The permit shall be for all structures including manufactured dwellings, and for all development including fill and other development activities, as set forth in the Definitions contained in this Section of the Land Use Ordinance.

(a) Application for a development permit shall be made on forms furnished by the Planning Director and shall include but not necessarily be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required and Development Permits required under this Section are subject to the Review Criteria put forth in Section 3.510 (13)(b):

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;
- (2) Elevation in relation to mean sea level to which any proposed structure will be floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Subsection (5) (c) of this Section; and

(b) **Development Permit Review Criteria**

- (1) The fill is not within a floodway, wetland, riparian area or other sensitive area regulated by the Tillamook County Land Use Ordinance.
- (2) The fill is necessary for an approved use on the property.
- (3) The fill is the minimum amount necessary to achieve the approved use.
- (4) No feasible alternative upland locations exist on the property.
- (5) The fill does not impede or alter drainage or the flow of floodwaters.

- (6) For creation of new, and modification of, Flood Refuge Platforms, the following apply, in addition to (13)(a)(1-4) and (b)(1-5):
- i. The fill is not within a floodway, wetland, riparian area or other sensitive area regulated by the Tillamook County Land Use Ordinance.
  - ii. The property is actively used for livestock and/or farm purposes,
  - iii. Maximum platform size = 10 sq ft of platform surface per acre of pasture in use, or 30 sq ft per animal, with a 10-ft wide buffer around the outside of the platform,
  - iv. Platform surface shall be at least 1 ft above base flood elevation,
  - v. Slope of fill shall be no steeper than 1.5 horizontal to 1 vertical,
  - vi. Slope shall be constructed and/or fenced in a manner so as to prevent and avoid erosion.

Conditions of approval may require that if the fill is found to not meet criterion (5), the fill shall be removed or, where reasonable and practical, appropriate mitigation measures shall be required of the property owner. Such measures shall be verified by a certified engineer or hydrologist that the mitigation measures will not result in a net rise in floodwaters and be in coordination with applicable state, federal and local agencies, including the Oregon Department of Fish and Wildlife.

- (c) Before approving a development permit application for other than a building, the Planning Director may determine that a public hearing should be held on the application. Such hearing shall be held before the Planning Commission and a decision made by the Planning Commission in accordance with the provisions of Section 3.510 (12).

(14) APPEALS, REDUCTIONS AND VARIANCES:

- (a) An appeal of the ruling of the Planning Director regarding a requirement of this Section may be made to the Tillamook County Planning Commission pursuant to Section 10.040.
- (b) Reductions of the "3 feet above base flood elevation" standard may be granted by the Planning Director, upon findings that:
- (1) Strict application of the three-foot standard would produce an unreasonable or inequitable result; and
  - (2) A lesser elevation requirement will not result in an appreciable increase in flood damage.

Reductions to below 1 foot above base flood elevation require a Variance as described in (c), below.

The intent of this provision is to limit this application of the Director's discretion to those rare and unusual circumstances where the three-foot standard would result in unnecessary and burdensome development requirements.

- (c) Variances to the standards contained in Section 3.510 shall be issued only in accordance with Section 1910.9 of the Federal Regulations governing flood insurance (Title 24 CFR) and any amendment thereto.
  - (d) The procedures for reviewing and taking action on a variance under the provisions of this Section shall be pursuant to the procedures provided in Article 8.
- (15) PROVISIONS: The provisions of Section 3.510 shall take precedence over all prior resolutions or orders of the Board of County Commissioners relating to Flood Plain Management.

#### SECTION 3.515: SCENIC WATERWAY OVERLAY ZONE (SWO)

- (1) PURPOSE AND AREAS INCLUDED: The purpose of this zone is to facilitate implementation of the Oregon Park and Recreation Commission's management plan for the Nestucca River Scenic Waterway, and thereby to protect and preserve the natural setting and water quality of waterways possessing outstanding scenic, fish, wildlife, geological, botanical, historic, archaeological, and outdoor recreation values. The zone comprises all land within one-fourth mile of the top of bank of the Nestucca River from the County line downstream to its confluence with Moon Creek (approximately river mile 24.5, in Blaine). The boundaries of this zone are governed by the Tillamook County Scenic Waterway Overlay Zone Map, available at the County Planning Office and on the County website.
- (2) USES PERMITTED:
  - (a) Any development activity, mining operation, timber harvesting, or other landscape alteration activity permitted in the underlying zone may be allowed, provided the activity is approved by the Oregon Parks and Recreation Department, or otherwise complies with the Scenic Waterway Notification procedures described in OAR-736-040-0080.

#### SECTION 3.520: PLANNED DEVELOPMENT OVERLAY (PD)

- (1) PURPOSE: The purpose of the PLANNED DEVELOPMENT is to permit greater flexibility and creativity in the design of land development than is presently possible through the strict interpretation of conventional zoning and land division ordinances. The intent is to encourage development designs that preserve and/or take advantage of the natural features and amenities of a property such as, but not limited to, views water frontage, wetlands, sloping topography, geologic features and drainage areas. A Planned Development should be compatible with the established and proposed surrounding land uses. A Planned Development should accrue benefits



to the County and the general public in terms of need, convenience and service sufficient to justify any necessary exceptions to the zoning and land divisions ordinances.

- (2) **STANDARDS AND REQUIREMENTS:** The following standards and requirements shall govern the application of a Planned Development in an area in which it is permitted.
- (a) A PLANNED DEVELOPMENT OVERLAY ZONE is allowed in the RR-2, RR-10, CSFR, CR-1, CR-2, CR-3, RMH, RC, CC and RI, CI, and unincorporated community zones where permitted.
  - (b) A planned development may include any uses and conditional uses permitted in the RR, CSFR, CR-1, CR-2, CR-3, RMH, and RC zones. In addition, the uses permitted in the CC and CI, RI, and unincorporated community zones where permitted will be permitted in the areas where the underlying zone permits those uses.
  - (c) The density of a planned development will be based on the density of the underlying zone.
  - (d) The height limit may be increased to not more than 35 feet by the Planning Commission in approving a specific Planned Development project. If the applicant is requesting a height increase, this request shall be noted in the notice to affected property owners. The Planning Commission may allow an increase in the height if there is a reasonable basis for the additional height such as: topography of the site, clustering of units, preservation of open space, staggering of building sites, and view corridors between ocean front dwelling units.
  - (e) Dimensional standards for lot area, depth, width, and all yard setback standards of the underlying zone shall not apply and these standards shall be established through the Planned Development approval process in order to fulfill the purpose set forth in Section 3.520 (1). In the RR/PD zoned areas, only those properties located within a Community Growth Boundary can utilize this item. All rural RR/PD zoned land shall conform to the density and standards of the RR zone.
  - (f) The development standards of the Land Division Ordinance shall provide the basic guide for the design of a planned development. Variances may be permitted through the Planned Development approval process in order to fulfill the purposes set forth in Section 3.520 (1). Variance process and criteria contained in the Tillamook County Land Division Ordinance and Tillamook County Land Use Ordinance must be followed.
- (3) **PLANNED DEVELOPMENT PROCEDURE:** The following procedures shall be observed in applying for and acting on a planned development.

- (a) An applicant shall submit a preliminary development plan to the Planning Department for review. The preliminary plan shall include the following information:
  - (1) Proposed land uses, building locations and housing unit densities.
  - (2) Proposed circulation pattern indicating the status of street ownership.
  - (3) Proposed open space uses.
  - (4) Proposed grading and drainage pattern.
  - (5) Proposed method of water supply and sewage disposal.
  - (6) Economic and supporting data to justify any proposed commercial development in an area not so zoned.
  - (7) Relation of the proposed development to the surrounding area and the comprehensive plan.
  
- (b) During its review the Planning Department shall distribute copies of the proposal to county agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:
  - (1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
  - (2) Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.
  - (3) The plan can be completed within a reasonable period of time.
  - (4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
  - (5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
  - (6) The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.

- (7) 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.
  - (8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
  - (9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
- (c) The Planning Department shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.
  - (d) Following this preliminary review, the applicant may request approval of the planned development by the Planning Commission according to the provisions in Article VI if the proposal is to take place on property designated with the PLANNED DEVELOPMENT OVERLAY ZONE prior to May 30, 1985.
  - (e) If the property is to be divided under the provisions of the Land Division Ordinance, a request according to the requirements of that Ordinance shall be included as part of the Planning Commission's review.
  - (f) The filing fee for a planned development is the total of all fees for the action requested.
  - (g) In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purposes of this ordinance.
  - (h) Planned Development shall be identified on the zoning map with the letters "PD" in addition to the abbreviated designation of the existing zone.
  - (i) Building permits in a planned development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for approval in accordance with the procedures for approval of a conditional use request.
  - (j) In an existing PD overlay zone, lots on parcels of record as of the date of adoption of this ordinance which are less than one acre in size, may be built upon in accordance with all other requirements of the zone in which the lot or parcel is located and of this ordinance.
- (4) **TO ESTABLISH A NEW PLANNED DEVELOPMENT OVERLAY ZONE:** To establish a Planned Development Overlay designation under Article IX of this ordinance, the applicant must

submit to the department the following material in addition to the requirements of Article IX and Section 3.520 (3):

- (a) A conceptual development plan for the proposed site with the object of demonstrating that the property possesses the characteristics set forth in Section 3.520 (1) of this ordinance. The plan shall include a scale drawing or the entire site showing proposed land uses, road ways, pedestrian ways, drainage patterns, common areas, recreation facilities, natural features, residential lots and the approximate location of structures other than single family residences.
- (b) Parcels receiving the PLANNED DEVELOPMENT OVERLAY ZONE designation after July 1, 1992, will be eligible for development under the Land Division Ordinance, with the approved and recorded conceptual plan serving as the zoning map for the land parcel.
- (c) Any proposed change to an approved conceptual plan which may increase the intensity of use or off-site impacts must conform to the criteria and procedures contained in Article IX of this ordinance. This determination shall be made by the Director. Notice of such a determination shall be provided to those within the required notice area.

#### SECTION 3.525: COAST RESORT OVERLAY (CR)

- (1) **PURPOSE AND INTENT:** The purpose of the COAST RESORT OVERLAY ZONE is to recognize sites that are suitable and appropriate for the location of recreation oriented coast resorts as defined in this Section, and to establish standards to guide the development of such facilities. The COAST RESORT OVERLAY ZONE is intended to insure the compatibility of coast resorts with the natural resources of the County.

Tillamook County recognized that ocean shore lands constitute an outstanding natural scenic and recreational resource. Therefore, the COAST RESORT OVERLAY ZONE is provided for and may be applied only to lands which abut the ocean beach or a major part of which have views of the ocean.

- (2) **DEFINITIONS:** A "coast resort" is a self-contained development that serves as an attraction for vacationers and other visitors and provides temporary lodging in conjunction with natural, scenic and recreational amenities available as an integral part of the development and in the surrounding environment. A coast resort:
  - (a) Is located on a large site with a high level of natural amenities;
  - (b) Maintains the open space character of the site and the design, density and layout of the development maintains the natural and scenic amenities of the site;

- (c) Provides primarily visitor oriented accommodations and has developed recreation facilities and natural amenities that are a primary attraction for visitors;
- (d) Is located at least 25 road miles from an urban growth boundary containing a population of 50,000 or more.

"Visitor oriented accommodations" are lodging, restaurants, meeting facilities, staff housing and other facilities that provide for the needs of visitors and which constitute a majority of the developed facilities on the site.

"Developed recreational facilities" on the site are those which require a significant investment and are provided at a level and variety in proportion to the number of living accommodations in the development.

A "self-contained development" is one in which sewer, water and recreational facilities are provided in conjunction with the development and in which the sewer and water facilities are limited to meet the needs of the development.

(3) PERMITTED USES:

- (a) The following uses are permitted when provided as a part of, and intended primarily to serve persons at, a coast resort developed under this Section:
  - (1) Living accommodations including lodges, hotels, motels, one-family, two-family and multifamily dwelling units.
  - (2) All manner of outdoor and indoor recreation facilities including, but not limited to, golf courses, tennis courts, swimming pools, racquetball and handball courts, riding stables, nature trails, and walking/running/bicycle paths.
  - (3) Convention facilities and meeting rooms.
- (b) The following uses are permitted when provided as uses incidental to and together with the uses described in (a) above as a part of a coast resort, subject to the conditions and restrictions on such incidental uses set forth in the Section.
  - (1) Restaurants, lounges and nightclubs.
  - (2) Theaters and performing arts auditoriums.
  - (3) Health clubs, spas and exercise studios.

- (4) Craft and art studios and galleries.
- (5) Kennels, as a service for resort guests only.
- (6) Commercial services and speciality shops to provide for the needs of vacationers and visitors.
- (7) Airport or heliport.
- (8) First aid station or infirmary.
- (9) Facilities necessary for utility service.
- (10) Sewer and water treatment plant.
- (11) Farm and forest uses.
- (12) Signs subject to Section 4.020.

(4) APPLICATION OF THE OVERLAY ZONE AND PROCEDURE:

- (a) APPLICATION: The COAST RESORT OVERLAY ZONE may be applied to any non-estuarine property complying with the standards contained herein. Application of the Overlay Zone to specific property is accomplished through a Zoning Map change. Approval of a Zoning Map change to COAST RESORT OVERLAY ZONE signifies that the affected property is suitable for development pursuant to this Section and subject to the Land Use Plan approved at the time of zone change, but does not authorize development.
  - (1) The zone or zones applicable to the property preceding the change will be retained on the Zoning Map. If a proposed Preliminary Development Plan is not submitted for a site within five years of the zone change to COAST RESORT OVERLAY ZONE, the designation shall be extinguished and removed from the zoning map, unless prior to the end of the five year period the property owner submits a request for a two-year extension and thereafter the Planning Commission approves the extension. Approval shall be based upon a finding that circumstances have not changed sufficiently since prior approval to render the zone change inappropriate. The CR zone may be extended thereafter from year to year based upon a similar application and finding.

- (2) While the COAST RESORT OVERLAY ZONE is applicable to certain property, no development or use of the property shall occur except as provided in this Section.
  - (3) Development pursuant to this COAST RESORT OVERLAY ZONE Section shall be reviewed and approved based upon the provisions of this Section rather than the provisions of the underlying zone or zones. The requirements of other applicable overlay zones and supplemental standards shall apply.
  - (4) A proposed zone change from COAST RESORT OVERLAY ZONE to a zone or zones other than the underlying zone or zones retained on the Zoning Map shall be evaluated as a change from such underlying zone or zones.
- (b) PROCEDURE:

- (1) **Zone Change:** An amendment to the Zoning Map to apply the COAST RESORT OVERLAY ZONE may be initiated by the Board of County Commissioners or by application of the property owner. The procedure shall be as provided in Section 9.020 but the matters to be included in an application and considered on review shall be as set forth in (5) of this section and the criteria for approval of the change shall be as set forth in (6) of this section. A land use plan for the site shall be approved as a part of the zone change. The requirements for the land use plan are described in (5) (e) of the section. If development as identified on the land use plan requires one or more exceptions to Land Conservation and Development Commission Goals the Goal 2 exception process, including comprehensive plan amendments shall be complied with at the time of the zone change.
- (2) **Preliminary Development Plan:** A Preliminary Development Plan shall determine the nature, location and phasing, if any, of development on property designated COAST RESORT OVERLAY ZONE. A property owner may initiate a request for approval of a Preliminary Development Plan by filing an application with the Planning Department. The Planning Commission shall review the Preliminary Development Plan according to the procedure of Article 6 and standards and criteria of (7), (8) and (9) of this Section.
- (3) **Final Development Plan:** A Final Development Plan shall include the elements provided in (10) of this Section and shall be the authority for issuance of building and other required development permits. The proposed Final Development Plan shall be submitted to the Planning Department and approved or denied by the Director pursuant to the criteria set forth in (11) of this Section. If the proposed development will include subdivision or major partition of the property, preliminary approval shall be obtained prior to approval of the Final Development Plan as required by the Land Division Ordinance. If the Preliminary Development Plan authorized phased development, the final Development Plan may be for one or more of the phases. If a Final Development Plan is not submitted within five years of approval of the Preliminary Development Plan, the latter shall expire and a new Preliminary Development Plan shall be required, unless prior to the end of the five year period the property owner submits a request for a one-year extension and thereafter the Planning Commission approves the extension. Approval shall be based upon a finding that circumstances have not changed sufficiently since prior approval to render the Preliminary Development Plan inappropriate. The Plan may be extended thereafter from year to year based upon a similar application and finding.
- (4) **Pre-application Conference:** Prior to submitting a zone change application or a Preliminary Development Plan application, the applicant shall confer with the Planning director regarding the proposal and the requisites of the applications.



- (5) Combined Procedure: The steps described in 4 (b) (1) and 4 (b) (2) above may be combined in which case the Preliminary Development Plan shall serve as the Land Use Plan required for zone change approval.
- (5) CONTENTS OF ZONE CHANGE APPLICATION FOR COAST RESORT OVERLAY ZONE: The following information shall be provided as part of an application for a zone change to COAST RESORT OVERLAY ZONE:
- (a) The completed application form.
  - (b) A site map, drawn to scale, showing the subject property and all property within 250' of the boundaries of the subject property.
  - (c) A vicinity map showing the area and land uses within 1/2 mile of the property.
  - (d) A site inventory and map including the following information as is available in the Comprehensive Plan or other readily available published inventories (The maps shall be at either a 1:100, 200, 300, or 400 scale.):
    - (1) SCS soils classifications.
    - (2) Forest site classification.
    - (3) Goal 5 resources inventoried in the Comprehensive Plan.
    - (4) The shorelands boundary and shorelands resources inventoried in the Comprehensive Plan.
    - (5) Outstanding natural features not included within (3) or (4) above.
    - (6) Beach and dunes land form classifications.
    - (7) Geologic hazards.
  - (e) A Land Use Plan for the site.
    - (1) The Land Use Plan shall consist of a site map, a site suitability matrix and any findings and conditions required under this Subsection (e). The site map shall divide the site into units having common physical, locational and aesthetic characteristics as determined from the site inventory. Each unit shall be identified on the map by a district letter, number or descriptive designation. Non-contiguous portions of the site having common characteristics may be included in one unit. The site suitability matrix shall list on the horizontal scale the five land use categories described below. It shall list on the vertical

scale the designations of each of the units shown on the site map. Each of the combinations of land use category and site unit shall be evaluated for use suitability and assigned a value of "suitable", "moderately suitable" or "unsuitable".

- (2) The land use categories to be evaluated for each site unit are as follows:
  - (a) Natural (N): Areas that will not be altered or developed because of extreme hazard to life or property, or because of significant ecological, scientific, educational, historic, archaeological or other values identified for protection in the Comprehensive Plan.
  - (b) Low Intensity Recreation (RL): Recreation activities that require no developed facilities or minimal facilities having minor impact on the ecosystem such as unpaved paths, footbridges or boat docks suitable only for small boats and canoes.
  - (c) High Intensity Recreation (RH): Recreation activities requiring substantial developed facilities such as tennis courts, golf courses or marinas and related utility facilities.
  - (d) Development Density 1 (D1): Moderate to low intensity residential development and utility facilities.
  - (e) Development Density 2 (D2): High intensity residential facilities, commercial and utility facilities.
- (3) Suitability evaluations shall be utilized in the following manner:
  - (a) A site unit evaluated as suitable for Natural uses will not be developed for other uses except for protection or restoration consistent with the requirements of Sections 3.545 and 4.140 regardless of its moderate suitability or suitability under another land use category.
  - (b) A site unit with a land use category other than Natural evaluated as moderately suitable for the category will permit the uses for such category only upon findings describing the reason for the evaluation and conditions and findings demonstrating mitigation of adverse impacts from such permitted uses or such part thereof as are proposed. A site unit not designated as natural that contains significant ecological, scientific, educational, historic or other values identified in the Comprehensive Plan for limitation of conflicting uses shall be evaluated as moderately suitable or unsuitable only and the conditions and findings shall implement the limited protection required by the Comprehensive Plan.

- (c) A site unit with a land use category other than Natural evaluated as unsuitable for the category will not permit the uses for such category.
  - (d) A site unit evaluated as unsuitable or moderately suitable for Natural uses and moderately suitable or suitable for uses in another land use category will permit the uses under the other category or such part thereof as are proposed, subject to the requirements of (b) above if applicable.
  - (f) A written statement providing justification for the proposed zone change according to the approval criteria state in (6) of this Section. The written statement shall include the report of a qualified economist or other market research specialist addressing the issue of the developed recreation facilities that will be necessary, when considered together with the natural amenities of the property, to constitute a primary attraction for visitors. Because a specific development plan is not required for a zone change, the report may refer to categories and ranges of scale of facilities and may provide two or more acceptable alternatives.
  - (g) A demonstration of the feasibility of providing sewer, water and fire services, including public services availability or on-site provision of services, as applicable.
- (6) **CRITERIA FOR APPROVAL OF COAST RESORT OVERLAY ZONE:** A zone change to COAST RESORT OVERLAY ZONE shall be approved upon findings that the following criteria are satisfied:
- (a) The natural amenities of the property shall include at least (i) ocean views from a majority of the property or (ii) portions of the property that abut the ocean beach. The natural amenities considered together with identified developed recreation facilities that can be provided on the property (as demonstrated by the Land Use Plan) will constitute a primary attraction for visitors. This conclusion shall be supported by the report required in (5) (f) of this Section.
  - (b) The property is not well suited for commercial agriculture considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract.
  - (c) The proposed development of the property in accordance with the Land Use Plan can be accomplished without substantial interference to or significant adverse effects upon identified sensitive or unique natural areas or ecological features.
  - (d) The proposed development of the property can be accomplished in accordance with the Land Use Plan in a manner that will be compatible with the uses permitted on adjacent lands.
  - (e) Suitable access exists or can be provided to serve development of the property.
  - (f) Adequate sewer, water and fire services can be provided to serve the proposed development of the property.

- (g) Required findings for needed Goal exceptions have been made.
  - (h) The proposed development of the property is consistent with the Comprehensive Plan.
- (7) CONTENTS OF APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN:  
The information required as part of the preliminary development plan shall be as stated in the Tillamook County Land Division Ordinance. The application shall also include such additional information in the form of written statements, maps and drawings as is necessary to demonstrate compliance with the development standards and approval criteria of (8) and (9) of this Section.
- (8) DEVELOPMENT STANDARDS:
- (a) The Preliminary Development Plan shall be consistent with the Land Use Plan approved for the property.
  - (b) The proposed development shall satisfy the definition of COAST RESORT contained in this Section.
  - (c) The Preliminary Development Plan shall demonstrate that the majority of the developed housing units will be used by visitors and not by full time residents. Such units include, but are not limited to, hotel and motel rooms, cabins, and time share units.
  - (d) Developed recreational facilities shall be provided on the property of a variety, quantity and quality that, when considered together with the retained natural amenities of the property, will be sufficient to constitute in combination a primary attraction for visitors. Satisfaction of this standard shall be demonstrated by the report submitted as required by (5) (f) of this Section and supplemented by a similarly qualified individual if necessitated by any changes in the proposed facilities from the zone change submittal. The developed recreational facilities shall also be adequate to serve the number of living accommodations proposed.
  - (e) A coast resort shall consist of not less than 160 acres of property. Living units, enclosed recreation, entertainment or commercial facilities and paved surfaces may cover a maximum of 40% of the gross area of the property.
  - (f) To the greatest extent possible, significant vegetation and natural features on the property shall be preserved.
  - (g) The commercial, cultural and entertainment uses permitted in (3) (b) (1) through (7) of this Section are intended to be incidental to the primary uses in (3) (a). Such incidental uses shall be permitted only at a scale suited to serve visitors to the coast resort except to the extent that a particular use cannot be reduced from the proposed scale without impairing the function or economic viability of the use.

- (h) Any commercial, cultural or entertainment services provided as a part of the coast resort shall be contained within the development and shall not be oriented to public highways adjacent to the property. The buildings shall be designed to be compatible in appearance with the living accommodations and shall be constructed of similar materials.
  - (i) A coast resort shall be served by on-site sewage and water systems approved by the DEQ, except where connection to a public system is permitted under the Public Service and Facilities (Goal 11) element of the Comprehensive Plan and such connection will not result in increased tax expense for property served by the public system prior to the connection.
  - (j) Adequate fire protection shall be available through an existing fire district or provided on site.
  - (k) A coast resort proposal shall not alter the character of the surrounding area in a manner which substantially limits, impair or prevents the permitted use of the surrounding properties. A coast resort proposal shall not force a significant change in or significantly increase the cost of farm or forest practices on nearby lands devoted to farm or forest uses.
  - (l) All requirements of other applicable county ordinance provisions shall be satisfied.
  - (m) A Preliminary Development Plan may specify phases of development if each successive phase together with previously completed phases is capable of operating in a manner consistent with the intent and purpose of this Section.
- (9) APPROVAL CRITERIA FOR PRELIMINARY DEVELOPMENT PLAN: The Preliminary Development Plan for a coast resort development permitted under this Section shall be approved upon finding that the following criteria have been met:
- (a) The proposed development will satisfy the development standards in (8) of this Section.
  - (b) The development has been designed to provide beach access or views of the ocean as a major feature of the project.
  - (c) The proposed type and level of development is appropriate to the site and will be compatible with the existing uses of the adjacent lands as well as the potential future uses as indicated by the current Comprehensive Plan and zoning designations.
  - (d) The proposed means of external and internal circulation is adequate to provide for the safe movement of vehicles and pedestrians.
  - (e) Adequate public services will be available to serve the development, including water supply, sewage disposal, electric power, telephone service, police and fire protection.

- (10) CONTENTS OF FINAL DEVELOPMENT PLAN: The information required as a part of the final development plan shall be as stated in the Tillamook County Land Division Ordinance and shall also include information regarding the method of compliance with (12) (a) of this Section.
- (11) APPROVAL CRITERIA FOR FINAL DEVELOPMENT PLAN: The Final Development Plan for the site, or for a phase of development if applicable shall be approved if it contains the information required under (10) above, is consistent with the approved Preliminary Development Plan and if all other applicable County requirements have been met. The approved method of compliance with the requirements of (12) (a) of this Section may be amended from time to time with the prior written approval of the Planning Director.
- (12) IMPLEMENTATION:
- (a) To provide adequate assurance that developed recreational facilities proposed in the Preliminary Development Plan will be completed, the Final Development Plan shall specify one or a combination approved by the Planning Director of the following procedures. Building permits and final subdivision plat approvals shall be issued only upon compliance with the specified procedure.
- (1) The total number of subdivided lots and the total number of dwelling units not on individual lots that will be offered for sale, exclusive of time share sales, shall be specified. Such lots and dwelling units shall be referred to in this Subsection (12) (a) as "units". The estimated cost of each of the proposed developed recreational facilities stated in current dollars shall be specified. Subdivision final plat approvals and building permits for not more than 25% of the total number of units may be issued prior to completion of any developed recreational facilities. Thereafter, the percentage of units for which final subdivision plat approvals or building permits are issued compared to the total number of units shall not exceed the percentage of the dollar value of completed developed recreation facilities based on their estimated cost compared to the total estimated costs.
- (2) The Preliminary Development Plan shall provide for no fewer than four phases satisfying the requirements of (8) (m) of this Section. The first phase shall not include more than 25% of the total number of units determined in the manner described in (1) above.
- (3) A corporate surety performance bond shall be deposited with the county in a form acceptable to the Planning Director and in an amount equal to the estimated cost of all developed recreational facilities proposed in the Final Development Plan prior to issuance of final subdivision plat approvals or building permits for development pursuant to the plan.
- (b) When phased development has been approved through the Preliminary Development Plan, development of a subsequent phase shall not begin until all developed recreation facilities of the previous phase have been completed.

- (13) **FEES:** The fees for COASTAL RESORT OVERLAY ZONE applications should be calculated in the same way and at the same amount as those assessed for PLANNED DESTINATION RESORT applications as provided in Section 3.045 (12) (6) of this ordinance.

**SECTION 3.530 BEACH AND DUNE OVERLAY (BD)**

- (1) **PURPOSE:** The purpose of the Beach and Dune Overlay Zone is to regulate development and other activities in a manner that conserves, protects and, where appropriate, restores the natural resources, benefits, and values of coastal beach and dune areas, and reduces the hazard to human life and property from natural events or human-induced actions associated with these areas. The Overlay Zone establishes guidelines and criteria for the assessment of hazards resulting from beach and dune processes and development activities in beach and dune areas.
- (2) **APPLICABILITY:**
- (a) The BD zone applies to dune areas identified in the Goal 18 (Beaches and Dunes) Element of the Comprehensive Plan and indicated on the Tillamook County Zoning Map. These areas were identified based on information contained in the inventory of beach and dune landforms of Tillamook County, prepared by the Soil Conservation Service (SCS, now known as the Natural Resource Conservation Service) and published in their 1975 report, Beaches and Dunes of the Oregon Coast.
- (b) This overlay zone includes the following areas identified and defined in the report noted in (A) above and corresponding to the LCDC system as shown below:

<b>INVENTORY CLASSIFICATION</b>	<b>LCDC CLASSIFICATION</b>
Active Inland Dune (AID)	Dune, Active
Beach (B)	Beach
Dune Complex (DC)	Dune Complex
Younger Stabilized dunes (DS)	Dune, Younger Stabilized
Recently Stabilized Foredunes (FD)	Foredune, Conditionally Stable
Active Foredune (FDA)	Foredune, Active
Active Dune Hummocks (H)	Hummock, Active
Older Stabilized Dunes (ODS)	Dunes, Older Stabilized

Open Dune Sand (OS)	Dune, Active/Dune, Parabolic
Open Dune Sand Conditionally Stable (OSC)	Dune, Conditionally Stable
Wet Interdune (W)	Interdune (Note: This is not the same as a deflation plain)
Wet Deflation Plain (WDP)	Deflation Plain

(3) CATEGORIES: The results of the inventory can be summarized into four Beach and Dune categories:

CATEGORY (1) - DEVELOPED BEACHFRONT AREAS:

Active foredune areas where an Exception to Goal 18 allows development on the active foredune. These areas are described in Section 6.1 of the Goal 18 Element of the Comprehensive Plan.

CATEGORY (2) - FOREDUNE MANAGEMENT AREAS:

Active foredune areas where an Exception to Goal 18 allows development on the active foredune and an overall management plan is approved to allow foredune grading. The management plans for these areas are contained in Section 3.1 of the Goal 18 Element of the Comprehensive Plan.

CATEGORY (3) - RESOURCE PROTECTION AREAS

a. Beach and dune areas committed to resource protection or recreational use, including:

- (1) Beaches,
- (2) Active foredunes outside of those included in categories 1 and 2,
- (3) Conditionally stable foredunes which are subject to ocean undercutting or wave overtopping,
- (4) Interdune areas that are subject to ocean flooding, and
- (5) Deflation plains that are subject to ocean flooding

CATEGORY (4): STABILIZED BEACH AND DUNE AREAS

b. Beach and dune areas stabilized by vegetation, including:

- (1) Conditionally stable foredunes and other conditionally stable areas which are not subject to ocean undercutting or wave overtopping,



- (2) Younger or older stabilized dunes, and
  - (3) Coastal Terraces.
- (4) ADMINISTRATIVE PROVISIONS: Uses within the BD zone are subject to the provisions and standards of the underlying zone and of this Section. Where the provisions of this zone and the underlying zone conflict, the more restrictive provisions shall apply. Other overlay zone and regulatory criteria also may apply to uses within the BD zone: for example, the standards and criteria of the Shoreland Overlay Zone, the Estuary Zones, Estuary Development Standards, Development Requirements for Geologic Hazard Areas, Flood Hazard Overlay Zone, and Requirements for Protection of Water Quality and Streambank Stabilization as set forth in the Tillamook County Land Use Ordinance.

(A) PERMITTED USES

- (1) Residential, commercial and industrial development, subject to the standards in Section 3.530 (5) and the following provisions:
  - a. Such development is permitted only in areas classified as stabilized foredune or conditionally stable foredune not subject to ocean undercutting or wave overtopping, or in areas where an exception has been taken to the prohibitions contained in Goal 18 implementation requirement (2).
  - b. The placement of oceanfront structures in coastal or geologic hazards areas is subject to the requirements of Section 3.530 (5) of this ordinance which includes a requirement that the applicant submit a Dune Hazard Report. This report shall conform to the standards and criteria set forth in Section 3.530 (5) (B) Dune Hazard and Modified Dune Hazard Reports, and also those standards and criteria set forth in the Development Requirements for Geologic Hazard Areas where applicable. The department also will consider any other pertinent information, and may require additional studies and information from the applicant. Based upon this report and any other information, oceanfront structures may be denied or restricted with respect to their location and construction.
  - c. Oceanfront structures shall be located in a manner which aligns development parallel to the Oregon Coordinate Line (beach zone line) as much as possible, consistent with the purpose of this zone.
    - (1) The Oceanfront Setback Line (OSL) determines how close to the ocean any structure other than an approved structure for oceanfront protection or stabilization or for beach access may be located, subject to any additional setback necessary to meet site-specific hazard concerns.

The OSL is landward of the crest of the active foredune and is approximately parallel to the Oregon Coordinate Line. In all cases, the OSL is measured from the most oceanward point of a structure which is higher than three feet from existing grade.

The exact location of the OSL depends on the location of oceanfront buildings near the proposed structure and upon the location and orientation of the Oregon Coordinate Line. For purposes of determining the OSL, "building" shall be limited to a permanent residential, commercial or industrial structure attached to a fixed foundation, and located within 500 feet of the Oregon Coordinate Line. Accessory structures or RV's shall not be used in making this determination.

- (a) If there are legally constructed buildings within 300 feet of the exterior boundary of the subject property to both the north and the south, the OSL is a line drawn between the most oceanward point of any legally constructed portion of the nearest building to the north and the nearest building to the south.
  - (b) If there are legally constructed buildings within 300 feet to the north only or to the south only, the OSL is the average setback from the Oregon Coordinate Line of all such buildings.
  - (c) If there are no legally constructed buildings within 300 feet to either the north or south on oceanfront lots, the OSL is the average oceanfront setback from the Oregon Coordinate Line of the nearest two such existing buildings.
- (2) In cases where the above method of OSL determination requires development to be set back further from the Beach Zone line than is required by geologic hazards or protection of the ocean view of existing development on oceanfront property, the Planning Director may determine the setback distance which will apply. The intent of this provision is to limit this application of the Director's discretion to those rare and unusual circumstances where the above method of determining the OSL produces an unreasonable and inequitable result. In such instances, a public meeting for purposes of discussing the proposed setback shall be held and recorded. Notice shall be given to surrounding property owners and persons requesting notice pursuant to the notice requirements set forth in Article 10 of this ordinance.

Upon finding that the purposes of the landward yard setback will still be achieved, the Director also may reduce the landward yard setback to no

less than 10 feet. The Director's decision shall be made pursuant to the standards and criteria set forth in this section and any other standards or regulations which may apply.

- (3) Notwithstanding the above provisions, the Planning Director shall require a greater setback from the ocean where there is evidence of significant coastal, environmental, or geologic hazards as determined by a Dune Hazard Report submitted pursuant to Section 3.530(5) or other information available to the Department. In making this determination, the Hazard Report and the Director shall take into account evidence of recent, active beach erosion and whether the proposed development has been designed to adequately minimize and mitigate for any adverse environmental effects to the fullest extent required by law.
  - d. Residential building in active foredune areas shall be constructed so as to minimize the future need to remove inundating sand.
  - e. Building heights shall be measured from the existing grade. Only in Foredune Management Areas shall additional fill be allowed on an oceanfront lot, provided the applicant can demonstrate that a structure located on the existing grade will not provide an ocean view, and that the provisions of Section 3.510 (Flood Hazard Overlay Zone) are met.
2. Accessory structures for beach access, oceanfront protection or stabilization, on-site sewage disposal systems, or other uses which the Department determines are consistent with the purpose of this zone, subject to the standards of Section 3.530 (5) and the following provisions:
- a. The location of accessory structures will be determined in each case on the basis of site-specific information provided by a Dune Hazard Report, pursuant to the provisions of Section 3.530 (5) B.
  - b. Any accessory structure higher than three feet as measured from existing grade will be subject to the variance procedure and criteria set forth in Article VIII of the Tillamook County Land Use Ordinance.
  - c. Accessory structures for on-site subsurface sewage disposal systems may not be located oceanward of the primary structure on the subject property unless the following provisions are met:
    - (1) The primary structure on the subject property is an authorized residential, commercial, or industrial structure in existence as of October 28, 1992;

- (2) The accessory structure is required for repair of an existing disposal system, and there is no viable alternative system or location landward of the primary structure; and
- (3) The owner of the subject property submits an affidavit to the Department acknowledging that the property owner has been informed an oceanfront protective structure will not be authorized to protect the disposal system against erosion, and that the owner has sole responsibility for notifying any purchaser of this condition prior to sale of the property.

3. Private Beach Access

- a. Boardwalks and pedestrian footpaths to the beach shall be permitted in all dune areas, except where restricted in Foredune Management Areas.
- b. Off-road recreational vehicle use in dune areas shall be permitted in Sand Lake Recreational Area. Motor vehicles registered to operate on public highways and roads shall be allowed to travel on beaches where posted by the State Parks and Recreation Division. Operation of motor vehicles at other beach locations will require a Vehicle Permit (ORS 390.668) form State Parks.
- c. In Foredune Management Areas, where heavy use of public easements or rights of way destabilizes dune areas on adjoining private property, signs may be placed at landward entrance points to encourage the use of alternative public access points. Signs shall be subject to review by the Foredune Management Authority, Tillamook County, and the State Parks and Recreation Division.

4. Beachfront Protective Structures

- a. For the purposes of this requirement, "development" means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through the construction of streets and provision of utilities to the lot.

Lots or parcels where development existed as of January 1, 1977, are identified on the 1978 Oregon State Highway Ocean Shores aerial photographs on file in Tillamook County.

- b. Beachfront protective structures (riprap and other revetments) shall be allowed only in Developed Beachfront Areas and Foredune Management Areas, where "development" existed as of January 1, 1977, or where beachfront protective structures are authorized by an Exception to Goal 18.
- c. Proposals for beachfront protective structures shall demonstrate that:

1. The development is threatened by ocean erosion or flooding;
2. Non-structural solutions can not provide adequate protection;
3. The beachfront protective structure is place as far landward as possible;
4. Adverse impacts to adjoining properties are minimized by angling the north and south ends of the revetment into the bank to prevent flank erosion;
5. Public costs are minimized by placing all excess sand excavated during construction over and seaward of the revetment, by planting beachgrass on the sand-covered revetment, and by annually maintaining the revetment in such condition.
6. Existing public access is preserved; and
7. The following construction standards are met:
  - a. The revetment includes three components; an armor layer, a filter layer of graded stone (beneath armor layer), and a toe trench (seaward extension of revetment structure).
  - b. The revetment slope is constructed at a slope that is between 1:1 to 2:1.
  - c. The toe trench is constructed and excavated below the winter beach level or to the existing wet sand level during the time of construction.
  - d. Beachfront protective structures located seaward of the state beach zone line (ORS 390.770) are subject to the review and approval of the State Parks and Recreation Division. Because of some concurrent jurisdiction with the Division of State Land, the Parks Division includes the Division of State Lands in such beach permit reviews.
  - e. The State Parks and Recreation Division shall notify Tillamook County of emergency requests for beachfront protective structures. Written or verbal approval for emergency requests shall not be given until both the Parks and Recreation Division and the County have been consulted. Beachfront protective

structures placed for emergency purposes, shall be subject to the construction standards in Section 3.140 (17).

5. Beach Log Removal

- a. Drift log removal from beach areas seaward of the state beach zone line is subject to the approval of the State Parks and Recreation Division. The Parks Division shall notify the county of all requests for commercial driftwood removal from Non-State Park Beaches, including requests for emergency permits to remove driftwood.

B. USES AND ACTIVITIES PERMITTED CONDITIONALLY

1. Public Beach Access

- a. New public beach access points shall be allowed where identified in Tillamook County's Public Access Program to Coastal Shorelands, contained in the Goal 17 (Coastal Shorelands) Element of the Comprehensive Plan.

2. Sand Mining and Mineral Extraction

- a. Sand mining and mineral extraction shall only be permitted outside Developed Beachfront or Fore dune Management Areas.
- b. Sand mining shall be permitted in other beach and dune areas only where a geological investigation establishes that a historic surplus exists at the site, and the mining will not impair the beach and dune processes near the site, including ground water circulation and littoral drift. Sand mining operations seaward of the state beach zone line is subject to the approval by the State Parks and Recreation Division (ORS 390.725).

3. Dredged Material Disposal

- a. Shoreland disposal of dredged material shall be allowed only at acceptable sites identified in County Dredged Material Disposal Plans, contained in the Goal 16 Element of the Comprehensive Plan, unless the disposal is part of an approved ocean beach nourishment project.
- b. Beach nourishment projects shall be designed to either offset the effects of active erosion or to maintain a stable beach profile.
- c. Proposals for a beach nourishment project shall demonstrate that:

1. No new buildable upland is created;
2. The grain size and chemical characteristics of the material proposed for beach nourishment are substantially similar to the substrate in the beach nourishment area; and
3. Erosion of dredged material from the beach nourishment area does not result in adverse impacts either to significant shoreland habitat areas identified in the Goal 17 Element of the comprehensive Plan or to nearby estuarine areas.

#### C. SPECIAL ACTIVITIES PERMITTED WITH STANDARDS

##### 1. Foredune Breaching

- a. Definition: In areas subject to ocean flooding, foredune crest excavation one foot below the base flood elevation constitutes foredune breaching.
- b. Foredune breaching shall be allowed in recreational beach and dune areas solely to replenish sand supply to interdune recreational areas.
- c. In non-recreational areas, foredune breaching shall be allowed only on a temporary basis for emergency purposes, such as fire control and the alleviation of flood hazards or other disaster conditions. Foredunes may be breached for emergency vehicle access, only after it can be demonstrated that temporary access cannot be accomplished by the use of a fabric ground cover in combination with a crushed rock overlay. Such construction materials (rock, fencing, etc.) shall be removed following restoration of breached foredunes.
- d. Breached foredunes shall be restored and stabilized using permanent dune stabilization techniques, immediately following alleviation of emergency conditions. At a minimum, foredunes shall be restored to the pre-existing dune profile.
- e. Foredune breaching shall be allowed for the installation and maintenance of a fiber optic cable where an exception to Goal 18 is approved

##### 2. Foredune Grading

- a. Definition: Foredune grading means the alteration of a foredune, by mechanical redistribution or removal of sand, which results in a lower or more uniform dune

height. Foredune grading, unlike foredune breaching, does not increase the potential for ocean flooding at the site.

- b. Foredune grading shall be permitted only in Foredune Management Areas or in Developed Beachfront Areas. In these areas, grading shall be allowed only for siting a permitted use, for removing sand that is inundating a structure allowed by the underlying zone, or for dune restoration purposes where recommended in Foredune Management Plans. Sand graded from foredune lots shall be relocated either to the beach, to low and narrow dune areas on the site, or to alternative beach and dune areas as specified in an approved Foredune Management Plan.
- c. Foredune grading to remove inundating sand shall be permitted only if there is no feasible or reasonable alternative method of sand removal, or as specified in an approved Foredune Management Plan. Inundating sand shall be disposed of seaward of existing structures and distributed in a manner that shall not impact adjacent dwellings or adversely impact the public beach. Areas graded between November and April shall be replanted with beachgrass or other appropriate vegetation approved by the Department. If grading occurs between the months of May and October, approved temporary stabilization measures, such as mulching with ryegrass straw or matting shall be employed.

In Foredune Management Areas, grading to remove inundating sand may occur on a parcel by parcel basis. An Administrative Review of a Remedial Grading Plan is required, as described in e., below.

- d. Foredune grading to maintain ocean views shall be permitted only in Foredune Management Areas, according to Foredune Grading Plans included in the Goal 18 Element of the Comprehensive Plan.

Grading in foredune crest areas shall only be allowed where the dune elevation is more than four feet above the base flood elevation. At a minimum, Foredune Grading Plans shall describe standards for redistribution of graded sand by identifying low and narrow dune areas suitable for dune restoration, define the appropriate timing for grading actions, and outline requirements for future monitoring.

- e. All foredune grading and other activities in foredune management areas may only be conducted as part of an approved grading plan developed as described below. A grading plan shall contain the following elements:
  - 1. Description of the proposed work, including location and timing of activities, and equipment to be used;
  - 2. Plan view and elevations of existing conditions in the grading area;



3. Plan view and elevations of proposed modifications in the grading area; and
4. Identity of the individual(s) responsible for supervising the project, and for conducting monitoring and maintenance activities.

All grading plans shall cover all or at least a 500 foot portion of a Management Unit plan contained in the Management Strategy and shall have approval of 60% of the property owners in the area covered, except for remedial grading which may be approved for a single parcel. The grading plan shall be submitted to the County for administrative review. Administrative Review of the plan shall be confined to determining consistency with the approved Fore dune Management Plan. A review fee as determined by the County shall accompany the plan. The approval may be revoked and citations issued for noncompliance with the approval.

3. Sand Stabilization

- a. Definition: Sand Stabilization is a program to stabilize a dune area against the effects of excessive wind or water erosion, by either planting appropriate vegetation alone or in conjunction with the placement of sand fences.
- b. Sand fences for the creation or restoration of foredunes shall be permitted in Fore dune Management Areas according to specifications in Fore dune Management Plans.
- c. In other dune areas, proposals for sand fences shall demonstrate that:
  1. Sand fences will be located landward of the state zone line.
  2. The sand fences will be orientated parallel to the beach and located approximately 30 feet apart.
  3. Existing public access is preserved.
  4. Sand fences proposed seaward of the state zone line shall meet the approval of the State Parks and Recreation Division.
- d. In residential yards, fire resistant vegetation, such as purple beach pea, is recommended as a preferred vegetation in order to minimize fire hazards.

(5) **SITE DEVELOPMENT REQUIREMENTS:** All development within the Beach and Dune Overlay zone shall comply with the following standards and requirements.

A. General Development Criteria

1. Groundwater and Deflation Plain Areas:

- a. No filling or draining of deflation plain wetlands identified as significant wetlands in the Goal 17 Element of the Comprehensive Plan shall be allowed.
- b. The filling or draining of other deflation plains may be permissible if it can be demonstrated that the activity will not lead to the loss of stabilizing vegetation, a deterioration of water quality, or the intrusion of salt water into water supplies.
- c. Prior to the approval of development using groundwater resources, a hydraulic analysis report shall demonstrate that groundwater withdrawal will not lead to the loss of stabilizing vegetation, a deterioration of water quality, or the intrusion of salt water into water supplies.

2. Land Grading Practices:

- a. No excavations for residential and commercial site development shall be done earlier than thirty (30) days prior to the start of construction. Following the completion of major construction, excavated areas shall be stabilized. At a minimum, the site shall be stabilized within nine (9) months of the termination of major construction.
- b. All sidehill roads and driveways shall be built entirely in cut areas, unless adequate structural support is provided for fill.
- c. Excavated, filled or graded slopes in dune areas shall not exceed 30 degrees in slope. All surplus excavated material shall be removed off-site to a location where it will not constitute a hazard.
- d. Land grading proposals shall demonstrate that the removal of vegetation shall be limited to what is necessary to place buildings, or to install utilities.

3. Drainage and Erosion:

- a. Temporary measures shall be taken to control runoff and erosion of soils during all phases of construction. Storm water (roof and footing drains) shall be intercepted by closed conduits and directed into adjacent drainageways with adequate capacity to prevent flooding of adjacent or downstream properties.
- b. Plans for temporary and permanent stabilization programs, and the planned maintenance of restabilized areas, shall be provided by the applicant for areas

disturbed during site preparation. At a minimum, areas proposed for removal of native vegetation shall be identified on building plans and if approved, they shall be replanted within nine (9) months following the completion of major construction.

B. Dune Hazard and Modified Dune Hazard Reports

1. A Dune Hazard Report shall be required prior to the approval of subdivisions and partitions governed by the Land Division Ordinance, planned developments, mixed use developments, coast resorts, sand mining, and building permits, with the following exceptions:
  - a. Building permits for accessory structures;
  - b. Development in older stabilized dunes, unless the area is a locally known hazard area based on evidence of past occurrences;
  - c. Building permits for mobile home placement, single-family residential and duplex structures in Developed Beachfront Areas, if the structure will be located in AO, B, C, or D FIRM flood hazard zone. Where there is evidence of recent, active erosion at or near the proposed building site, a Modified Dune Hazard Report shall be required prior to issuance of building permits.
2. Modified Dune Hazard Report
  - a. The purpose of a Modified Dune Hazard Report is to provide findings and conclusions that a residential structure located in or near a zone of recent, active erosion will be reasonably protected from the described hazard for the lifetime of the structure.
  - b. Evidence of recent, active beach or dune erosion can include information provided by the following:
    1. Permits for shoreline stabilization structures that have been issued in the area within the past 5 years, or;
    2. Results of site investigation by County, State Parks and Recreation, or Division of State Lands representatives.
  - c. The Report shall present findings on the average retreat of the shoreline, using either the line of established upland shore vegetation or a similar persistent geomorphic coastal feature that can be identified on aerial photographs. The

Oregon Department of Transportation Ocean Shores aeriels, or other similar historic records, are suitable for calculating the average rate of retreat of the shoreline.

3. Dune Hazards Report

The Dune Hazards Report shall include the results of a preliminary site investigation and where recommended in the preliminary report, a detailed site investigation.

a. Preliminary Site Investigation

1. The purpose of the Preliminary Site Report is to identify and describe existing or potential hazards in areas proposed for development. The report shall be based on site inspections conducted by a qualified person, such as a geologist, engineering geologist, soil scientist, civil engineer, or coastal oceanographer.
2. The preliminary Site Report shall either recommend that a more detailed site investigation report is needed to fully disclose the nature of on-site hazards or it shall conclude that known hazards were adequately investigated, and recommend development standards for buildable areas.
3. The Preliminary Site Report shall include plan diagrams of the general area, including legal descriptions and property boundaries, and geographic information as required below:
  - a. Identification of each dune landform (according to either the Goal 18 or SCS system of classification);
  - b. History of dune stabilization in the area;
  - c. History of erosion or accretion in the area, including long-term trends;
  - d. General topography including spot elevations;
  - e. Base flood elevation and areas subject to flooding, including flood areas shown on the NFIP maps of Tillamook County;
  - f. Location of perennial streams or springs in the vicinity;
  - g. Location of the state beach zone line;

- h. Location of beachfront protective structures in the vicinity;
- i. Elevation and width of the foredune crest.
- j. Land grading practices, including standards for cuts and fills and the proposed use and placement of excavated material.

Elevations shall relate to the National Geodetic Vertical Datum of 1929, NGVD.

b. Detailed Site Investigation

- 1. The purpose of a Detailed Site Investigation is to fully describe the extent and severity of identified hazards. Such investigation shall be required either where recommended in a Preliminary Site Report or when building plans, including grading plans for site preparation, were not available for review as part of the preliminary site investigation.

The Detailed Site Report shall be based on site inspections or other available information and shall be prepared by a qualified person, such as a registered civil engineer or engineering geologist.

- 2. The report of a Detailed Site Investigation shall recommend development standards to assure that proposed alterations and structures are properly designed so as to avoid or recognize hazards described in the preliminary report or as a result of separate investigations. The report shall include standards for:

- a. Development density and design;
- b. Location and design of roads and driveways;
- c. Special foundation design (for example spread footings with post and piers), if required;
- d. Management of storm water runoff during and after construction.

c. Summary Findings and Conclusions. The Preliminary and Detailed Site Reports shall include the following summary findings and conclusion:

- 1. The proposed use and the hazards it might cause to life, property, and the natural environment;

2. The proposed use is reasonably protected from the described hazards for the lifetime of the structure.
3. Measures necessary to protect the surrounding area from any hazards that are a result of the proposed development;
4. Periodic monitoring necessary to ensure recommended development standards are implemented or that are necessary for the long-term success of the development.

(6) PERMIT PROCEDURES:

- A. A County Development Permit shall be obtained prior to sand mining, beach nourishment, foredune grading, or proposals for beachfront protective structures and sand fencing within the Beach and Dune Overlay Zone.
- B. Applications shall be made to the Planning Director, Department of Community Development, on forms prescribed by Tillamook County.
- C. An appeal of the ruling by the planning director regarding a permit requirement of this section may be made to the Tillamook County Planning Commission pursuant to Article 10.

SECTION 3.545: SHORELAND OVERLAY (SH)

(1) PURPOSE: The purpose of the SHORELAND OVERLAY ZONE is to:

- (a) Provide for development, restoration, conservation of protection of coastal shorelands in a manner which is compatible with the resources and benefits of coastal shorelands and adjacent coastal water bodies.
- (b) Protect identified priority dredged material disposal and mitigation sites from uses which would prevent their ultimate use for dredged material disposal or mitigation;

(2) AREAS INCLUDED: The SHORELAND OVERLAY ZONE is designated on the Tillamook County Zoning Maps. Included in this zone are:

- (a) Lands contiguous with the ocean estuaries and coastal lakes that contain the following features shown in the Coastal Shoreland Element of the Comprehensive Plan:
  - (1) Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or a coastal lake.

- (2) Adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body.
  - (3) Riparian vegetation or other natural or man-made riparian resources necessary for shoreline stabilization or water quality maintenance.
  - (4) Significant shoreland and wetland biological habitats.
  - (5) Areas necessary for water-dependent and water-related uses.
  - (6) Shoreland areas of exceptional aesthetic or scenic quality.
  - (7) Coastal headlands.
- (b) Priority Dredged Material Disposal (DMD-1) and Mitigation (MIT-1) sites.
- (3) Categories of Coastal Shorelands: There are two categories of coastal shorelands included in the SHORELAND OVERLAY ZONE.
- (a) Rural Shorelands are the first category of Coastal Shorelands. Rural Shorelands are those areas that are outside an urban growth boundary and do not fall within the second category of Coastal Shorelands.
  - (b) The second category are those shorelands identified in the Estuarine Element and Coastal Shorelands Element of the Comprehensive Plan as:
    - (1) Significant shoreland and wetland biological habitat.
    - (2) Exceptional aesthetic or scenic resources and coastal headlands.
    - (3) Priority dredged material disposal and priority mitigation sites.
    - (4) Beaches, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping and interdune areas subject to ocean flooding.
- (4) USES PERMITTED: Uses authorized by the underlying zone as outright or conditional uses are permitted, except at locations identified in (3) above.
- (a) Rural Shorelands in General:
    - (1) Rural shorelands uses are limited to:
      - (a) Farm uses,

- (b) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act,
- (c) Aquaculture,
- (d) Water-dependent recreational, industrial and commercial uses,
- (e) Replacement, repair or improvement of existing state park facilities,
- (f) Other uses are allowed only upon a finding by the County that such uses satisfy a need which cannot be accommodated at any alternative upland location, except in the following cases:
  - (1) In built and committed exception shoreland areas, where all uses permitted in the underlying zone are permitted, and
  - (2) In the F-1, F, SFW-20, and RM zones, where the Other Uses listed in Sections 8.4.e, 8.4.f, 8.4.g and 8.5.e, respectively of the Coastal Shoreland Element, are permitted, if no suitable non-shoreland locations exist on the parcel.

(b) Significant Shoreland and Wetland Biological Habitats (Identified in Section 3.2 of the Coastal Shorelands Element of the Comprehensive Plan).

- (1) Only low intensity uses and developments such as hiking trails and platforms for wildlife viewing or similar types of educational, scientific or recreational uses may be permitted providing that such uses and developments will not act as a barrier to or result in major disturbances or displacement of fish or wildlife species. Maintenance of existing drainageways and drainage structures is permitted.
- (2) In significant wetland biological habitats, no development is allowed except for the placement of a floating or pile supported dock or a boat ramp using less than 50 cubic yards of fill to allow boat access to a coastal lake providing that such developments are placed to minimize impacts on wetland habitats.

Where dwellings are permitted in the underlying zone, the density of allowed development shall be determined by the size of the entire parcel providing the allowed development will not result in a major impact to adjacent significant wetland habitat.

- (3) Dredging less than 50 cubic yards from a coastal lake to provide access to a public boat ramp or a public boat dock is allowed, subject to the approval of Tillamook County.



- (4) Within the Neskowin Community Growth Boundary, only the following uses are allowed within significant shoreland and wetland biological habitat and within 25 feet of the upland edge of such habitat:
  - (a) Low-impact recreational uses consistent with Section 3.545 (4)(b)(1);
  - (b) Existing park or golf course facilities which exist as of March 1, 1999, and maintenance of existing facilities. Improvements and additions, provided adverse impacts to shoreland and wetland habitat are not measurably increased, or are mitigated.
  - (c) Repair, replacement or maintenance of existing structures and drainage facilities, provided that size or capacity is not increased (unless necessary for improved fish passage);
  - (d) Bank stabilization;
  - (e) Vegetation management of non-native plants;
  - (f) maintenance and improvement of stream corridors for storm drainage purposes or for fish and wildlife enhancement;
  - (g) Stormwater discharge;
- (5) The 25-foot setback requirement of Section 3.545 (4)(b)(4) may be reduced through the provisions of Article VIII. In addition to the standard variance criteria, the variance request shall meet the following criterion: Encroachment on the shoreland or wetland biological habitat, along with any proposed mitigation, will not have negative impacts on the natural functions and values of the resource area.
- (c) Exceptional Aesthetic or Scenic Resources and coastal Headlands (identified in Section 3.2 of the coastal Shorelands Element of the Comprehensive Plan).
  - (1) Rock quarries, mining and mineral extraction, industrial uses, communication and energy generation towers other than wind energy conversion systems, power transmission lines, landfills and airports are not permitted.
  - (2) In the Cascade Head Scenic Research Area, and the Oswald West, Nahalem Bay, Cape Meares, Cape Lookout, Cape Kiwanda and Nestucca Spit State Parks, forest uses shall be limited to those allowed by the respective management plans for these areas. In other exceptional aesthetic or scenic resource areas or on coastal headlands, forest uses are limited to fire, insect and disease control, reforestation and hazard tree removal as long as the resource remains substantially unaltered.

- (3) Buildings may be allowed only if they and the land preparation which precedes them preserves the natural topography and unique scenic features and does not substantially alter the scenic character or the natural vegetative cover of the area.
- (4) Signs shall be constructed of wood and shall be limited to interpretive and directional signs having an area no greater than 16 square feet.
- (e) Priority Dredged Material Disposal and Priority Mitigation sites (identified by the symbols DMD-1 and MIT-1 respectively on the Estuary Zoning Maps).
  - (1) Uses shall not preclude the ultimate use of the site as a dredged material disposal or mitigation site.
  - (2) Structures or other improvements shall be of a temporary nature, easily moved or of low value, so that demolition or removal of these structures can be easily accomplished in order to accommodate dredged material disposal or mitigation. On priority mitigation sites only structures or other improvements which can be completely removed from the site are allowed.
  - (3) Fill is permitted only where it is necessary to maintain or repair existing structures and facilities such as dikes. In priority mitigation sites there shall be no land grading which will reduce the potential of using the site for mitigation.
- (5) **CONDITIONAL USES:**
  - (a) Aquatic and shoreland disposal of dredged material shall be allowed only at approved sites listed in the Comprehensive Plan, unless the disposal is part of an approved fill project. Dredged material disposal is subject to the standards of Section 3.140 (4).
  - (b) Mitigation actions shall be allowed only at approved sites listed in the Comprehensive Plan, unless the mitigation is part of an approved dredge or fill project. Mitigation actions are subject to the standards of Section 3.140 (12).
  - (c) Estuarine restoration actions (as defined in Section 6.12 of the Estuarine Resources Element of the Comprehensive Plan) shall be allowed only at approved sites listed in the Comprehensive Plan, unless the restoration action is approved as part of a mitigation project. Restoration actions are subject to the standards of Section 3.140 (15).
- (6) **STANDARDS:** Uses within the **SHORELAND OVERLAY ZONE** are subject to the provisions and standards of the underlying zone and of this section. Where the standards of the **SHORELANDS OVERLAY ZONE** and the underlying zone conflict, the more restrictive provisions shall apply.

- (a) Riparian vegetation shall be protected and retained according to the provisions outlined in Section 4.140, REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION.
  - (b) Development in flood hazard areas shall meet the requirements of Section 3.510, FLOOD HAZARD OVERLAY ZONE.
  - (c) Development in beach and dune and other geologic hazard areas shall meet the requirements of Section 3.085, BEACH AND DUNE OVERLAY ZONE and Section 4.130, DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS.
  - (d) Forestry operations shall be consistent with the protection of the natural values of major marshes, significant wildlife habitat and riparian vegetation. A forest operation for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act and any supplemental agreements entered into by the Oregon State Board of Forestry and the Oregon State Fish and Wildlife Commission.
  - (e) The productivity of resource land on Rural Shorelands shall be considered when determining the location of "Other Uses" within a given land parcel in the F-1, F, and SFW-20 zones. "Other Uses" within these zones shall be located so that the productivity of resource land is maintained.
  - (f) Existing public ownerships, rights of way and similar public easements in coastal shorelands which provide access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Rights of way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.
- (7) ADMINISTRATIVE PROVISIONS:
- (a) All applications for developments in the SHORELANDS OVERLAY ZONE shall be reviewed for compliance with the requirements of the underlying zone and the requirements of the SHORELANDS OVERLAY ZONE.
  - (b) All applications shall be accompanied by a plot plan identifying the location of the parcel and its boundaries, the location of existing uses on the property, the proposed location of developments and uses and the location of any waterbodies, watercourses and wetlands in the vicinity of the proposed developments. Developments involving contiguous parcels under separate ownerships may be considered in a single application, provided that all affected property owners sign the final application.
  - (c) In the following instances, public agencies shall be notified of applications for development in the SHORELANDS OVERLAY ZONE.

- (1) Significant Wetland Biological Habitats: The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U. S. Fish and Wildlife Service, Environmental Protection Agency and U. S. Army Corps of Engineers shall be notified.
  - (2) Other Significant Shoreland Habitats: The Oregon Department of Fish and Wildlife, Oregon Department of Land Conservation and Development, and U. S. Fish and Wildlife Services shall be notified.
  - (3) Coastal Headlands and Exceptional Aesthetic and Scenic Resources: The Oregon Parks and Recreation Division and Oregon Department of Land Conservation and Development shall be notified.
  - (4) Priority Dredged Material Disposal and Mitigation Sites: The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Department of Economic Development, U. S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U. S. Army Corps of Engineers and the locally affected Port District shall be notified.
  - (5) Public Access Projects: The Oregon Parks and Recreation Division and the Oregon Department of Land Conservation and Development shall be notified.
- (d) Notification Procedure
- (1) If a development application involves regulated activities (for definition see Section 3.120), notice will be mailed within 7 days of County receipt of the State or Federal permit notice. The Planning Department shall consider any comments received no later than seven days before the closing date for comments on the State or Federal permit notice.
  - (2) If a development application involves a conditional use or a variance, notification procedures shall be those of Articles VI or VIII respectively.
  - (3) In all other instances, notice will be mailed within seven days of the receipt of a completed application. The Planning Department shall consider all comments received within ten days after notice has been mailed.

#### SECTION 3.550: FRESHWATER WETLANDS OVERLAY (FW)

- (1) PURPOSE AND AREAS INCLUDED: The purpose of this zone is to protect significant areas of freshwater wetlands, marshes and swamps from filling, drainage or other alteration which would destroy or reduce their biological value. Areas included in this zone are:

- (a) Significant Goal 5 Wetlands: wetlands identified as “significant” in the Goal 5 Element of the Comprehensive Plan;
- (b) Notification Wetlands: wetlands shown on the Statewide Wetland Inventory (discussed in the Goal 5 Element of the Comprehensive Plan).

When required, the verification of zone boundaries shall be carried out in conjunction with the property owner and the Oregon Division of State Lands.

(2) USES PERMITTED:

(a) Significant Goal 5 Wetlands:

- (1) A forest operation for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act and any supplemental agreements entered into by the Oregon State Board of Forestry and the Oregon State Fish and Wildlife Commission.
- (2) Other uses and developments permitted outright or conditionally in the underlying zone shall be permitted if they will not result in filling, drainage, removal of vegetation or other alteration which would destroy or reduce the biological value of the wetland. Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands shall be allowed where such an action has been fully coordinated with the Oregon Department of Fish and Wildlife and the Tillamook County Soil and Water Conservation District. Existing drainage ditches may be cleared to original specifications without review.

(b) Notification Wetlands:

- (1) uses permitted outright or conditionally in the underlying zone shall be permitted subject to approval by the Oregon Division of State Lands.

(3) STANDARDS: The following standard shall be met in addition to the standards of the underlying zone.

- (a) Where dwellings are permitted in the underlying zone, the density of allowed development shall be determined by the size of the entire parcel.
- (b) Development activities, permits, and land-use decisions affecting a Notification Wetland require notification of the Division of State Lands, and are allowed only upon compliance with any requirements of that agency. The applicant shall be responsible for obtaining approval from the Division of State Lands for activities on Notification Wetlands.

SECTION 3.555: MINERAL AND AGGREGATE OVERLAY (MA)

- (1) Purpose
- (2) Definitions
- (3) Overlay Zone Areas
- (4) Procedure for Applying the Overlay Zone
- (5) Extraction Area - Allowed Uses
- (6) Exemptions
- (7) Extraction Area - Development Standards
- (8) Site Reclamation
- (9) Site Plan Review
- (10) Impact Area - Uses and Development Standards
- (11) Termination of the Mineral and Aggregate Overlay

(1) PURPOSE

The purpose and intent of the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE is:

- (A) To provide a mechanism to identify and protect significant mineral and aggregate resource sites;
- (B) To allow the development and use of mineral and aggregate resources subject to uniform operating standards;
- (C) To balance and resolve conflicts between surface mining activities and activities on surrounding land;

(2) DEFINITIONS

**AGGREGATE RESOURCES:** The rock, gravel, sand and other similar resources that are used for the construction of roads, parking areas, walkways and structures.

**CONFLICTING USE:** A use authorized in the underlying zone and located within the impact area which, if allowed, could adversely affect operations at a significant mineral and aggregate resource site. For the purposes of this chapter, another Goal 5 resource located within the impact area may be considered a conflicting use if that resource could be adversely affected by mining or processing activities, or force a change in mining or processing at the site.

**ESEE ANALYSIS:** The analysis of Economic, Social, Environmental and Energy consequences of;

- (a) Allowing mining on a significant site, and

- (b) Allowing conflicting uses to displace mining on a significant site. Based on the results of the ESEE analysis, the County shall determine a level of protection for the resource, and implement a program to achieve the designated level of protection.

**EXTRACTION AREA:** The area of identified significant mineral and aggregate reserves in which mining and processing are permitted.

**GOAL 5 PROCESS:** The planning process required by Oregon Administrative Rules (OAR) Chapter 660, Division to implement the requirements of Statewide Planning Goal 5. This process includes the identification of conflicting uses, the analysis of economic, social, environmental and energy consequences of conflicting uses, the determination on the level of protection to be afforded a resource site, and the selection of a program to protect significant sites.

**IMPACT AREA:** The area surrounding the extraction area in which conflicting uses occur and in which ESEE consequences are analyzed, and the establishment of new conflicting uses is regulated.

**MINERAL RESOURCES:** The metallic, industrial and energy resources such as silver, copper, lead, zinc, clay, coal and natural gas.

**MINING:** All or any part of the process of extracting mineral or aggregate products. Mining does not include:

- (a) Excavations conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of constructing or maintaining roads to a mine site;
- (b) Excavation or grading conducted in the process of farm or cemetery operations;
- (c) Excavation or grading conducted within a road right-of-way or other easement for the primary purpose of road construction, reconstruction or maintenance; or
- (d) Removal, for compensation, of materials resulting from on-site construction for which a development permit and a construction time schedule have been approved by the County.

**NOISE OR DUST SENSITIVE USE:** A conflicting use which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. Forest uses and farm uses are not noise or dust sensitive uses unless so determined through the Goal 5 process to the effect that they satisfy this definition in more than an incidental manner.

**PROCESSING:** The washing, crushing, milling, sorting, handling, and conveying of mineral and aggregate resources, including the batching and blending of such resources into asphalt or portland cement concrete.

**RESTRICTIVE COVENANT:** An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel may be restricted in some fashion by mining occurring on another parcel, not to object to the terms of a permit used by a local government, state agency or federal agency. The restrictive covenant shall be recorded in the real property records of the County and shall run with the land, and is binding upon the heirs and successors of the parties. The covenant shall state that obligations imposed by the covenant shall be released when the site has been mined and reclamation has been completed.

**SCREENED USES:**

- (a) Conflicting uses identified through the Goal 5 process, and
- (b) Scenic viewpoints or other areas designated as significant Goal 5 resources.

**SIGNIFICANT SITE:** A site containing either significant aggregate resources or significant mineral resources.

- (A) A SIGNIFICANT AGGREGATE RESOURCE site is a site that contains aggregate or stone material which meet modified Oregon Department of Transportation specifications for construction grade material, which are the three materials tests of abrasion (OSHD TM 211) with loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating aggregate or stone materials for road construction and maintenance.
- (B) A SIGNIFICANT MINERAL RESOURCE site is a site that contains non-aggregate minerals that have been determined to be significant based upon an analysis and findings concerning the commercial or industrial use of the resource and the relative quality and abundance of the resource in Tillamook County.

**SITE PLAN:** A County permit either;

- (a) To begin mining in the extraction area, or
- (b) To begin a use in the impact area.

The SITE PLAN shall include such surveys, maps, diagrams, narratives and other materials as may be necessary to describe the placement of and use of all improvements, equipment, fixtures, mitigation measures, landscaping, and vehicles on site.

(3) OVERLAY ZONE AREAS



The MINERAL AND AGGREGATE OVERLAY ZONE comprises two areas, the Extraction Area and the Impact Area. Neither element of the overlay, the Extraction Area or the Impact Area, shall be applied independently by the County to land within another county, or within a city or its urban growth boundary.

(A) **EXTRACTION AREA:** The Extraction Area shall be applied to significant sites where mining is permitted. This area may consist of one or more parcels or portions of parcels, and may be applied to contiguous properties under different ownership. The Extraction Area boundary may be modified through the Goal 5 process to reduce conflicts with uses existing when the overlay is applied. The Extraction Area shall be identified on the zoning map.

(B) **IMPACT AREA:** The Impact Area may be applied to parcels or portions of parcels adjacent to and within 750 feet of the Extraction area boundary unless a different sized impact area is identified in the Goal 5 process. The Impact Area shall be identified on the zoning map.

(4) **PROCEDURE FOR APPLYING THE OVERLAY ZONE**

(A) **DETERMINATION OF A SIGNIFICANT SITE:** The County shall analyze information about the locations, quality and quantity of mineral and aggregate deposits. Information necessary to demonstrate the significance of a resource shall include:

- (1) A survey, map, tax lot map, or other legal description that identifies the location and perimeter of the mineral and aggregate resource with reasonable particularity; and
- (2) Information demonstrating that the resource meets or can meet applicable quality specifications for the intended use(s). Information may consist of laboratory test data or the determination of a geologist, engineer, or other qualified person; and
- (3) Information demonstrating the quantity of the resource as determined by exploratory test data, or other calculations compiled and attested to by a geologist, engineer, or other qualified person.

(B) **PLACEMENT ON THE INVENTORY:** Based on the analysis of information about the location, quality and quantity of the mineral and aggregate resource, the County shall determine the inventory status of the resource site. Each site considered by the County shall be placed on one of three inventories based on the following criteria:

- (1) If the resource site meets the definition of an significant site, the County shall include the site on an inventory of "Significant Sites"; or
- (2) If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of

"Potential Sites". Sites shall remain on the "Potential Sites" inventory until information is available to determine whether or not the site is significant; or

- (3) If the resource site does not meet the definition of a significant site, the County shall include the site on an inventory of "Other Sites".
- (C) IDENTIFY THE IMPACT AREA: For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area and all lands within 750 feet of the Extraction Area boundary, unless the Impact Area is modified through the Goal 5 process.
- (D) IDENTIFY CONFLICTING USES: For each significant site placed on the inventory, conflicting uses shall be identified.
- (1) The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).
  - (2) If no conflicting uses are identified, the Extraction Area portion of the MINERAL AND AGGREGATE OVERLAY ZONE shall be applied to the resource site. The Impact Area overlay shall not be applied.
- (E) ESEE ANALYSIS: For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.
- (1) The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.
  - (2) The ESEE analysis shall be limited to uses and Goal 5 resources identified pursuant to Subsection (D) of this Section.
  - (3) The ESEE analysis shall consider opportunities to avoid and mitigate conflicts. The analysis shall examine:
    - (a) The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining and processing;
    - (b) The consequences of allowing mining and processing fully, notwithstanding the possible effects on conflicting uses;
    - (c) The consequences of protecting conflicting Goal 5 resources;
    - (d) The applicability and requirements of other Statewide Planning Goals, the County Comprehensive Plan or provisions of the County Zoning Ordinance.

- (F) **DECISION ON PROGRAM TO PROVIDE GOAL 5 PROTECTION:** Based on the ESEE analysis, the County shall determine the amount of protection to be given each significant site. Each determination shall be incorporated into the Comprehensive Plan, and reflected on the County zoning maps. The County shall make one of the following determinations:
- (1) Protect the site fully and allow mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE. Development of the significant site shall be governed by the standards in Section 3.555 (7). As part of the final decision, the County shall adopt site-specific policies specifying the planned use of the site following reclamation and prohibiting the establishment of conflicting uses within the Impact Area.
  - (2) Balance protection of the significant site and conflicting uses and allow mineral and aggregate mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Section 3.555 (7) and other site-specific requirements developed through the Goal 5 process shall govern mining at the significant site. Section 3.555 (10) and any other site-specific requirements developed through the Goal 5 process shall govern development of conflicting uses within the Impact Area.
  - (3) Allow conflicting uses fully, even though this may impair mining and processing. To implement this decision the County shall not apply the MINERAL AND AGGREGATE OVERLAY ZONE, and shall not include the site on the inventory of significant sites. The site will not be protected from conflicting uses.

- (G) **DESIGNATION OF THE MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS:** The MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS may be applied through the initial legislative planning process, the plan update process or through an individual application for a Comprehensive Plan amendment and zone change. The boundary of the Overlay Zone Area shall be all property within the Mineral and Aggregate Resources Extraction and Impact Areas.

Individual applications shall be initiated by the petition of the owner, contract purchaser, or option holder of property comprising the Extraction Area.

- (H) **SITE PLAN APPROVAL:** The operator of a Significant Site may seek approval of a Site Plan as part of the Goal 5 Process. The standards for Site Plan approval are state in Section 3.555 (9). If the operator chooses to delay application for a Site Plan until some later time, the procedure shall be as set forth in Section 3.555(9).

- (5) **EXTRACTION AREA ALLOWED USES**

- (A) Uses permitted either outright or conditionally in the underlying zone may be allowed subject to the underlying zone criteria, any requirements adopted as part of the Goal 5 process, and the following criteria:
  - (1) Permitted uses shall be reviewed according to the site plan review procedure;
  - (2) Noise sensitive uses as defined in Section 3.555 (2) or those uses determined through the Goal 5 process to be conflicting uses may be permitted as conditional uses;
  - (3) Applications for conditional uses within the Extraction Area shall be reviewed against the approval criteria of Section 3.555 (10).
  
- (B) The following uses shall be permitted subject to the review standards of Section 3.555 (7) and any requirements adopted as part of the Goal 5 process:
  - (1) Mining;
  - (2) Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;
  - (3) Stockpiling of mineral and aggregate materials extracted and processed onsite;
  - (4) Sale of mineral and aggregate products extracted and processed onsite;
  - (5) Storage of equipment or vehicles used in conduction with onsite mining or processing;
  - (6) Buildings, structures and activities necessary and accessory to development or reclamation of a mineral or aggregate resource.

(6) EXEMPTIONS

The following mining activities are exempt from the provisions of Section 3.555 (7). Operators or land owners claiming any of these exemptions have the burden of establishing the validity of the exemption.

- (A) Pre-existing or nonconforming activities subject to Article VII of this Ordinance;
- (B) In exclusive farm use zones, mining less than 1,000 cubic yards of material or excavation preparatory to mining of an area of less than one acre;
- (C) In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until such time that mining affects five or more acres;

(D) Mining and processing auxiliary to forest practices.

(7) EXTRACTION AREA DEVELOPMENT STANDARDS

The following standards apply to mining and processing unless other standards are adopted in the Goal 5 process. Prior to the commencement of mining, the applicant shall demonstrate that the following standards or replacement standards adopted in the Goal 5 process are met or can be met by a specified date.

(A) ACCESS:

- (1) Onsite roads used in mining, and access roads from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards:
  - (a) All access road intersections with public roads shall comply with the road approach regulations of the agency with jurisdiction for the public road;
  - (b) All onsite roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control, ambient air quality and water quality are met or can be met by a specified date;
  - (c) Effective dust control measures shall be applied to all onsite roads within the Extraction Area within 250 feet of a noise or dust sensitive use existing on the effective date that the overlay is applied.
- (2) Improvements to public roads outside of the Extraction Area may only be required as necessary to correct safety deficiencies and to provide effective dust control. Requirements for road improvements shall be specified in the Goal 5 program for the site, and shall be based upon the ESEE analysis.

(B) SCREENING:

- (1) The mining activities listed in Subsection (B) (2) of this Section shall be obscured from view of screened uses, unless one of the exceptions in Subsection (B) (4) of this Section applies. Screening shall be accomplished in a manner consistent with Subsection (B) (3) of this Section.
- (2) Mining Activities to be Screened.
  - (a) All excavated areas except:
    - (1) Those areas where reclamation is being performed,

- (2) Internal onsite roads existing on the effective date of this ordinance,
  - (3) New roads approved as part of the site plan review,
  - (4) Material excavated to create berms, and
  - (5) Material excavated to change the level of the mine site to an elevation which provides natural screening;
- (b) All processing equipment;
  - (c) All equipment stored on the site.
- (3) Types of Screening.
- (a) Natural Screening. Existing vegetation or other landscape features which are located within the boundaries of the Extraction Area, and which obscure the view of mining activities from screened uses, shall be preserved and maintained consistent with the development and use of the resource.
  - (b) Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees and shall not be required to exceed a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.
- (4) Exceptions. Supplied screening shall not be required when and to the extent that any of the following circumstances exist:
- (a) The natural topography of the site provides screening to obscure mining activities from screened uses;
  - (b) Supplied screening cannot obscure mining activities from screened uses due to local topography;
  - (c) The applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions;
  - (d) Mining activities that are visible from screened used will be completed or removed, and reclaimed within 6 months; or

- (e) An alternate program or technique to achieve screening is developed, and determined to be at least as effective as the natural or supplied screening described above.
  
- (C) AIR QUALITY: The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards.
  
- (D) STREAMS AND DRAINAGE: Mining abutting a lake or other perennial body of water, shall be subject to the riparian protection measures contained in Section 4.140 of this ordinance unless mining is allowed within this area as part of the Goal 5 process.
  
- (E) FLOOD PLAIN: Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of Section 3.510 of this ordinance.
  
- (F) NOISE: Noise created by mining shall not exceed applicable DEQ noise control standards. Compliance with this standard can be demonstrated by the report of a certified engineer, and compliance methods may include use of existing topography, equipment modifications, equipment siting or use of supplied berms.
  
- (G) HOURS OF OPERATION:
  - (1) Mining and processing are restricted to the hours of 7 a.m. to 10 p.m., Monday through Saturday, unless otherwise limited by the Goal 5 process. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met.
  - (2) Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
  
- (H) DRILLING AND BLASTING:
  - (1) Drilling and blasting are restricted to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
  - (2) Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within the impact area at least 48 hours prior to the blasting event. For ongoing blasting activities, notice shall be provided once each month for the period of blasting events, and specify the days and hours when blasting is expected to occur.
  
- (I) SURFACE WATER: Surface water shall be managed in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements. The applicant shall demonstrate that

all water necessary for the proposed operation has been appropriated to the site and is legally available.

- (J) **COMPLIANCE WITH SPECIAL CONDITIONS:** The applicant shall demonstrate that all special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.
- (K) **PERFORMANCE AGREEMENTS:** The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.

(8) **SITE RECLAMATION**

- (A) No mining shall begin without the operator providing the County a copy of a DOGAMI operating permit and approved reclamation plan or exemption certificate issued in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.
- (B) The jurisdiction of the County with respect to mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with applicable provisions of the Comprehensive Plan, and ensuring that mine operations are consistent with adopted programs to protect other Goal 5 resources.
- (C) The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner:
  - (1) When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.
    - (a) If site plan approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.
    - (b) If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.
  - (2) When reviewing a proposed reclamation plan and operating permit application circulated by DOGAMI, the County shall review the plan against the following criteria:
    - (a) The plan will rehabilitate mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 process;
    - (b) The reclamation plan, and surface mining and reclamation techniques employed to carry out the plan complies with the standards of Section 3.555(7);



- (c) Measures are included which will ensure that other significant Goal resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.

(9) **SITE PLAN REVIEW**

- (A) Site plan review is required prior to commencement of mining. Applications shall be in the form required by the County, and shall demonstrate compliance with the standards of Section 3.555 (7) and any requirements adopted as part of the Goal 5 process.
- (B) Applications for site plan approval of surface mining operations and activities authorized by Section 3.555(6) shall be reviewed in accordance with the provisions for making a limited land use decision as provided by ORS 215.425.
- (C) The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.555 (7) and any other requirements adopted as part of the Goal 5 process.
- (D) If the County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision adopted as part of the Goal 5 process, or the applicant may choose to apply for a Comprehensive Plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.

(10) **IMPACT AREA - USES AND DEVELOPMENT STANDARDS**

- (A) **USES PERMITTED OUTRIGHT:** Uses permitted outright in the underlying zone, except noise or dust sensitive uses or conflicting uses, may be permitted subject to the standards and criteria of the underlying zone(s).
- (B) **USES ALLOWED CONDITIONALLY:**
  - (1) Noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and this Section.
  - (2) Conditional uses in the underlying zone(s) which are not noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone.
- (C) **PROHIBITED USES:** Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.

(D) APPROVAL CRITERIA: To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:

- (1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;
- (2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter;
- (3) The applicable criteria of Subsection (E) of this Section are met;
- (4) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date through the imposition of conditions on the conflicting use.

(E) NOISE AND DUST REDUCTION:

- (1) The applicant for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent Extraction Area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use.
- (2) The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the adjoining mining operation. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation, such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the Impact Area.
- (3) As a condition of final approval for the establishment of a new noise sensitive use, the applicant may be required to execute a restrictive covenant in favor of the mining operator that incorporates the compliance items specified in Subsection (E) (2) of this Section.

(11) TERMINATION OF THE MINERAL AND AGGREGATE OVERLAY

When a significant site has been fully mined and reclamation has been complete, the property shall be rezoned to remove the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.

SECTION 3.560: TILLAMOOK AIRPORT OBSTRUCTION (TAO)

- (1) **PURPOSE:** It is hereby found that an obstruction has the potential for endangering the lives and property of users of Tillamook Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Tillamook; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Tillamook Airport and the public investment therein. Accordingly, it is declared:
- (a) That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Tillamook Airport.
  - (b) That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.
  - (c) That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(2) **DEFINITIONS:**

- (a) **AIRPORT** - the Tillamook Airport.
- (b) **AIRPORT ELEVATION** - the highest point of an airport's usable landing area measured in feet from sea level. 35 feet above mean sea level for Tillamook Airport.
- (c) **APPROACH SURFACE** - a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Article IV of this ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (d) **APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES** - these zones are set forth in Article III of this ordinance.
- (e) **CONICAL SURFACE** - a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- (f) **HAZARD TO AIR NAVIGATION** - an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

- (g) **HEIGHT** - for the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (h) **HORIZONTAL SURFACE** - a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- (i) **LARGER THAN UTILITY RUNWAY** - a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
- (j) **NONPRECISION INSTRUMENT RUNWAY** - a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
- (k) **OBSTRUCTION** - any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Article IV of this Ordinance.
- (l) **PERSON** - an individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.
- (m) **PRIMARY SURFACE** - a surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Article III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- (n) **RUNWAY** - a defined area on an airport prepared for landing and takeoff of aircraft along its length.
- (o) **STRUCTURE** - an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.
- (p) **TRANSITIONAL SURFACES** - these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal surfaces.

- (q) TREE - any object of natural growth.
  - (r) UTILITY RUNWAY - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
  - (s) VISUAL RUNWAY - a runway intended solely for the operation of aircraft using visual approach procedures.
- (3) AIRPORT ZONES: there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Tillamook Airport. Such zones are shown on Tillamook Airport Approach and Clear Zone Map consisting of one sheet, prepared by Century West Engineering Corporation, and dated June, 1979, which is attached to this Ordinance, and made a part hereof. An area located in more than on (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:
- (a) UTILITY RUNWAY VISUAL APPROACH ZONE - the inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide for Runway 1/19. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
  - (b) RUNWAY LARGER THAN UTILITY WITH A VISIBILITY MINIMUM GREATER THAN 3/4 MILE NONPRECISION INSTRUMENT APPROACH ZONE - the inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide for Runway 13/31. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
  - (c) TRANSITIONAL ZONES - the transitional zones are the areas beneath the transitional surfaces.
  - (d) HORIZONTAL ZONE - the horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include approach and transitional zones.
  - (e) CONICAL ZONE - the conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.
- (4) AIRPORT ZONE HEIGHT LIMITATIONS: except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Section to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- (a) UTILITY RUNWAY VISUAL APPROACH ZONES - RUNWAY 1/19 - slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
  - (b) RUNWAY LARGER THAN UTILITY WITH A VISIBILITY MINIMUM GREATER THAN 3/4 MILE NONPRECISION INSTRUMENT APPROACH ZONE - RUNWAY 13/31 - slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
  - (c) TRANSITIONAL ZONES - slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation at the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 35 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the horizontal surface.
  - (d) HORIZONTAL ZONE - established at 150 feet above the airport elevation or at a height of 185 feet above mean sea level for Tillamook Airport.
  - (e) CONICAL ZONE - slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
  - (f) EXCEPTED HEIGHT LIMITATIONS - nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.
  - (g) RESTRICTIVE LIMITATION - where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.
- (5) USE RESTRICTIONS: notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the Airport.

(6) EXISTING USES:

- (a) REGULATIONS NOT RETROACTIVE - the regulations prescribed by this Section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this Section as of the effective date of this Ordinance, or otherwise interfere with the continuance of an existing use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit an existing use, structure or tree to become a greater hazard to air navigation amendments thereto.

- (b) MARKING AND LIGHTING - the owner of any existing structure or tree not in compliance with this Section is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport owner.

- (c) USES ABANDONED OR DESTROYED - whenever the Tillamook County Planning Department determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this section.

- (7) VARIANCES: any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variance shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Section may be considered by the Planning Commission unless a copy of the application has been furnished to the airport owner for advice as the aeronautical effects of the variance. If the airport owner does not respond to the request within forty-five (45) days after receipt, the Planning Commission may act to grant or deny said application without such advice.

- (a) OBSTRUCTION MARKING AND LIGHTING - any variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Planning Commission, this condition may be modified to

require the owner to permit the airport owner at its own expense, to install, operate and maintain the necessary markings and lights.

- (8) JURISDICTION: within the boundaries of the property comprising the Port of Tillamook Bay Airport and Industrial Park, the provisions of this Section shall be administered directly by the Port of Tillamook Bay.

#### SECTION 3.565: PACIFIC CITY AIRPORT OBSTRUCTION OVERLAY ZONE (PAO)

- (1) PURPOSE: It is hereby found that an obstruction has the potential for endangering the lives and property of users of Pacific City Airport, and property or occupants of land in its vicinity; that increasing obstructions may affect the continued use of the Pacific City State Airport; and that an obstruction may reduce the size of areas available for the landing, take off, and maneuvering of aircraft, thus tending to destroy or impair the utility of Pacific City State Airport and the public investment therein. Accordingly, it is declared that:

- (a) The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Pacific City State Airport.
- (b) It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

- (2) DEFINITIONS:

- (a) AIRPORT: The Pacific City State Airport.
- (b) AIRPORT CENTERLINE: The center of the existing paved Pacific City State Airport runway surface.
- (c) AIRPORT ELEVATION: The highest point of an airport's usable landing area measured in feet from sea level. This is six (6) feet above mean sea level for Pacific City State Airport.
- (d) AIRPORT HAZARD: Any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
- (e) AIRPORT IMAGINARY SURFACES: The imaginary areas in space which are defined by the Approach Surfaces, Transitional Surfaces, Special Height Surface, Horizontal Surface, and



Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.

- (f) **APPROACH SURFACE:** A surface longitudinally centered on the extended runway centerline and extending upward from the end of the Primary Surface on the South and the displaced threshold on the North. The inner edge of the approach surface is the same width as the primary surface and extends to a width of seven hundred (700) feet. The airport approach surface extends for a horizontal distance of 5,000 feet at a slope of twenty (20) feet outward for each foot upward (20.1).
- (g) **APPROACH ZONE:** All the land lying beneath the Approach Surface.
- (h) **CONICAL SURFACE:** Begins at the edge of the Horizontal Surface (5,000 feet from the south end of the Primary Surface and 5,000 feet from the center of the displaced threshold on the north at one hundred fifty (150) feet above the airport elevation) and extends twenty (20) feet outward for each foot upward (20.1) for 4,000 feet extending to a height of three hundred fifty (350) feet above the airport elevation.
- (i) **CONICAL ZONE:** All the land lying beneath the Conical Surface.
- (j) **DISPLACED THRESHOLD;** A displaced threshold is a threshold located at a point on the runway other than at the runway end (which point is 300 feet south of the North property line for Pacific City State Airport) and reduces the length of runway available for landing airplanes. The runway behind the displaced threshold is available for completing landing rollouts in the opposite direction and takeoff in either direction.
- (k) **HORIZONTAL SURFACE:** A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of the south end of the Primary Surface and the center of the displaced threshold to the north and connecting the adjacent arcs by lines tangent to those arcs.
- (l) **HORIZONTAL ZONE:** All the land lying beneath the Horizontal Surface.
- (m) **MEAN SEA LEVEL:** Equivalent to National Geodetic Vertical Datum (NGVD) for the purposes of this Ordinance.
- (n) **OBSTRUCTION:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 3.565 (3).
- (o) **PRIMARY SURFACE:** A surface longitudinally centered on a runway. The width of the Primary Surface is one hundred (100) feet on each side of the Airport Centerline, for a total width of two hundred (200) feet for the Pacific City State Airport. This surface begins at the northern property boundary, remains south of Pacific Avenue and extends to the south the full length of the paved

runway (1850 feet) plus 100 feet beyond. The elevation of any point on the Primary Surface is six (6) feet above mean sea level for the Pacific City State Airport.

- (p) **RUNWAY:** A defined rectangular area on an airport prepared for the landing and takeoff of aircraft along its length. For Pacific City State Airport, the paved runway begins at the north property line and extends one thousand eight hundred fifty (1850) feet to the south.
  
- (q) **SPECIAL HEIGHT SURFACE:** A surface elevated thirty-three (33) and thirty-seven (37) feet above mean sea level which is located over the Special Height Zone. The surface will be slightly irregular where it has been pierced by development prior to the adoption of this Section, in which case the surface lies so as to average the heights of the immediately adjacent neighboring structures or the height of the special height zone, whichever is higher.
  
- (r) **SPECIAL HEIGHT ZONE:** This area borders the Primary Surface and the Approach Zone on its inside edges. The outside edge of the zone is formed where the 37 foot MSL height intersects the Transition Zone each side of and perpendicular to the Primary Surface on the south and the Primary Surface and Displaced Threshold on the north (three hundred seventeen (317) feet from the Runway Centerline) and then angles to intersect the Approach Surfaces at points located six hundred twenty (620) feet beyond the end of the Primary Surface to the south, six hundred twenty (620) feet beyond the Displaced Threshold to the north and one hundred thirty-one (131) feet perpendicular to each side of the extended Runway Centerline at the six hundred twenty (620) foot locations. This zone could also be described as all the land lying beneath the Transitional Surface from the Primary Surface to a point where the Transitional Surface reaches thirty-seven (37) feet above mean sea level. The Special Height Zone is now divided into two zones. Zone A runs between one hundred (100) and one hundred twenty (120) feet from the runway centerline within the Special Height Zone, and allows structures to be thirty-three (33) feet above mean sea level. Zone B runs between one hundred twenty (120) feet and three hundred seventeen (317) feet from the Runway Centerline within the Special Height Zone and allows structures to be thirty-seven (37) feet above mean sea level.
  
- (s) **STRUCTURE:** An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.
  
- (t) **TRANSITIONAL SURFACE:** A surface which extends one (1) foot upward for each seven (7) feet outward (7:1) from the sides of the Primary Surface south of the Displaced Threshold at a height of six (6) feet above mean sea level, and from the sides of the Approach Surfaces thence extending 1 foot upward for each seven (7) feet outward (7:1) to a height of one hundred fifty (150) feet above the airport elevation to where they intersect the horizontal surfaces.
  
- (u) **TRANSITIONAL ZONE:** All the land lying beneath the transitional surface, except the area within the Special Height Zone.

- (v) TREE: Any object of natural growth.
  - (w) UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
  - (x) VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedure.
- (4) USE RESTRICTIONS: Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with aviation radio communications, result in glare in the eyes of pilots using the airport, impair the visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- (a) ALLOWABLE USES IN APPROACH ZONE EAST OF NESTUCCA RIVER: Uses permitted are those which do not congregate more than one person per 100 square feet of ground floor at one time. Examples of permitted uses include, but are not limited to, single family dwellings; barbers; tailors; printers; cleaners; shoe repair; tennis and racquetball courts; fire and ambulance stations; car wash; utility substations; warehousing, including ministorage; light industry; wholesale sales establishments not open to the general public; sales and service with large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery, and marine craft; the storage of construction, plumbing, heating, paving, electrical, and painting materials; and parking for trucks as part of a construction or shipping operation. Business and professional offices are permitted if it can be demonstrated that they will not congregate more than one person per one hundred (100) square feet of ground floor space at any one time. Examples of uses not permitted include, but are not limited to, public or private schools or day care centers; churches; mobile home or RV parks; motels or hotels; group cottages; multi-family dwellings; hospitals; medical or other health care clinics; sanitarium, rest home or nursing home; animal hospital; retail sales establishments, including grocery stores, convenience stores, dining and drinking establishments, and shopping malls; private and public meeting facilities such as lodges or community centers; libraries; and commercial amusement and entertainment establishments.
  - (b) No use shall occur within the area defined by the Primary surface which will present an obstruction to aircraft except parking as allowed under (3) (e) above, or as approved through the variance procedure described in Section 3.565(6).
- (5) EXISTING USES:
- (a) REGULATIONS NOT RETROACTIVE: The regulations prescribed by this Section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this Section as of the effective date of this Ordinance, or otherwise interfere with the continuance of an existing use. Nothing contained herein shall require any change in the

construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and which shows signs of progress toward completion every six months.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit an existing use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto.

- (b) **EXISTING USES DESTROYED:** In the Approach Zone existing structures as of the date of the adoption of this Ordinance may be reconstructed in the event they are destroyed, so long as the new structure has the same height, floor area and location as the old structure or as long as they comply with existing uses and restrictions then applicable whichever is more lenient. Existing uses in the Approach Zone as of the date of adoption of this Ordinance will be allowed to continue and be re-established on the same lot.
  - (c) **MARKING AND LIGHTING:** The owner of any existing structure or tree not in compliance with this Section is hereby required to permit the installation operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport owner.
- (6) **VARIANCES:** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. To obtain a determination, an FAA form 7460-1 must be filed in advance with the FAA and the Oregon State Aeronautics Division. Such variance shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, if relief is granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. If the airport owner and the FAA do not respond to the request within forty-five (45) days after receipt, the Planning Commission may act to grant or deny said application without such advice.

**NOTE: OBSTRUCTION MARKING AND LIGHTING:** Any variance granted may be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain at the owner's expense, such markings and lights as may be necessary.

- (7) **NOTICE OF PENDING APPLICATIONS:** In addition to the Requirements of the Oregon Administrative Rule 738-100 and Oregon Revised Statute 215.223, the Oregon State Aeronautics Division shall be notified of all applications including building permits within the Approach Zone east of the Nestucca River and shall be given fourteen (14) days to comment before action is taken on the application.

- (8) **COMPLIANCE:** In addition to complying with the provisions of the primary zoning district, uses shall comply with the provisions of this overlay zone. In the event of any conflict between any provisions of this overlay zone and the primary zoning district, the more restrictive provision shall apply. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation, except for those properties within the Special Height Zone.

(9) HOLD HARMLESS AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned, hereinafter referred to as Grantors (whether singular or plural), hereby covenant and agree that Grantors shall not, by reason of their ownership or occupation of the following described real property, protest or bring a suit or action in any court or administrative forum against Tillamook County or its officers, employees or agents, or the State of Oregon, Department of Transportation and Aeronautics Division, or its officers, employees or agents, for aviation related noise, property damage or personal injury based on the fact that the State of Oregon, Department of Transportation, and Aeronautics Division own and operate the Pacific City State Airport and that Tillamook County granted building and development permits to grantor to develop the following described real property. The Grantors acknowledge that the Pacific City State Airport does not conform to Federal Aviation Administration Standards and that development of the Grantor"s real property also will not conform to Federal Aviation Administration Standards.

The real property of Grantors subject to this covenant and agreement is situated in the County of Tillamook, State of Oregon, and described as follows:

(Insert Legal Description and Appropriate Map)

This covenant and agreement is made and executed by the Grantors in consideration for Tillamook County's granting a building permit for Grantor's use and development of the above described real property, which real property is located in the Airport special Height Zone or Approach Zone of the Pacific City State Airport. The execution of this covenant and agreement by Grantors is required by Tillamook County as a prerequisite to the granting of the above said building permit to Grantors. This agreement is executed for the protection and benefit of Tillamook County, the State of Oregon, the Oregon Department of Transportation and the Aeronautics Division. This covenant and agreement is intended to be binding upon the Grantors, their heirs, assigns and successors and inure to the benefit of Tillamook County and the State of Oregon, Department of Transportation and Aeronautics Division, their successors and assigns.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

STATE OF OREGON )  
 )  
 ) ss. \_\_\_\_\_  
 )  
County of \_\_\_\_\_ ) \_\_\_\_\_

SECTION 3.570: NESKOWIN COASTAL HAZARDS OVERLAY ZONE (NESK-CH)

- (1) **PURPOSE:** The purpose of the Neskowin Coastal Hazards Overlay Zone is to manage development in areas subject to chronic coastal hazards in a manner that reduces long term risks to life, property, and the community by:
  - (a) Identifying areas that are subject to chronic coastal natural hazards including ocean flooding, beach and dune erosion, dune accretion, bluff recession, landslides, and inlet migration;
  - (b) Assessing the potential risks to life and property posed by chronic coastal natural hazards; and
  - (c) Applying standards to the site selection and design of new development which minimize public and private risks to life and property from these chronic hazards; such measures may include hazard avoidance and other development limitations consistent with Statewide Planning Goals 7 and 18 as well as the Hazards Element and Beaches and Dunes Element of the Tillamook County Comprehensive Plan.

It is recognized that risk is ever present in identified hazard areas. The provisions and requirements of this section are intended to provide for full identification and assessment of risk from natural hazards, and to establish standards that limit overall risk to the community from identified hazards to a level acceptable to the community. It must be recognized, however, that all development in identified hazard areas is subject to increased levels of risk, and that these risks must be acknowledged and accepted by present and future property owners who proceed with development in these areas.

- (2) **AREAS INCLUDED:** All lands within coastal erosion hazard zones as depicted on the Coastal Erosion Hazard Zone map adopted as Appendix D to the Neskowin Community Plan are subject to the provisions of this section.
- (3) **PERMITTED USES:** Within the Neskowin Coastal Hazards Overlay Zone, all uses permitted pursuant to the provisions of the underlying zone may be permitted, subject to the additional requirements and limitations of this section.
- (4) **NESKOWIN COASTAL HAZARD AREA PERMIT:**
  - (a) Except for activities identified in subsection (4)(b) as exempt, any new development, new construction or substantial improvement, as defined in Article I, in an area subject to the provisions of this section shall require a Neskowin Coastal Hazard Area Permit. The Neskowin Coastal Hazard Area Permit may be applied for prior to or in conjunction with a building permit, grading permit, or any other permit or land use approval required by Tillamook County.
  - (b) Except for beach or dune areas subject to the limitations of subsection (8) of this section, the following activities are exempt from the requirement for a Neskowin Coastal Hazard Area Permit:

- (A) Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation and do not constitute substantial improvement;
  - (B) An excavation which is less than two feet in depth or which involves less than twenty-five cubic yards of volume;
  - (C) Fill that is less than two feet in depth or that involves less than twenty-five cubic yards of volume;
  - (D) Exploratory excavations under the direction of a certified engineering geologist or registered geotechnical engineer;
  - (E) Construction of structures for which a building permit is not required;
  - (F) Removal of trees smaller than 8 inches dbh (diameter breast height);
  - (G) Removal of trees larger than 8 inches dbh (diameter breast height) provided the canopy area of the trees that are removed in any one year period is less than twenty-five percent of the lot or parcel area;
  - (H) Yard area vegetation maintenance and other vegetation removal on slopes less than 25% slopes;
  - (I) Forest operations subject to regulation under ORS 527 (the Oregon Forest Practices Act);
  - (J) Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside the previously disturbed area;
  - (K) Maintenance and repair of utility lines, and the installation of individual utility service connections;
  - (L) Emergency response activities intended to reduce or eliminate an immediate danger to life or property, or flood or fire hazard;
  - (M) Restoration, repair, or replacement of a lawfully established structure damaged or destroyed by fire or other casualty in accordance with subsection (12) of this section; and
  - (N) Construction/erection of beachfront protective structures subject to regulation by the Oregon Parks and Recreation Department under OAR 736, Division 20.
- (c) Application, review, decisions, and appeals for Neskowin Coastal Hazard Area Permits shall be in accordance with the following requirements:



- (A) A property owner or authorized agent shall submit an application for a Neskowin Coastal Hazard Area Permit to the department on a form prescribed by the department.
- (B) Upon determination that the application is complete, the department may refer the application to affected cities, districts, and/or local, state and federal agencies for comments.
- (C) Upon completion of the period for comments from affected agencies, the director shall approve or deny the application, or, at the director's discretion, refer the application to the Planning Commission for a public hearing.
- (D) Notice of a decision by the director to approve or deny an application shall:
  - (i) Be provided to the applicant and to the owners of record of property within 250 feet of the subject property on the most recent Tillamook County property tax assessment roll;
  - (ii) Be provided to the Neskowin Citizen Planning Advisory Committee;
  - (iii) Explain the nature of the decision and the use or uses that could be authorized;
  - (iv) List the applicable criteria from this ordinance that apply to the subject decision;
  - (v) Set forth the street address or other easily understood information identifying the location of the subject property;
  - (vi) State that a copy of the department's staff report and record of decision is available for inspection at no cost and can be provided at reasonable cost;
  - (vii) Provide the name and telephone number of the department staff person to contact for additional information; and,
  - (viii) Provide an explanation of the procedure and deadline for appealing the decision to the commission for a public hearing
- (E) A decision by the director to approve or deny an application for a Neskowin Coastal Hazard Area Permit may be appealed in accordance with Article 10.
- (F) An approved Neskowin Coastal Hazard Area Permit shall be valid for a period of two (2) years from the effective date of the decision. If development authorized by the permit is not initiated within this two (2) year time period, the Neskowin Coastal Hazard Area permit shall expire.

- (d) In addition to a completed application as prescribed in subsection (c), an application for a Neskowin Coastal Hazard Area Permit shall include the following:
- (A) A site plan that illustrates areas of disturbance, ground topography (contours), roads and driveways, an outline of wooded or naturally vegetated areas, watercourses, erosion control measures, and trees with a diameter of at least 8 inches dbh (diameter breast height) proposed for removal;
  - (B) An estimate of depths and the extent of all proposed excavation and fill work;
  - (C) Identification of the bluff- or dune-backed hazard zone or landslide hazard zone for the parcel or lot upon which development is to occur. In cases where properties are mapped with more than one hazard zone, an engineering geologist shall identify the hazard zone(s) within which development is proposed.
  - (D) A geologic report prepared by an engineering geologist that meets the content requirements of subsection (5);
  - (E) If engineering remediation is required to make the site suitable for the proposed development, an engineering report, prepared by a registered civil engineer, geotechnical engineer, or certified engineering geologist (with experience relating to coastal processes), which provides design and construction specifications for the required remediation; and,
  - (F) A Hazard Disclosure Statement, executed by the property owner, which sets forth the following:
    - (i) A statement that the property is subject to potential chronic natural hazards and that development thereon is subject to risk of damage from such hazards;
    - (ii) A statement that the property owner has commissioned a geologic report for the subject property, a copy of which is on file with Tillamook County, and that the property owner has reviewed the geologic report and has thus been informed and is aware of the type and extent of hazards present and the risks associated with development on the subject property;
    - (iii) A statement acknowledging that the property owner accepts and assumes all risks of damage from natural hazards associated with the development of the subject property.
- (e) A decision to approve a Neskowin Coastal Hazard Area Permit shall be based upon findings of compliance with the following standards:

- (A) The proposed development is not subject to the prohibition of development on beaches and certain dune forms as set forth in subsection (8) of this section;
  - (B) The proposed development complies with the applicable requirements and standards of subsections (6), (7), (8), and (10) of this section;
  - (C) The geologic report conforms to the standards for such reports set forth in subsection (5) of this section;
  - (D) The development plans for the application conform, or can be made to conform, with all recommendations and specifications contained in the geologic report; and
  - (E) The geologic report provides a statement that, in the professional opinion of the engineering geologist, the proposed development will be within the acceptable level of risk established by the community, as defined in subsection (5)(c) of this section, considering site conditions and the recommended mitigation.
- (f) In the event the director determines that additional review of a Neskowin Coastal Hazard Area Permit application by an appropriately licensed and/or certified professional is necessary to determine compliance with the provisions of this section, the County may retain the services of such a professional for this purpose. All costs incurred by the County for this additional review shall be paid by the applicant in addition to the application fee for a Neskowin Coastal Hazard Area Permit established pursuant to Section 10.020.
  - (g) In approving a Neskowin Coastal Hazard Area Permit, the director or commission may impose any conditions that are necessary to ensure compliance with the provisions of this section or with any other applicable provisions of the Tillamook County Land Use Ordinance.

(5) GEOLOGIC REPORT STANDARDS

- (a) Geologic reports required by this section shall be prepared consistent with standard geologic practices employing generally accepted scientific and engineering principles, and shall, at a minimum, contain the items outlined in the Oregon State Board of Geologist Examiners

"Guidelines for Preparing Engineering Geologic Reports in Oregon". Reports shall reference the published guidelines upon which they are based. All engineering geologic reports are valid for purposes of meeting the requirements of this section for a period of five (5) years from the date of preparation. Such reports are valid only for the development plan addressed in the report. Tillamook County assumes no responsibility for the quality or accuracy of such reports.

- (b) For the purposes of Section 3.570, geologic reports should be prepared by these guidelines for engineering geologic reports. All references in Section 3.570 that refer to geologist reports assume that they are prepared with these guidelines.
  
- (c) In addition to the requirements set forth in subsection (5)(a), geologic reports for lots or parcels abutting the ocean shore shall, to the extent practicable based on best available information, include the following information, analyses and recommendations:
  - (A) Site description:
    - (i) The history of the site and surrounding areas, such as previous riprap or dune grading permits, erosion events, exposed trees on the beach, or other relevant local knowledge of the site.
    - (ii) Topography, including elevations and slopes on the property itself.
    - (iii) Vegetation cover.
    - (iv) Subsurface materials – the nature of the rocks and soils.
    - (v) Conditions of the seaward front of the property, particularly for sites having a sea cliff.
    - (vi) Presence of drift logs or other flotsam on or within the property.
    - (vii) Description of streams or other drainage that might influence erosion or locally reduce the level of the beach.
    - (viii) Proximity of nearby headlands that might block the longshore movement of beach sediments, thereby affecting the level of the beach in front of the property.
    - (ix) Description of any shore protection structures that may exist on the property or on nearby properties.
    - (x) Presence of pathways or stairs from the property to the beach.
    - (xi) Existing human impacts on the site, particularly any that might alter the resistance to wave attack.
  
  - (B) Description of the fronting beach:
    - (i) Average widths of the beach during the summer and winter.

- (ii) Median grain size of beach sediment.
- (iii) Average beach slopes during the summer and winter.
- (iv) Elevations above mean sea level of the beach at the seaward edge of the property during summer and winter.
- (v) Presence of rip currents and rip embayments that can locally reduce the elevation of the fronting beach.
- (vi) Presence of rock outcrops and sea stacks, either offshore or within the beach zone.
- (vii) Information regarding the depth of beach sand down to bedrock at the seaward edge of the property.

(C) Analyses of Erosion and Flooding Potential:

- (i) Analysis of DOGAMI beach monitoring data for the site (if available).
- (ii) Analysis of human activities affecting shoreline erosion.
- (iii) Analysis of possible mass wasting, including weathering processes, landsliding or slumping.
- (iv) Calculation of wave run-up beyond mean water elevation that might result in erosion of the sea cliff or foredune.<sup>1</sup>
- (v) Evaluation of frequency that erosion-inducing processes could occur, considering the most extreme potential conditions of unusually high water levels together with severe storm wave energy.
- (vi) For dune-backed shoreline, use an established geometric model to assess the potential distance of property erosion, and compare the results with direct evidence obtained during site visit, aerial photo analysis, or analysis of DOGAMI beach monitoring data.
- (vii) For bluff-backed shorelines, use a combination of published reports, such as DOGAMI bluff and dune hazard risk zone studies, aerial photo analysis, and fieldwork to assess the potential distance of property erosion.

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<sup>1</sup> Stockdon, H. F., Holman, R. A., Howd, P. A. and Sallenger, A. H., 2006, Empirical parameterization of setup, swash, and runup: Coastal Engineering, 53, p 573-588.

- (viii) Description of potential for sea level rise, estimated for local area by combining local tectonic subsidence or uplift with global rates of predicted sea level rise.
- (D) Assessment of potential reactions to erosion episodes:
- (i) Determination of legal restrictions of shoreline protective structures (Goal 18 prohibition, local conditional use requirements, priority for non-structural erosion control methods).
  - (ii) Assessment of potential reactions to erosion events, addressing the need for future erosion control measures, building relocation, or building foundation and utility repairs.
- (E) Recommendations:
- (i) Use results from the above analyses to establish setbacks (beyond any minimums set by this section), building techniques, or other mitigation measures to ensure an acceptable level of safety and compliance with all local requirements.
  - (ii) Recommend a foundation design, or designs, that render the proposed structures readily moveable.
  - (iii) Recommend a plan for preservation of vegetation and existing grade within the setback area, if appropriate.
  - (iv) Include consideration of a local variance process to reduce the building setback on the side of the property opposite the ocean, if this reduction helps to lessen the risk of erosion, bluff failure or other hazard.
  - (v) Recommend methods to control and direct water drainage away from the ocean (e.g. to an approved storm water system); or, if not possible, to direct water in such a way so as to not cause erosion or visual impacts. In addition, the report shall specify erosion control measures as necessary to conform to the requirements of Section 5.100.
- (d) Geologic reports required by this section shall include a statement of the engineering geologist’s professional opinion as to whether the proposed development will be within the acceptable level of risk established by the community, considering site conditions and the recommended mitigation.

As used in this section, “acceptable level of risk” means the maximum risk to people and property from identified natural hazards deemed acceptable to the community in fulfilling

its duty to appropriately protect life and property from natural hazards. For development subject to the provisions of this section, the acceptable level of risk is:

(A) Assurance that life safety will be protected from the identified hazard(s), excluding a tsunami resulting from a Cascadia megathrust earthquake, for a period of [50-70] years, considering site conditions and specified mitigation; and

(B) A high likelihood that the proposed structures will be protected from substantial damage from the identified hazard(s), excluding a Cascadia megathrust earthquake and resultant tsunami, for a period of [50-70] years, considering site conditions and specified mitigation.

(e) Geologic reports required by this section shall include a statement certifying that all of the applicable content requirements of this subsection have been addressed.

(6) **ADDITIONAL DEVELOPMENT LIMITATIONS IN COASTAL HAZARD AREAS:** In addition to the conditions, requirements, and limitations imposed by any required geologic report, all development subject to a Neskowin Coastal Hazard Area Permit shall conform to the following requirements:

(a) **Moveable structure design:** Except for non-habitable accessory structures (e.g. garages, storage buildings), to facilitate the relocation of structures that become threatened by coastal hazards.

(b) **Safest site requirement:** All new construction or substantial improvement shall be located within the area most suitable for development based on the least exposure to risk from coastal hazards as determined by an engineering geologist as part of a geologic report prepared in accordance with subsection (5). Notwithstanding the provisions of the underlying zone, as necessary to comply with this requirement:

(A) Any required yard or setback may be reduced by up to 50%; and,

(B) The maximum building width may be increased to up to 90% of the distance between opposite side lot lines.

(c) **New lot or parcel development prohibition:**

Unless exempt from the requirements of subsection (10)(a) of this section, on lots and parcels created after [insert effective date of this section], new construction or substantial improvement in the area subject to the provisions of this section is prohibited.

(d) **Residential density limitation:**

Within the Neskowin Low Density Residential Zone (NeskR-1) and the Neskowin Rural Residential Zone (Nesk-RR) , on lots or parcels which are developed with an existing dwelling or

dwellings, the construction of additional dwelling units, including accessory dwelling units, is prohibited.

- (7) **MINIMUM OCEANFRONT SETBACKS:** In areas subject to the provisions of this section, the building footprint of all new construction or substantial improvement subject to a Neskowin Coastal Hazard Area Permit shall be set back from the ocean shore in accordance with the following requirements:
- (a) Of the following, the requirement that imposes the greatest setback shall determine the minimum oceanfront setback:
    - (A) A setback specified in a required geologic report;
    - (B) A setback that coincides with the Oceanfront Setback Line (OSL) determined pursuant to Section 3.530 (4)(A)(1)c.; or
    - (C) On bluff-backed shorelines, a setback from the bluff edge a distance of 50 times the annual erosion rate (as determined by an engineering geologist) plus 20 feet (or other distance determined to be an adequate buffer). The bluff edge shall be as defined in the required geologic report.
  - (b) On lots or parcels subject to the minimum oceanfront setback, the required yard setback opposite the oceanfront may be reduced by one foot for each one foot of oceanfront setback provided beyond the required minimum, down to a minimum of 10 feet.
  - (c) On lots or parcels created prior to the effective date of this section, where the application of the minimum oceanfront setback, together with any other required yards and/or setbacks, results in a building footprint area of less than 1,500 square feet, the minimum oceanfront setback may be reduced by an amount necessary to provide a building footprint of not more than 1,500 square feet.
- (8) **ADDITIONAL LIMITATIONS ON DEVELOPMENT ON BEACHES AND DUNES:** In addition to the conditions, requirements, and limitations imposed by any required engineering geologic report, all development subject to a Neskowin Coastal Hazard Area Permit in identified beach and dune areas shall be subject to the following requirements:
- (a) Foredune breaching and restoration shall be conducted in a manner consistent with sound principles of conservation. Such breaching may be permitted only:
    - (A) To replenish sand supply in interdune areas;
    - (B) On a temporary basis in an emergency, such as for fire control, hazard removal or clean up, draining farm lands, or alleviating flood hazards; or



- (C) For other purposes only upon adoption of an exception to Statewide Planning Goal 18.
- (b) Applications for development that will utilize groundwater resources shall provide a hydrologic analysis that demonstrates that groundwater withdrawal will not:
    - (A) Lead to the loss of stabilizing vegetation;
    - (B) Lead to a deterioration of water quality; or
    - (C) Result in the intrusion on salt water into water supplies.
  - (c) Fore-dune grading may be performed only as authorized by and in accordance with a fore-dune management plan adopted and acknowledged in conformance with Statewide Planning Goal 18.
  - (d) Identified beach and dune areas that are not subject to an exception to Goal 18, Implementation Requirement 2, as set forth in Section 6.1d of the Beaches and Dunes Element of the Tillamook County Comprehensive Plan, shall be subject to the following requirements:
    - (A) Required geologic reports shall address, in addition to the requirements of subsection (5), the following:
      - (i) The type of use proposed and the adverse effects it might have on the site and adjacent areas;
      - (ii) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;
      - (iii) Methods for protecting the surrounding area from any adverse effects of the development; and
      - (iv) Hazards to life, public and private property, and the natural environment that may be caused by the proposed use.
    - (B) On beaches, active foredunes, other foredunes that are only conditionally stable and subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) that are subject to ocean flooding:
      - (i) Residential developments and commercial and industrial buildings are prohibited.
      - (ii) Other development in these areas shall be permitted only if findings are provided which demonstrate that the proposed development is adequately protected from

any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves, and is designed to minimize adverse environmental effects.

(9) REQUIREMENTS FOR BEACHFRONT PROTECTIVE STRUCTURES:

- (a) In reviewing a Land Use Compatibility Statement (LUCS) for an Oregon Parks and Recreation Department Ocean Shore Permit authorized by ORS 390.640, the director may determine that an application to construct a beachfront protective structure is in compliance with the local comprehensive plan and implementing regulations only if the beachfront protective structure will be placed where development existed on January 1, 1977, or where an exception to Goal 18, Implementation Requirement 2 has been adopted as set forth in Section 6.1d of the Beaches and Dunes Element of the Tillamook County Comprehensive Plan.
- (b) For the purposes of this subsection, "development" means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot.
- (c) Review and decisions on Land Use Compatibility Statements for Ocean Shore Permits shall be conducted in accordance with the requirements for an administrative action in accordance with Article 10.

(10) LAND DIVISION REQUIREMENTS: All land divisions in areas subject to the provisions of this section shall be subject to the following requirements:

- (a) Except as provided for in subsection (10)(b) below, all new lots and parcels shall have a building site located outside the Nesk-CH Overlay Zone. Such a building site shall consist of a minimum of 1,500 contiguous square feet of area that complies with all required lot setbacks and is located landward of the area subject to the provisions of this section.
- (b) In a land division, one new lot or parcel may be exempted from the requirements of subsection (10)(a) to allow for the development or maintenance of one new single family dwelling within the Neskowin Coastal Hazards Overlay zone for properties capable of a land division. The new lot or parcel:
  - (A) Shall be divided from a lot or parcel that was created prior to November 5, 2014; and
  - (B) Is subject to an approved Coastal Hazard Area permit in accordance with subsection (4) of this section; and
  - (C) Shall be divided from a lot or parcel that is vacant; or
  - (D) Shall be divided from a lot or parcel that contains an existing dwelling located outside of the Nesk-CH Overlay Zone; or

- (E) The net result shall contain only existing single family dwelling(s) located within the Nesk—CH Overlay Zone.

(11) **CERTIFICATION OF COMPLIANCE:** Permitted development shall comply with the recommendations in any required geologic or engineering report. Certification of compliance shall be provided as follows:

- (a) **Plan Review Compliance:** Building, construction or other development plans shall be accompanied by a written statement from an engineering geologist stating that the plans comply with the recommendations contained in the geologic report for the approved Neskowin Coastal Hazard Area Permit.
- (b) **Inspection Compliance:** Upon the completion of any development activity for which the geologic report recommends an inspection or observation by an engineering geologist, the engineering geologist shall provide a written statement indicating that the development activity has been completed in accordance with the applicable geologic report recommendations.
- (c) **Final Compliance:** No development requiring a geologic report shall receive final approval (e.g. certificate of occupancy, final inspection, etc.) until the department receives:
  - (A) A written statement by an engineering geologist indicating that all performance, mitigation, and monitoring measures specified in the report have been satisfied;
  - (B) If mitigation measures incorporate engineering solutions designed by a licensed professional engineer, a written statement of compliance by the design engineer.

(12) **RESTORATION AND REPLACEMENT OF EXISTING STRUCTURES:**

- (a) Notwithstanding any other provisions of this ordinance, application of the provisions of this section to an existing use or structure shall not have the effect of rendering such use or structure nonconforming as defined in Article VII.
- (b) Replacement, repair, or restoration of a lawfully established building or structure subject to this section that is damaged or destroyed by fire, other casualty or natural disaster shall be permitted, subject to all other applicable provisions of this ordinance, and subject to the following limitations:
  - (A) Replacement authorized by this subsection is limited to a building or structure not larger than the damaged/destroyed building.
  - (B) Structures replaced pursuant to this subsection shall be located no further seaward than the damaged structure being replaced.

- (C) Replacement or restoration authorized by this subsection shall commence within one year of the occurrence of the fire or other casualty that necessitates such replacement or restoration.
  - (D) Where the cost of restoration or replacement authorized by this subsection equals or exceeds 80 percent of the RMV of the structure before the damage occurred, such restoration or replacement shall also comply with subsections (6) and (7) of this section.
- (c) A building permit application for replacement, repair or restoration of a structure under the provisions of this subsection shall be accompanied by a geologic report prepared by an engineering geologist that conforms to the standards set forth in subsection (5). All recommendations contained in the report shall be complied with in accordance with subsection (11).
  - (d) A building permit application for replacement, repair, or restoration authorized by this subsection shall be processed and authorized as an administrative action pursuant to Article 10.

**SECTION 3.575: NETARTS PLANNED RESIDENTIAL DEVELOPMENT OVERLAY ZONE (NT-PRD)**

1. **PURPOSE:** The purpose of a Planned Residential Development is to encourage development designs that preserve the natural features and amenities of a property such as but not limited to: stream corridors, water frontage (bay, stream, wetland and shoreline), wetlands, sloping topography and natural geologic features, groves of trees and significant views. A Planned Residential Development shall conform to the general objectives as presented by the comprehensive plan for the area and it shall be compatible with the established and proposed surrounding land uses.
2. **STANDARDS AND REQUIREMENTS:** The following standards and requirements shall govern the application of a Planned Residential Development in an area in which it is permitted.
  - a. A Planned Residential Development overlay zone is allowed in the RR, NT-R2 and NT-R3 zones.
  - b. The density of a Planned Residential Development shall conform to the density and standards of the underlying zone.
  - c. Dimensional standards for lot area, depth, width, and all yard setback standards of the underlying zone shall not apply. These standards shall be established through the Planned Residential Development approval process in order to fulfill the purpose of the NT-PRD Overlay Zone. In the RR/PRD zoned areas, only those properties located within a Community Growth Boundary can utilize this item.
  - d. The height limit may be increased to not more than 35 feet by the Planning Commission in approving a specific Planned Residential Development project.

3. **PLANNED RESIDENTIAL DEVELOPMENT PROCEDURE:** The following procedures shall be observed in applying for and acting on a planned residential development.
  - a. To establish a new Planned Residential Development Overlay designation under Article IX of this ordinance, the applicant must submit to the Department the following material in addition to the requirements of Article IX and Section 3.575 (3)(b) through (k):
    1. A conceptual development plan for the proposed site with the object of demonstrating that the property possesses the characteristics set forth in Section 3.575 (1) of this ordinance. The plan shall include a scale drawing of the entire site showing proposed land uses, road ways, pedestrian ways, drainage patterns, common areas, recreation facilities, natural features, residential lots and the approximate location of structures other than single family residences.
    2. Parcels receiving the Planned Residential Development Overlay Zone designation after the effective date of this ordinance , will be eligible for development under the Land Division Ordinance, with the approved and recorded conceptual plan serving as the zoning map for the land parcel.
    3. Any proposed change to an approved conceptual plan which may increase the intensity of use or off-site impacts must conform to the criteria and procedures contained in Article IX of this ordinance. This determination shall be made by the Director. Notice of such a determination shall be provided to those within the required notice area.
  - b. An applicant shall submit a preliminary development plan to the Planning Department for review. The preliminary plan shall include the following information:
    1. Proposed land uses, building locations and housing unit densities.
    2. Proposed circulation pattern indicating the status of street ownership.
    3. Proposed open space uses.
    4. Proposed grading and drainage pattern.
    5. Proposed method of water supply and sewage disposal.
    6. Inventory of and plan for protecting existing natural and cultural resources (e.g., wetlands, estuaries, wildlife, vegetation, historic and cultural sites).
    7. Relation of the proposed development to the surrounding area and the comprehensive plan.

8. Narrative addressing applicable provisions of the Comprehensive Plan and Sections in the underlying zone .
- c. During its review the Planning Department shall distribute copies of the proposal to County agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:
1. There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
  2. Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.
  3. The plan can be completed within a reasonable period of time.
  4. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
  5. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
  6. The parcel is suitable for the proposed use, considering its:
    - o size (5-40 acres)
    - o shape (not a linear or separated parcel)
    - o existence of improvements (adequate sewer, water, and fire facilities)
    - o natural features (avoids sensitive natural, cultural or historic resources, particularly streams, significant trees and cultural sites)
  7. 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.
  8. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
  9. Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
- d. The Planning Department shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.

- e. Following this preliminary review, the applicant may request approval of the Planned Residential Development by the Planning Commission according to the provisions in Article VI if the proposal is to take place on property designated with the Planned Development Overlay Zone prior to May 30, 1985.
- f. If the property is to be divided under the provisions of the Land Division Ordinance, a request according to the requirements of that Ordinance shall be included as part of the Planning Commission's review.
- g. The filing fee for a Planned Residential Development is the total of all fees for the action requested.
- h. In addition to the requirements of this section, the Planning Commission may attach conditions that are necessary to carry out the purpose of this ordinance.
- i. Planned Residential Development shall be identified on the zoning map with the letters "PRD" in addition to the abbreviated designation of the existing zone.
- j. Building permits in a Planned Residential Development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for approval in accordance with the procedures for approval of a conditional use request.
- k. In an existing PRD overlay zone, lots or parcels of record as of the date of adoption of this ordinance which are less than one acre in size, may be built upon in accordance with all other requirements of the zone in which the lot or parcel is located and of this ordinance.

## **SECTION 3.500 OVERLAY ZONES**

An Overlay Zone is a supplementary zoning designation placing special restrictions or allowing special uses of land beyond those required or allowed in the Base Zone. The Tillamook County Land Use Ordinance contains the following Overlay Zones.

- 3.505 Utilities Facility Overlay (UFO)
- 3.510 Flood Hazard Overlay (FH)
- 3.515 Scenic Waterway Overlay (SWO)
- 3.520 Planned Development Overlay (PD)
- 3.525 Coast Resort Overlay (CR)
- 3.530 Beach and Dune Overlay (BD)
- 3.545 Shoreland Overlay (SH)
- 3.550 Freshwater Wetlands Overlay (FW)
- 3.555 Mineral and Aggregate Resources Overlay Zone (MA)
- 3.560 Tillamook Airport Obstruction (TAO)
- 3.565 Pacific City Airport Obstruction Overlay Zone (PAO)
- 3.570 Neskowin Coastal Hazards Overlay Zone (Nesk-CH)
- 3.575 Netarts Planned Residential Development Overlay Zone (NT-PRD)

The boundaries of these overlay zones are generally indicated on the Tillamook County Zoning Map. Further information about the exact boundaries can be found within each overlay zone chapter.

Properties within overlay zones are subject to the provisions and standards of both the overlay zone and base zone. Where the standards of the base zone and overlay zone conflict, the more restrictive provisions shall apply unless otherwise stated.

### **SECTION 3.505: UTILITIES FACILITIES OVERLAY ZONE (UFO)**

- (1) **PURPOSE:** The purpose of the UFO zone is to accommodate the facilities necessary to supply the foreseeable utility needs of the County. The UFO zone is applied as an overlay upon existing zones in order to permit the installation of utility facilities in appropriate locations. Sites included in this zone should be of sufficient size and quality to provide the needed service, minimize off-site impacts, and preserve resource values in the area.
- (2) **USES PERMITTED OUTRIGHT:** In the UFO zone, in addition to the uses permitted outright in the underlying zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
  - (a) Electrical substations and switching facilities.
  - (b) Electrical transmission lines and line support structures.



- (c) Towers for communications, wind energy conversion systems, or structures having similar impacts.
  - (d) Energy generation systems.
  - (e) Water supply and treatment facilities, water control structures, pumping stations, storage tanks, and reservoirs.
  - (f) Waste treatment works, including any devices or systems used to store, treat, recycle, or reclaim municipal wastes; or to recycle or reuse waste water; including sewer lines, outfalls, and pumping facilities.
  - (g) Yards or structures for storage and/or repair of utility supplies and equipment.
  - (h) Utility offices.
- (3) **USES PERMITTED CONDITIONALLY:** In the UFO zone, uses other than, but related to, the uses listed in (2) above are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this Ordinance. Any of the utility uses listed in (2) above which are listed as Conditional Uses in the underlying zone shall be permitted outright upon the application of the UFO zone.
- (4) **STANDARDS:** In the UFO zone, the following standards shall apply to uses listed in (2) above, in lieu of standards contained in the underlying zone. The standards do not apply to any distribution lines providing services to residential, commercial, industrial, or other customers. All structures listed in this zone are subject to applicable supplementary regulations such as those contained in Sections 3.510, 3.545, 4.130, and 4.140 of this Ordinance.
- (a) Except as provided in this section, no utility structure shall be constructed closer than either 20 feet from a front property line or 10 feet from any other property line. Utility structures that are no greater than 36 square feet from these setbacks. Transmission lines and related structures are exempt from these setbacks, but they are subject to all requirements of the right-of-way, easement, or County franchise for such facilities.
  - (b) Minimum lot dimensions for specific utility uses are as follows:
    - (1) Electrical substation: 100 by 200 feet.
    - (2) Water storage tank: 100 by 100 feet.
  - (c) Buildings shall not exceed 35 feet in height. Other structures not used for human occupancy may exceed this height limitation, as provided in Section 4.120.

- (d) Outdoor storage areas within 200 feet of a residential use or zone shall be screened with a sight-obscuring fence.
- (e) Off-street parking and loading shall be provided in accordance with the standards set forth in Section 4.030.
- (f) Signs that are 16 square feet in area or less, and which are necessary for safety or other operational requirements, shall be permitted subject to the standards contained in Section 4.020.
- (g) Substations and other utility facilities shall utilize equipment, baffling structures, site excavation, and earthen berms or landscaped screening to limit objectionable noise and visual impacts upon adjacent residential uses or zones.
- (h) Any building providing a place of employment shall meet state and County Sanitation requirements for sewage disposal.
- (i) Fresh water wetlands identified by the Oregon Department of Fish and Wildlife, and adopted by the County as critical wildlife habitats, shall be protected according to site-specific recommendations provided by the Oregon Department of Fish and Wildlife.
- (j) Public Works Department requirements shall be met for any utility structure placed in a public right-of-way by a utility not having a franchise for such location. For those utilities having such a franchise, requirements of the franchise shall be met.

**SECTION 3.510: FLOOD HAZARD OVERLAY ZONE (FH)**

- (1) **PURPOSE:** It is the purpose of the FH zone to promote the public health, safety and general welfare and to minimize public and private losses or damages due to flood conditions in specific areas by provisions designed to:
  - (a) Protect human life and health;
  - (b) Minimize expenditure of public money for costly flood control projects;
  - (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;
  - (d) Minimize prolonged business interruptions;
  - (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards;

- (f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
  - (g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
  - (h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
  - (i) Maintain the functions and values associated with Special Flood Hazard Areas which reduce the risk of flooding.
- (2) **APPLICABILITY:** The FH zone is shown generally on the Tillamook County Floodplain Map, available at the County Planning Office and online. In cases where the boundary is unclear or disputed, the latest FEMA Flood Insurance Rate Map (FIRM) shall govern.
- (3) **CONTENT:** In order to accomplish this purpose, this Section of the Land Use Ordinance includes methods and provisions for:
- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
  - (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - (c) Maintaining the natural and existing flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
  - (d) Minimizing and controlling filling, grading, dredging, and other development which may increase flood damage or may increase flood hazards in other areas;
  - (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas;
  - (f) Encouraging mitigation and restoration programs in "exchange" (/in addition to) for alteration of Special Flood Hazard Areas, existing and natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters

- (4) **DEFINITIONS:** Unless specifically defined below or in Section 11.010 of this ordinance, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**AREA OF SHALLOW FLOODING:** Means a designated A0 or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. A0 is characterized as sheet flow and AH indicates ponding.

**AREA OF SPECIAL FLOOD HAZARD:** Means the land in the flood plain within the county subject to a one percent or greater chance of flooding in any given year. Designation includes the letters A or V.

**ADDITION:** An alteration to an existing structure that results in any increase in its ground floor area.

**BASE FLOOD:** Means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on maps always includes the letters A or V.

**BASEMENT:** Any area of a building having its flood subgrade (below ground level) on all sides.

**BREAKAWAY WALL:** Means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**COASTAL HIGH HAZARD AREA:** Means the area subject to high velocity waters, including but not limited to storm surge or tsunamis. The area is designated on the FIRM as Zones V1-V30, VE or V.

**DEVELOPMENT:** Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**ENHANCEMENT:** Means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity.

**EXISTING MANUFACTURED HOME PARK:** Is one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before August 1, 1978. The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

**FILL:** Means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed on land including existing and natural floodplains, or in waterways, for the purposes of development or redevelopment.

**FIRST FINISHED FLOOR:** The first finished floor is when all mechanical equipment is above minimum required base flood elevation of county. This can include but is not limited to ducting, and wiring located within joists (See Mechanical). If no mechanicals are located within floor joists, first finished floor shall be the subfloor above the required elevation above base flood.

**FLOOD OR FLOODING:** Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM):** Means the official map issued by the Federal Emergency Management Agency where the boundaries of the area of special flood hazards applicable to Tillamook County have been designated as Zone A, M and/or E.

**FLOOD INSURANCE RATE MAP (FIRM):** Means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:** Means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**FLOOD PLAIN:** Means any land area susceptible to being inundated by water from the sources specified in the flood(ing) definition.

**FLOOD PLAIN MANAGEMENT REGULATIONS:** Means the provisions of this ordinance in addition to the Land Division Ordinance, building codes, health regulations, and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOODWAY:** Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**HIGHWAY READY:** Refers to a recreational vehicle that is on wheels or a jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. This includes having a plan and making provision to remove the unit in the event of flood

**HYDROSTATIC LOADS:** Means those loads caused by water either above or below the ground surface, free or confined, which is either stagnant or moves at very low velocities, of up to five (5) feet per second. These loads are equal to the product of the water pressure times the surface area on which the water acts. The pressure at any point is equal to the product of the unit weight of water (62.5 pounds per cubic foot) multiplied by the height of water above that point or by the height to which confined water would rise if free to do so.

**HYDRODYNAMIC LOADS:** Means those loads induced on buildings or structures by the flow of flood water moving at moderate or high velocity around the buildings or structures or parts thereof, above ground level when openings or conduits exist which allow the free flow of flood waters. Hydrodynamic loads are basically of the lateral type and relate to direct impact loads by the moving mass of water, and to drag forces as the water flows around the obstruction.

**IRREVOCABLY COMMITTED:** Means any platted area with improved streets, sewer, water, and fire districts, as well as established commercial and high density residential uses as of June 2, 1978.

**LETTER OF MAP AMENDMENT (LOMA):** A LOMA is the result of an administrative procedure in which the Federal Insurance Administer reviews scientific or technical data submitted by the owner or lessee of property who believes the property has incorrectly been included in a designated Special Flood Hazard Area (SFHA). A LOMA amends the currently effective FEMA map and establishes that a property is not located in an SFHA.

**LETTER OF MAP REVISION (LOMR):** A LOMR is an official amendment to the currently effective FEMA map. It is used to change flood zones, flood delineations, flood elevations, and planimetric features. All requests for LOMRs must be made to FEMA through the chief executive officer of the community, since it is the community that must adopt any changes and revisions to the map. A LOMR is usually followed by a physical map revision

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

**MANUFACTURED DWELLING:** 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.

**MANUFACTURED HOME PARK OR SUBDIVISION:** Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL:** Means the average height of the sea for all stages of the tide.

**MECHANICAL EQUIPMENT:** Means Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities.

**MITIGATION:** Means the reduction of adverse effects of a proposed project by considering, in the following order:

- (a) Avoiding the impact all together by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
- (e) Mitigating for the impact by replacing or providing comparable substitute floodplain areas.

**NEW CONSTRUCTION:** Means structures for which the "start of construction" commenced on or after August 1, 1978.

**PERMANENT FOUNDATION:** Refers to a natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.

**REACH:** Means a hydraulic engineering term used to describe longitudinal segments along a stream of water. A reach will generally include a segment of the flood hazard area where flood heights are primarily controlled by man-made or natural obstructions or constrictions. In an urban area an example of a reach would be the segment of a stream or river between two consecutive bridge crossings.

**RECONSTRUCTION:** Means the repair of a structure damaged by any cause (not limited to flooding) without increasing the floor area of the structure.

**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 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.

**REHABILITATION:** Means any improvements and repairs made to the interior and exterior of an existing structure that do not result in an increase in the ground floor area of the structure. Examples include remodeling a kitchen, gutting a structure and redoing the interior, or adding a second story.



**REINFORCED PIER:** At a minimum, a reinforced pier must have a footing adequate to support the weight of the manufactured dwelling under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacking concrete blocks do not constitute reinforced piers.

**REPETITIVE LOSS:** Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before damage occurred.

**RESTORATION:** Means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the ecological structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

**SPECIAL FLOOD HAZARD AREA (SFHA):** Areas subject to inundation from the waters of a 100-year flood.

**START OF CONSTRUCTION:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement occurred within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of street and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STRUCTURE:** Anything constructed or installed or portable, the use of which requires a location on a parcel of land.

**SUBSTANTIAL DAMAGE:** Pertains to flood related damage where the cost of restoring the structure would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started, or

- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition SUBSTANTIAL IMPROVEMENT occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial Improvement applies to additions, reconstructions, rehabilitations, repetitive loss structures, and nonresidential construction at a cumulative 50% of market value, determined at the time of a building permit application. The market value of the structure will be determined through the records of the County Assessor at the beginning of the five year period.

Unless the addition meets the definition of Substantial Improvement, then only the actual addition needs to meet the requirements of the Flood Hazard Overlay Zone.

The term does not, however, include either:

- (3) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by local code enforcement activity and which are solely necessary to assure safe living conditions, or
- (4) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**WATER SURFACE ELEVATION:** Means the projected water heights in relation to mean sea level.

- (5) **GENERAL STANDARDS:** In all areas of special flood hazards the following standards are required:

#### ANCHORING

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All manufactured dwellings must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (See FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for techniques). A certificate signed by a registered architect or

engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval.

#### CONSTRUCTION MATERIALS AND METHODS

- (c) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (d) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (e) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be elevated to three feet above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### UTILITIES

- (f) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- (h) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### SUBDIVISION AND PARTITION PROPOSALS

- (i) All subdivision and partition proposals governed by the Land Division Ordinance shall be consistent with the need to minimize flood damage.
- (j) All subdivision and partition proposals governed by the Land Division Ordinance shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (k) All subdivisions and partition proposals governed by the Land Division Ordinance shall have adequate drainage provided to reduce exposure to flood damage.
- (l) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision and partition proposals governed

by the Land Division Ordinance and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

#### BUILDING AND MANUFACTURED DWELLING PERMITS

- (m) Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits and/or manufactured dwelling permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past floodings, etc., where available. Failure to elevate at least three feet above grade in these zones may result in higher insurance rates.
- (6) **SPECIFIC STANDARDS FOR NUMBERED A ZONES (A1-A30):** In all areas of special flood hazards where base flood data has been provided as set forth in Section 3.510 (2) or other base flood data are utilized, the following provisions are required:

#### RESIDENTIAL CONSTRUCTION

- (a) New construction and substantial improvement of any residential structure (including manufactured dwellings) shall have the lowest floor, including basement, at a minimum of three feet above base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or must meet or exceed the following minimum criteria:
  - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (2) The bottom of all openings shall be no higher than one foot above grade.
  - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### NONRESIDENTIAL CONSTRUCTION

- (c) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have either the lowest floor including basement elevated to

three feet above the level of the base flood elevation or higher; or, together with attendant utility and sanitary facilities, shall:

- (1) Be floodproofed so that the portion of the structure that lies below the portion that is three feet or more above the base flood level is watertight with walls substantially impermeable to the passage of water.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in compliance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Planning Director.
- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in the residential construction Section of this Section.
- (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

#### MANUFACTURED DWELLINGS

- (d) Any manufactured dwelling which incurs substantial damage as the result of a flood, must be elevated to the standard listed in (e) below.
  - (e) All manufactured dwellings to be placed or substantially improved within Zones A1-30, shall be elevated on a permanent foundation such that the lowest floor of the manufactured dwelling is at or above three feet above the base flood elevation and shall be securely anchored to an adequately anchored foundation system in accordance with the following chart:
- (7) **RECREATIONAL VEHICLES:** Recreational vehicles may occupy a site in a Special Flood Hazard Area for periods of 180 consecutive days or greater providing they are fully licensed and highway ready. Recreational vehicles that do not meet these criteria become manufactured dwellings and must be anchored and elevated pursuant to this ordinance.

- (8) **SPECIFIC STANDARDS FOR FLOODWAYS:** Located within areas of special flood hazard established pursuant to Section 3.510 (2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- (a) Encroachments including fill, new construction and substantial improvements are prohibited unless certification is provided by a professional registered architect or engineer certifying that the proposed encroachment, improvement, or development shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - (b) If Subsection 6 (c) (1) is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of Section 3.510 (4) and (5).
- (9) **SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD AREAS (V ZONES):** Located within areas of special flood hazard established pursuant to Section 3.510 (2) are Coastal High Hazard Areas, designed as Zones V1-V30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this Section the following provisions shall apply:
- (a) All new construction and substantial improvements in Zones V1-V30, VE and V shall be elevated on pilings and columns so that:
    - (1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above one foot above the base flood level: and
    - (2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
  - (b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (1) and (2) above. A certificate shall be submitted, signed by the registered professional engineer or architect that the requirements of this Section will be met.
  - (c) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V and whether or not such structures

contain a basement. The Planning Director shall maintain a record of all such information.

- (d) All new construction shall be located landward of the reach of mean high tide.
  - (e) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system, For the purpose of this Section a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
    - (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
    - (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
  - (f) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
  - (g) Prohibit the use of fill for structural support of buildings.
  - (h) Prohibit man-made alteration of sand dunes, including vegetation removal, which would increase potential flood damage.
- (10) **SPECIFIC STANDARDS FOR AREAS OF SHALLOW FLOODING (A0 ZONE):** Shallow flooding areas appear on FIRM's as A0 zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas the following provisions apply:

- (a) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

## RESIDENTIAL

- (b) New construction and substantial improvements of residential structures (including manufactured dwellings) within A0 zones shall have the lowest floor (including basement) elevated one foot above the depth number specified on the FIRM (at least two feet above the highest adjacent grade if no depth number is specified).
  - (c) New construction and substantial improvements of nonresidential structures within A0 zones shall either:
    - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified): or
    - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to one foot above the depth number specified on the FIRM so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Subsection (6) (3) (3) of this Section.
- (11) **WARNING AND DISCLAIMER OF LIABILITY:** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Tillamook County, any officer or employee thereof, of the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (12) **SPECIAL ADMINISTRATIVE PROVISIONS FOR FH ZONE:**
- (a) The Planning Director of Tillamook County is hereby appointed to administer and implement the provisions of this Section by granting or denying development permit applications in accordance with its provisions.
  - (b) Duties of the Planning Director shall include, but not be limited to:



- (1) Review all development permit requests to assure that the requirements of this Section have been satisfied and that all other necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (2) Review all other permit applications to determine compliance with this Section.
- (3) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (4) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capability is not diminished.
- (5) Where base flood elevation data is provided through the Flood Insurance Study or required within this Section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (6) For all new or substantially improved floodproofed structures:
  - (a) Verify and record the actual elevation (in relation to mean sea level), and
  - (b) Maintain the floodproofing certifications required in this Section.
- (7) Maintain for inspection the affidavits of certification required in this Section. Affidavits of certification are required to be submitted by the permit applicant for elevations and structural requirements as specified in this Section, both pre- and post-construction, utilizing forms provided for this purpose by FEMA. Elevations may be certified by a licensed surveyor or a registered professional architect or engineer. Structural requirements may be certified by a registered professional architect or engineer.
- (8) Where interpretation is needed requiring the boundaries of the areas of special flood hazard, the Planning Director will make the necessary interpretation. The person contesting the location of the boundary or other decision shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
- (9) When base flood elevation had not been provided, the Planning director shall obtain, review and reasonably utilize any base flood data and floodway available

from federal, state, or other source in order to administer the provisions of Section 3.510.

- (10) All records pertaining to the provisions of this Section shall be maintained in the Tillamook County Planning Department and shall be open for public inspection.
  - (11) When a Variance is granted, the Planning Director shall give written notice that the structure will be allowed to be built with the lowest floor elevation at or below base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.
- (d) Restrict the location of structures placed on undeveloped parcels between Brooten Road and the Nestucca River, from the Woods Bridge downstream to map cross-section line F on the amended floodway map for the Nestucca River.

Such structures shall occupy no more than 62.5% of the lot width of the parcel to be built upon. This requirement does not apply if the structure is built upon piling with the area beneath the structure open to permit passage of flood water, or enclosed only with "breakaway walls" which are designed to give way to allow passage of flood waters.

Any such structure shall comply with all other requirements of this Section. The intent of this subsection is to maintain a minimum of 1000 feet of open space on the east bank of the Nestucca River, between Brooten Road and the river, from the Woods Bridge structure downstream to map cross-section line F on the amended floodway map for the Nestucca River.

- (e) Publicly owned open land recreation parks and accessory restroom facilities, where allowed in the underlying zone, shall be allowed in floodplain areas below the base flood elevation. The accessory restroom facilities shall be located outside of floodplain areas if possible. If it is not possible, the structures shall be located:
- (1) On the highest portion of the park grounds; and
  - (2) Be wet-floodproofed; and
  - (3) Maintain riparian setbacks.

If the structure is located in a designated floodway, it shall conform to 1 through 3 above and shall be small enough and positioned so that it will not divert floodwaters.

- (f) All residential and non-residential development and substantial improvements, within the Pacific City Airport Overlay Zone where the height is restricted by the PAO zone, below

that allowed by the underlying zone, shall conform to the FH zone regulations except that the first finished floor elevation and the floodproofing shall be certified at the base flood elevation given on the FIRM maps instead of the required three foot above base flood elevation level.

(13) **DEVELOPMENT PERMIT PROCEDURES:** A development permit shall be obtained before construction or development begins within any area of special flood hazard zone. The permit shall be for all structures including manufactured dwellings, and for all development including fill and other development activities, as set forth in the Definitions contained in this Section of the Land Use Ordinance.

(a) Application for a development permit shall be made on forms furnished by the Planning Director and shall include but not necessarily be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required and Development Permits required under this Section are subject to the Review Criteria put forth in Section 3.510 (13)(b):

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;
- (2) Elevation in relation to mean sea level to which any proposed structure will be floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Subsection (5) (c) of this Section; and

(b) **Development Permit Review Criteria**

- (1) The fill is not within a floodway, wetland, riparian area or other sensitive area regulated by the Tillamook County Land Use Ordinance.
- (2) The fill is necessary for an approved use on the property.
- (3) The fill is the minimum amount necessary to achieve the approved use.
- (4) No feasible alternative upland locations exist on the property.
- (5) The fill does not impede or alter drainage or the flow of floodwaters.

- (6) For creation of new, and modification of, Flood Refuge Platforms, the following apply, in addition to (13)(a)(1-4) and (b)(1-5):
- i. The fill is not within a floodway, wetland, riparian area or other sensitive area regulated by the Tillamook County Land Use Ordinance.
  - ii. The property is actively used for livestock and/or farm purposes,
  - iii. Maximum platform size = 10 sq ft of platform surface per acre of pasture in use, or 30 sq ft per animal, with a 10-ft wide buffer around the outside of the platform,
  - iv. Platform surface shall be at least 1 ft above base flood elevation,
  - v. Slope of fill shall be no steeper than 1.5 horizontal to 1 vertical,
  - vi. Slope shall be constructed and/or fenced in a manner so as to prevent and avoid erosion.

Conditions of approval may require that if the fill is found to not meet criterion (5), the fill shall be removed or, where reasonable and practical, appropriate mitigation measures shall be required of the property owner. Such measures shall be verified by a certified engineer or hydrologist that the mitigation measures will not result in a net rise in floodwaters and be in coordination with applicable state, federal and local agencies, including the Oregon Department of Fish and Wildlife.

- (c) Before approving a development permit application for other than a building, the Planning Director may determine that a public hearing should be held on the application. Such hearing shall be held before the Planning Commission and a decision made by the Planning Commission in accordance with the provisions of Section 3.510 (12).

(14) APPEALS, REDUCTIONS AND VARIANCES:

- (a) An appeal of the ruling of the Planning Director regarding a requirement of this Section may be made to the Tillamook County Planning Commission pursuant to Section 10.040.
- (b) Reductions of the "3 feet above base flood elevation" standard may be granted by the Planning Director, upon findings that:
- (1) Strict application of the three-foot standard would produce an unreasonable or inequitable result; and
  - (2) A lesser elevation requirement will not result in an appreciable increase in flood damage.

Reductions to below 1 foot above base flood elevation require a Variance as described in (c), below.

The intent of this provision is to limit this application of the Director's discretion to those rare and unusual circumstances where the three-foot standard would result in unnecessary and burdensome development requirements.

- (c) Variances to the standards contained in Section 3.510 shall be issued only in accordance with Section 1910.9 of the Federal Regulations governing flood insurance (Title 24 CFR) and any amendment thereto.
  - (d) The procedures for reviewing and taking action on a variance under the provisions of this Section shall be pursuant to the procedures provided in Article 8.
- (15) PROVISIONS: The provisions of Section 3.510 shall take precedence over all prior resolutions or orders of the Board of County Commissioners relating to Flood Plain Management.

#### SECTION 3.515: SCENIC WATERWAY OVERLAY ZONE (SWO)

- (1) PURPOSE AND AREAS INCLUDED: The purpose of this zone is to facilitate implementation of the Oregon Park and Recreation Commission's management plan for the Nestucca River Scenic Waterway, and thereby to protect and preserve the natural setting and water quality of waterways possessing outstanding scenic, fish, wildlife, geological, botanical, historic, archaeological, and outdoor recreation values. The zone comprises all land within one-fourth mile of the top of bank of the Nestucca River from the County line downstream to its confluence with Moon Creek (approximately river mile 24.5, in Blaine). The boundaries of this zone are governed by the Tillamook County Scenic Waterway Overlay Zone Map, available at the County Planning Office and on the County website.
- (2) USES PERMITTED:
  - (a) Any development activity, mining operation, timber harvesting, or other landscape alteration activity permitted in the underlying zone may be allowed, provided the activity is approved by the Oregon Parks and Recreation Department, or otherwise complies with the Scenic Waterway Notification procedures described in OAR-736-040-0080.

#### SECTION 3.520: PLANNED DEVELOPMENT OVERLAY (PD)

- (1) PURPOSE: The purpose of the PLANNED DEVELOPMENT is to permit greater flexibility and creativity in the design of land development than is presently possible through the strict interpretation of conventional zoning and land division ordinances. The intent is to encourage development designs that preserve and/or take advantage of the natural features and amenities of a property such as, but not limited to, views water frontage, wetlands, sloping topography, geologic features and drainage areas. A Planned Development should be compatible with the established and proposed surrounding land uses. A Planned Development should accrue benefits

to the County and the general public in terms of need, convenience and service sufficient to justify any necessary exceptions to the zoning and land divisions ordinances.

- (2) **STANDARDS AND REQUIREMENTS:** The following standards and requirements shall govern the application of a Planned Development in an area in which it is permitted.
- (a) A PLANNED DEVELOPMENT OVERLAY ZONE is allowed in the RR-2, RR-10, CSFR, CR-1, CR-2, CR-3, RMH, RC, CC and RI, CI, and unincorporated community zones where permitted.
  - (b) A planned development may include any uses and conditional uses permitted in the RR, CSFR, CR-1, CR-2, CR-3, RMH, and RC zones. In addition, the uses permitted in the CC and CI, RI, and unincorporated community zones where permitted will be permitted in the areas where the underlying zone permits those uses.
  - (c) The density of a planned development will be based on the density of the underlying zone.
  - (d) The height limit may be increased to not more than 35 feet by the Planning Commission in approving a specific Planned Development project. If the applicant is requesting a height increase, this request shall be noted in the notice to affected property owners. The Planning Commission may allow an increase in the height if there is a reasonable basis for the additional height such as: topography of the site, clustering of units, preservation of open space, staggering of building sites, and view corridors between ocean front dwelling units.
  - (e) Dimensional standards for lot area, depth, width, and all yard setback standards of the underlying zone shall not apply and these standards shall be established through the Planned Development approval process in order to fulfill the purpose set forth in Section 3.520 (1). In the RR/PD zoned areas, only those properties located within a Community Growth Boundary can utilize this item. All rural RR/PD zoned land shall conform to the density and standards of the RR zone.
  - (f) The development standards of the Land Division Ordinance shall provide the basic guide for the design of a planned development. Variances may be permitted through the Planned Development approval process in order to fulfill the purposes set forth in Section 3.520 (1). Variance process and criteria contained in the Tillamook County Land Division Ordinance and Tillamook County Land Use Ordinance must be followed.
- (3) **PLANNED DEVELOPMENT PROCEDURE:** The following procedures shall be observed in applying for and acting on a planned development.

- (a) An applicant shall submit a preliminary development plan to the Planning Department for review. The preliminary plan shall include the following information:
  - (1) Proposed land uses, building locations and housing unit densities.
  - (2) Proposed circulation pattern indicating the status of street ownership.
  - (3) Proposed open space uses.
  - (4) Proposed grading and drainage pattern.
  - (5) Proposed method of water supply and sewage disposal.
  - (6) Economic and supporting data to justify any proposed commercial development in an area not so zoned.
  - (7) Relation of the proposed development to the surrounding area and the comprehensive plan.
  
- (b) During its review the Planning Department shall distribute copies of the proposal to county agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:
  - (1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
  - (2) Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.
  - (3) The plan can be completed within a reasonable period of time.
  - (4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
  - (5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
  - (6) The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.

- (7) 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.
  - (8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
  - (9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
- (c) The Planning Department shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.
  - (d) Following this preliminary review, the applicant may request approval of the planned development by the Planning Commission according to the provisions in Article VI if the proposal is to take place on property designated with the PLANNED DEVELOPMENT OVERLAY ZONE prior to May 30, 1985.
  - (e) If the property is to be divided under the provisions of the Land Division Ordinance, a request according to the requirements of that Ordinance shall be included as part of the Planning Commission's review.
  - (f) The filing fee for a planned development is the total of all fees for the action requested.
  - (g) In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purposes of this ordinance.
  - (h) Planned Development shall be identified on the zoning map with the letters "PD" in addition to the abbreviated designation of the existing zone.
  - (i) Building permits in a planned development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for approval in accordance with the procedures for approval of a conditional use request.
  - (j) In an existing PD overlay zone, lots on parcels of record as of the date of adoption of this ordinance which are less than one acre in size, may be built upon in accordance with all other requirements of the zone in which the lot or parcel is located and of this ordinance.
- (4) **TO ESTABLISH A NEW PLANNED DEVELOPMENT OVERLAY ZONE:** To establish a Planned Development Overlay designation under Article IX of this ordinance, the applicant must



submit to the department the following material in addition to the requirements of Article IX and Section 3.520 (3):

- (a) A conceptual development plan for the proposed site with the object of demonstrating that the property possesses the characteristics set forth in Section 3.520 (1) of this ordinance. The plan shall include a scale drawing or the entire site showing proposed land uses, road ways, pedestrian ways, drainage patterns, common areas, recreation facilities, natural features, residential lots and the approximate location of structures other than single family residences.
- (b) Parcels receiving the PLANNED DEVELOPMENT OVERLAY ZONE designation after July 1, 1992, will be eligible for development under the Land Division Ordinance, with the approved and recorded conceptual plan serving as the zoning map for the land parcel.
- (c) Any proposed change to an approved conceptual plan which may increase the intensity of use or off-site impacts must conform to the criteria and procedures contained in Article IX of this ordinance. This determination shall be made by the Director. Notice of such a determination shall be provided to those within the required notice area.

#### SECTION 3.525: COAST RESORT OVERLAY (CR)

- (1) **PURPOSE AND INTENT:** The purpose of the COAST RESORT OVERLAY ZONE is to recognize sites that are suitable and appropriate for the location of recreation oriented coast resorts as defined in this Section, and to establish standards to guide the development of such facilities. The COAST RESORT OVERLAY ZONE is intended to insure the compatibility of coast resorts with the natural resources of the County.

Tillamook County recognized that ocean shore lands constitute an outstanding natural scenic and recreational resource. Therefore, the COAST RESORT OVERLAY ZONE is provided for and may be applied only to lands which abut the ocean beach or a major part of which have views of the ocean.

- (2) **DEFINITIONS:** A "coast resort" is a self-contained development that serves as an attraction for vacationers and other visitors and provides temporary lodging in conjunction with natural, scenic and recreational amenities available as an integral part of the development and in the surrounding environment. A coast resort:
  - (a) Is located on a large site with a high level of natural amenities;
  - (b) Maintains the open space character of the site and the design, density and layout of the development maintains the natural and scenic amenities of the site;

- (c) Provides primarily visitor oriented accommodations and has developed recreation facilities and natural amenities that are a primary attraction for visitors;
- (d) Is located at least 25 road miles from an urban growth boundary containing a population of 50,000 or more.

"Visitor oriented accommodations" are lodging, restaurants, meeting facilities, staff housing and other facilities that provide for the needs of visitors and which constitute a majority of the developed facilities on the site.

"Developed recreational facilities" on the site are those which require a significant investment and are provided at a level and variety in proportion to the number of living accommodations in the development.

A "self-contained development" is one in which sewer, water and recreational facilities are provided in conjunction with the development and in which the sewer and water facilities are limited to meet the needs of the development.

(3) PERMITTED USES:

- (a) The following uses are permitted when provided as a part of, and intended primarily to serve persons at, a coast resort developed under this Section:
  - (1) Living accommodations including lodges, hotels, motels, one-family, two-family and multifamily dwelling units.
  - (2) All manner of outdoor and indoor recreation facilities including, but not limited to, golf courses, tennis courts, swimming pools, racquetball and handball courts, riding stables, nature trails, and walking/running/bicycle paths.
  - (3) Convention facilities and meeting rooms.
- (b) The following uses are permitted when provided as uses incidental to and together with the uses described in (a) above as a part of a coast resort, subject to the conditions and restrictions on such incidental uses set forth in the Section.
  - (1) Restaurants, lounges and nightclubs.
  - (2) Theaters and performing arts auditoriums.
  - (3) Health clubs, spas and exercise studios.

- (4) Craft and art studios and galleries.
- (5) Kennels, as a service for resort guests only.
- (6) Commercial services and speciality shops to provide for the needs of vacationers and visitors.
- (7) Airport or heliport.
- (8) First aid station or infirmary.
- (9) Facilities necessary for utility service.
- (10) Sewer and water treatment plant.
- (11) Farm and forest uses.
- (12) Signs subject to Section 4.020.

(4) APPLICATION OF THE OVERLAY ZONE AND PROCEDURE:

(a) APPLICATION: The COAST RESORT OVERLAY ZONE may be applied to any non-estuarine property complying with the standards contained herein. Application of the Overlay Zone to specific property is accomplished through a Zoning Map change. Approval of a Zoning Map change to COAST RESORT OVERLAY ZONE signifies that the affected property is suitable for development pursuant to this Section and subject to the Land Use Plan approved at the time of zone change, but does not authorize development.

(1) The zone or zones applicable to the property preceding the change will be retained on the Zoning Map. If a proposed Preliminary Development Plan is not submitted for a site within five years of the zone change to COAST RESORT OVERLAY ZONE, the designation shall be extinguished and removed from the zoning map, unless prior to the end of the five year period the property owner submits a request for a two-year extension and thereafter the Planning Commission approves the extension. Approval shall be based upon a finding that circumstances have not changed sufficiently since prior approval to render the zone change inappropriate. The CR zone may be extended thereafter from year to year based upon a similar application and finding.

(2) While the COAST RESORT OVERLAY ZONE is applicable to certain property, no development or use of the property shall occur except as provided in this Section.

(3) Development pursuant to this COAST RESORT OVERLAY ZONE Section shall be reviewed and approved based upon the provisions of this Section rather than the provisions of the underlying zone or zones. The requirements of other applicable overlay zones and supplemental standards shall apply.

(4) A proposed zone change from COAST RESORT OVERLAY ZONE to a zone or zones other than the underlying zone or zones retained on the Zoning Map shall be evaluated as a change from such underlying zone or zones.

(b) PROCEDURE:

(1) Zone Change: An amendment to the Zoning Map to apply the COAST RESORT OVERLAY ZONE may be initiated by the Board of County Commissioners or by application of the property owner. The procedure shall be as provided in Section 9.020 but the matters to be included in an application and considered on review shall be as set forth in (5) of this section and the criteria for approval of the change shall be as set forth in (6) of this section. A land use plan for the site shall be approved as a part of the zone change. The requirements for the land use plan are described in (5) (e) of the section. If development as identified on the land use plan requires one or more exceptions to Land Conservation and Development Commission Goals the Goal 2 exception process, including comprehensive plan amendments shall be complied with at the time of the zone change.

- (2) Preliminary Development Plan: A Preliminary Development Plan shall determine the nature, location and phasing, if any, of development on property designated COAST RESORT OVERLAY ZONE. A property owner may initiate a request for approval of a Preliminary Development Plan by filing an application with the Planning Department. The Planning Commission shall review the Preliminary Development Plan according to the procedure of Article 6 and standards and criteria of (7), (8) and (9) of this Section.
  
- (3) Final Development Plan: A Final Development Plan shall include the elements provided in (10) of this Section and shall be the authority for issuance of building and other required development permits. The proposed Final Development Plan shall be submitted to the Planning Department and approved or denied by the Director pursuant to the criteria set forth in (11) of this Section. If the proposed development will include subdivision or major partition of the property, preliminary approval shall be obtained prior to approval of the Final Development Plan as required by the Land Division Ordinance. If the Preliminary Development Plan authorized phased development, the final Development Plan may be for one or more of the phases. If a Final Development Plan is not submitted within five years of approval of the Preliminary Development Plan, the latter shall expire and a new Preliminary Development Plan shall be required, unless prior to the end of the five year period the property owner submits a request for a one-year extension and thereafter the Planning Commission approves the extension. Approval shall be based upon a finding that circumstances have not changed sufficiently since prior approval to render the Preliminary Development Plan inappropriate. The Plan may be extended thereafter from year to year based upon a similar application and finding.
  
- (4) Pre-application Conference: Prior to submitting a zone change application or a Preliminary Development Plan application, the applicant shall confer with the Planning director regarding the proposal and the requisites of the applications.
  
- (5) Combined Procedure: The steps described in 4 (b) (1) and 4 (b) (2) above may be combined in which case the Preliminary Development Plan shall serve as the Land Use Plan required for zone change approval.
  
- (5) CONTENTS OF ZONE CHANGE APPLICATION FOR COAST RESORT OVERLAY ZONE: The following information shall be provided as part of an application for a zone change to COAST RESORT OVERLAY ZONE:
  - (a) The completed application form.
  
  - (b) A site map, drawn to scale, showing the subject property and all property within 250' of the boundaries of the subject property.

- (c) A vicinity map showing the area and land uses within 1/2 mile of the property.
- (d) A site inventory and map including the following information as is available in the Comprehensive Plan or other readily available published inventories (The maps shall be at either a 1:100, 200, 300, or 400 scale.):
  - (1) SCS soils classifications.
  - (2) Forest site classification.
  - (3) Goal 5 resources inventoried in the Comprehensive Plan.
  - (4) The shorelands boundary and shorelands resources inventoried in the Comprehensive Plan.
  - (5) Outstanding natural features not included within (3) or (4) above.
  - (6) Beach and dunes land form classifications.
  - (7) Geologic hazards.
- (e) A Land Use Plan for the site.
  - (1) The Land Use Plan shall consist of a site map, a site suitability matrix and any findings and conditions required under this Subsection (e). The site map shall divide the site into units having common physical, locational and aesthetic characteristics as determined from the site inventory. Each unit shall be identified on the map by a district letter, number or descriptive designation. Non-contiguous portions of the site having common characteristics may be included in one unit. The site suitability matrix shall list on the horizontal scale the five land use categories described below. It shall list on the vertical scale the designations of each of the units shown on the site map. Each of the combinations of land use category and site unit shall be evaluated for use suitability and assigned a value of "suitable", "moderately suitable" or "unsuitable".
  - (2) The land use categories to be evaluated for each site unit are as follows:
    - (a) Natural (N): Areas that will not be altered or developed because of extreme hazard to life or property, or because of significant ecological, scientific, educational, historic, archaeological or other values identified for protection in the Comprehensive Plan.
    - (b) Low Intensity Recreation (RL): Recreation activities that require no developed facilities or minimal facilities having minor impact on the ecosystem such as

unpaved paths, footbridges or boat docks suitable only for small boats and canoes.

- (c) High Intensity Recreation (RH): Recreation activities requiring substantial developed facilities such as tennis courts, golf courses or marinas and related utility facilities.
- (d) Development Density 1 (D1): Moderate to low intensity residential development and utility facilities.
- (e) Development Density 2 (D2): High intensity residential facilities, commercial and utility facilities.

(3) Suitability evaluations shall be utilized in the following manner:

- (a) A site unit evaluated as suitable for Natural uses will not be developed for other uses except for protection or restoration consistent with the requirements of Sections 3.545 and 4.140 regardless of its moderate suitability or suitability under another land use category.
- (b) A site unit with a land use category other than Natural evaluated as moderately suitable for the category will permit the uses for such category only upon findings describing the reason for the evaluation and conditions and findings demonstrating mitigation of adverse impacts from such permitted uses or such part thereof as are proposed. A site unit not designated as natural that contains significant ecological, scientific, educational, historic or other values identified in the Comprehensive Plan for limitation of conflicting uses shall be evaluated as moderately suitable or unsuitable only and the conditions and findings shall implement the limited protection required by the Comprehensive Plan.
- (c) A site unit with a land use category other than Natural evaluated as unsuitable for the category will not permit the uses for such category.
- (d) A site unit evaluated as unsuitable or moderately suitable for Natural uses and moderately suitable or suitable for uses in another land use category will permit the uses under the other category or such part thereof as are proposed, subject to the requirements of (b) above if applicable.
- (f) A written statement providing justification for the proposed zone change according to the approval criteria state in (6) of this Section. The written statement shall include the report of a qualified economist or other market research specialist addressing the issue of the developed recreation facilities that will be necessary, when considered together with the natural amenities of the property, to constitute a primary attraction for visitors. Because a specific development plan is not

required for a zone change, the report may refer to categories and ranges of scale of facilities and may provide two or more acceptable alternatives.

- (g) A demonstration of the feasibility of providing sewer, water and fire services, including public services availability or on-site provision of services, as applicable.

(6) **CRITERIA FOR APPROVAL OF COAST RESORT OVERLAY ZONE:** A zone change to COAST RESORT OVERLAY ZONE shall be approved upon findings that the following criteria are satisfied:

- (a) The natural amenities of the property shall include at least (i) ocean views from a majority of the property or (ii) portions of the property that abut the ocean beach. The natural amenities considered together with identified developed recreation facilities that can be provided on the property (as demonstrated by the Land Use Plan) will constitute a primary attraction for visitors. This conclusion shall be supported by the report required in (5) (f) of this Section.
- (b) The property is not well suited for commercial agriculture considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract.
- (c) The proposed development of the property in accordance with the Land Use Plan can be accomplished without substantial interference to or significant adverse effects upon identified sensitive or unique natural areas or ecological features.
- (d) The proposed development of the property can be accomplished in accordance with the Land Use Plan in a manner that will be compatible with the uses permitted on adjacent lands.
- (e) Suitable access exists or can be provided to serve development of the property.
- (f) Adequate sewer, water and fire services can be provided to serve the proposed development of the property.
- (g) Required findings for needed Goal exceptions have been made.
- (h) The proposed development of the property is consistent with the Comprehensive Plan.

(7) **CONTENTS OF APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN:** The information required as part of the preliminary development plan shall be as stated in the Tillamook County Land Division Ordinance. The application shall also include such additional information in the form of written statements, maps and drawings as is necessary to demonstrate compliance with the development standards and approval criteria of (8) and (9) of this Section.

(8) **DEVELOPMENT STANDARDS:**

- (a) The Preliminary Development Plan shall be consistent with the Land Use Plan approved for the property.



- (b) The proposed development shall satisfy the definition of COAST RESORT contained in this Section.
- (c) The Preliminary Development Plan shall demonstrate that the majority of the developed housing units will be used by visitors and not by full time residents. Such units include, but are not limited to, hotel and motel rooms, cabins, and time share units.
- (d) Developed recreational facilities shall be provided on the property of a variety, quantity and quality that, when considered together with the retained natural amenities of the property, will be sufficient to constitute in combination a primary attraction for visitors. Satisfaction of this standard shall be demonstrated by the report submitted as required by (5) (f) of this Section and supplemented by a similarly qualified individual if necessitated by any changes in the proposed facilities from the zone change submittal. The developed recreational facilities shall also be adequate to serve the number of living accommodations proposed.
- (e) A coast resort shall consist of not less than 160 acres of property. Living units, enclosed recreation, entertainment or commercial facilities and paved surfaces may cover a maximum of 40% of the gross area of the property.
- (f) To the greatest extent possible, significant vegetation and natural features on the property shall be preserved.
- (g) The commercial, cultural and entertainment uses permitted in (3) (b) (1) through (7) of this Section are intended to be incidental to the primary uses in (3) (a). Such incidental uses shall be permitted only at a scale suited to serve visitors to the coast resort except to the extent that a particular use cannot be reduced from the proposed scale without impairing the function or economic viability of the use.
- (h) Any commercial, cultural or entertainment services provided as a part of the coast resort shall be contained within the development and shall not be oriented to public highways adjacent to the property. The buildings shall be designed to be compatible in appearance with the living accommodations and shall be constructed of similar materials.
- (i) A coast resort shall be served by on-site sewage and water systems approved by the DEQ, except where connection to a public system is permitted under the Public Service and Facilities (Goal 11) element of the Comprehensive Plan and such connection will not result in increased tax expense for property served by the public system prior to the connection.
- (j) Adequate fire protection shall be available through an existing fire district or provided on site.
- (k) A coast resort proposal shall not alter the character of the surrounding area in a manner which substantially limits, impair or prevents the permitted use of the surrounding properties. A coast

resort proposal shall not force a significant change in or significantly increase the cost of farm or forest practices on nearby lands devoted to farm or forest uses.

- (l) All requirements of other applicable county ordinance provisions shall be satisfied.
  - (m) A Preliminary Development Plan may specify phases of development if each successive phase together with previously completed phases is capable of operating in a manner consistent with the intent and purpose of this Section.
- (9) **APPROVAL CRITERIA FOR PRELIMINARY DEVELOPMENT PLAN:** The Preliminary Development Plan for a coast resort development permitted under this Section shall be approved upon finding that the following criteria have been met:
- (a) The proposed development will satisfy the development standards in (8) of this Section.
  - (b) The development has been designed to provide beach access or views of the ocean as a major feature of the project.
  - (c) The proposed type and level of development is appropriate to the site and will be compatible with the existing uses of the adjacent lands as well as the potential future uses as indicated by the current Comprehensive Plan and zoning designations.
  - (d) The proposed means of external and internal circulation is adequate to provide for the safe movement of vehicles and pedestrians.
  - (e) Adequate public services will be available to serve the development, including water supply, sewage disposal, electric power, telephone service, police and fire protection.
- (10) **CONTENTS OF FINAL DEVELOPMENT PLAN:** The information required as a part of the final development plan shall be as stated in the Tillamook County Land Division Ordinance and shall also include information regarding the method of compliance with (12) (a) of this Section.
- (11) **APPROVAL CRITERIA FOR FINAL DEVELOPMENT PLAN:** The Final Development Plan for the site, or for a phase of development if applicable shall be approved if it contains the information required under (10) above, is consistent with the approved Preliminary Development Plan and if all other applicable County requirements have been met. The approved method of compliance with the requirements of (12) (a) of this Section may be amended from time to time with the prior written approval of the Planning Director.
- (12) **IMPLEMENTATION:**
- (a) To provide adequate assurance that developed recreational facilities proposed in the Preliminary Development Plan will be completed, the Final Development Plan shall specify one or a combination approved by the Planning Director of the following procedures. Building permits

and final subdivision plat approvals shall be issued only upon compliance with the specified procedure.

- (1) The total number of subdivided lots and the total number of dwelling units not on individual lots that will be offered for sale, exclusive of time share sales, shall be specified. Such lots and dwelling units shall be referred to in this Subsection (12) (a) as "units". The estimated cost of each of the proposed developed recreational facilities stated in current dollars shall be specified. Subdivision final plat approvals and building permits for not more than 25% of the total number of units may be issued prior to completion of any developed recreational facilities. Thereafter, the percentage of units for which final subdivision plat approvals or building permits are issued compared to the total number of units shall not exceed the percentage of the dollar value of completed developed recreation facilities based on their estimated cost compared to the total estimated costs.
  - (2) The Preliminary Development Plan shall provide for no fewer than four phases satisfying the requirements of (8) (m) of this Section. The first phase shall not include more than 25% of the total number of units determined in the manner described in (1) above.
  - (3) A corporate surety performance bond shall be deposited with the county in a form acceptable to the Planning Director and in an amount equal to the estimated cost of all developed recreational facilities proposed in the Final Development Plan prior to issuance of final subdivision plat approvals or building permits for development pursuant to the plan.
- (b) When phased development has been approved through the Preliminary Development Plan, development of a subsequent phase shall not begin until all developed recreation facilities of the previous phase have been completed.
- (13) FEES: The fees for COASTAL RESORT OVERLAY ZONE applications should be calculated in the same way and at the same amount as those assessed for PLANNED DESTINATION RESORT applications as provided in Section 3.045 (12) (6) of this ordinance.

#### SECTION 3.530 BEACH AND DUNE OVERLAY (BD)

- (1) PURPOSE: The purpose of the Beach and Dune Overlay Zone is to regulate development and other activities in a manner that conserves, protects and, where appropriate, restores the natural resources, benefits, and values of coastal beach and dune areas, and reduces the hazard to human life and property from natural events or human-induced actions associated with these areas. The Overlay Zone establishes guidelines and criteria for the assessment of hazards resulting from beach and dune processes and development activities in beach and dune areas.

(2) **APPLICABILITY:**

- (a) The BD zone applies to dune areas identified in the Goal 18 (Beaches and Dunes) Element of the Comprehensive Plan and indicated on the Tillamook County Zoning Map. These areas were identified based on information contained in the inventory of beach and dune landforms of Tillamook County, prepared by the Soil Conservation Service (SCS, now known as the Natural Resource Conservation Service) and published in their 1975 report, Beaches and Dunes of the Oregon Coast.
- (b) This overlay zone includes the following areas identified and defined in the report noted in (A) above and corresponding to the LCDC system as shown below:

<b>INVENTORY CLASSIFICATION</b>	<b>LCDC CLASSIFICATION</b>
Active Inland Dune (AID)	Dune, Active
Beach (B)	Beach
Dune Complex (DC)	Dune Complex
Younger Stabilized dunes (DS)	Dune, Younger Stabilized
Recently Stabilized Foredues (FD)	Foredune, Conditionally Stable
Active Foredune (FDA)	Foredune, Active
Active Dune Hummocks (H)	Hummock, Active
Older Stabilized Dunes (ODS)	Dunes, Older Stabilized
Open Dune Sand (OS)	Dune, Active/Dune, Parabolic
Open Dune Sand Conditionally Stable (OSC)	Dune, Conditionally Stable
Wet Interdune (W)	Interdune (Note: This is not the same as a deflation plain)
Wet Deflation Plain (WDP)	Deflation Plain

- (3) **CATEGORIES:** The results of the inventory can be summarized into four Beach and Dune categories:

**CATEGORY (1) - DEVELOPED BEACHFRONT AREAS:**

Active foredune areas where an Exception to Goal 18 allows development on the active foredune. These areas are described in Section 6.1 of the Goal 18 Element of the Comprehensive Plan.

CATEGORY (2) - FOREDUNE MANAGEMENT AREAS:

Active foredune areas where an Exception to Goal 18 allows development on the active foredune and an overall management plan is approved to allow foredune grading. The management plans for these areas are contained in Section 3.1 of the Goal 18 Element of the Comprehensive Plan.

CATEGORY (3) - RESOURCE PROTECTION AREAS

a. Beach and dune areas committed to resource protection or recreational use, including:

- (1) Beaches,
- (2) Active foredunes outside of those included in categories 1 and 2,
- (3) Conditionally stable foredunes which are subject to ocean undercutting or wave overtopping,
- (4) Interdune areas that are subject to ocean flooding, and
- (5) Deflation plains that are subject to ocean flooding

CATEGORY (4): STABILIZED BEACH AND DUNE AREAS

b. Beach and dune areas stabilized by vegetation, including:

- (1) Conditionally stable foredunes and other conditionally stable areas which are not subject to ocean undercutting or wave overtopping,
- (2) Younger or older stabilized dunes, and
- (3) Coastal Terraces.

(4) ADMINISTRATIVE PROVISIONS: Uses within the BD zone are subject to the provisions and standards of the underlying zone and of this Section. Where the provisions of this zone and the underlying zone conflict, the more restrictive provisions shall apply. Other overlay zone and regulatory criteria also may apply to uses within the BD zone: for example, the standards and criteria of the Shoreland Overlay Zone, the Estuary Zones, Estuary Development Standards, Development Requirements for Geologic Hazard Areas, Flood Hazard Overlay Zone, and Requirements for Protection of Water Quality and Streambank Stabilization as set forth in the Tillamook County Land Use Ordinance.

(A) PERMITTED USES

- (1) Residential, commercial and industrial development, subject to the standards in Section 3.530 (5) and the following provisions:
  - a. Such development is permitted only in areas classified as stabilized foredune or conditionally stable foredune not subject to ocean undercutting or wave overtopping, or in areas where an exception has been taken to the prohibitions contained in Goal 18 implementation requirement (2).
  - b. The placement of oceanfront structures in coastal or geologic hazards areas is subject to the requirements of Section 3.530 (5) of this ordinance which includes a requirement that the applicant submit a Dune Hazard Report. This report shall conform to the standards and criteria set forth in Section 3.530 (5) (B) Dune Hazard and Modified Dune Hazard Reports, and also those standards and criteria set forth in the Development Requirements for Geologic Hazard Areas where applicable. The department also will consider any other pertinent information, and may require additional studies and information from the applicant. Based upon this report and any other information, oceanfront structures may be denied or restricted with respect to their location and construction.
  - c. Oceanfront structures shall be located in a manner which aligns development parallel to the Oregon Coordinate Line (beach zone line) as much as possible, consistent with the purpose of this zone.
    - (1) The Oceanfront Setback Line (OSL) determines how close to the ocean any structure other than an approved structure for oceanfront protection or stabilization or for beach access may be located, subject to any additional setback necessary to meet site-specific hazard concerns.

The OSL is landward of the crest of the active foredune and is approximately parallel to the Oregon Coordinate Line. In all cases, the OSL is measured from the most oceanward point of a structure which is higher than three feet from existing grade.

The exact location of the OSL depends on the location of oceanfront buildings near the proposed structure and upon the location and orientation of the Oregon Coordinate Line. For purposes of determining the OSL, "building" shall be limited to a permanent residential, commercial or industrial structure attached to a fixed foundation, and located within 500 feet of the Oregon Coordinate Line. Accessory structures or RV's shall not be used in making this determination.

- (a) If there are legally constructed buildings within 300 feet of the exterior boundary of the subject property to both the north and the south, the OSL is a line drawn between the most oceanward

point of any legally constructed portion of the nearest building to the north and the nearest building to the south.

- (b) If there are legally constructed buildings within 300 feet to the north only or to the south only, the OSL is the average setback from the Oregon Coordinate Line of all such buildings.
  - (c) If there are no legally constructed buildings within 300 feet to either the north or south on oceanfront lots, the OSL is the average oceanfront setback from the Oregon Coordinate Line of the nearest two such existing buildings.
- (2) In cases where the above method of OSL determination requires development to be set back further from the Beach Zone line than is required by geologic hazards or protection of the ocean view of existing development on oceanfront property, the Planning Director may determine the setback distance which will apply. The intent of this provision is to limit this application of the Director's discretion to those rare and unusual circumstances where the above method of determining the OSL produces an unreasonable and inequitable result. In such instances, a public meeting for purposes of discussing the proposed setback shall be held and recorded. Notice shall be given to surrounding property owners and persons requesting notice pursuant to the notice requirements set forth in Article 10 of this ordinance.

Upon finding that the purposes of the landward yard setback will still be achieved, the Director also may reduce the landward yard setback to no less than 10 feet. The Director's decision shall be made pursuant to the standards and criteria set forth in this section and any other standards or regulations which may apply.

- (3) Notwithstanding the above provisions, the Planning Director shall require a greater setback from the ocean where there is evidence of significant coastal, environmental, or geologic hazards as determined by a Dune Hazard Report submitted pursuant to Section 3.530(5) or other information available to the Department. In making this determination, the Hazard Report and the Director shall take into account evidence of recent, active beach erosion and whether the proposed development has been designed to adequately minimize and mitigate for any adverse environmental effects to the fullest extent required by law.
- d. Residential building in active foredune areas shall be constructed so as to minimize the future need to remove inundating sand.

- e. Building heights shall be measured from the existing grade. Only in Foredune Management Areas shall additional fill be allowed on an oceanfront lot, provided the applicant can demonstrate that a structure located on the existing grade will not provide an ocean view, and that the provisions of Section 3.510 (Flood Hazard Overlay Zone) are met.
2. Accessory structures for beach access, oceanfront protection or stabilization, on-site sewage disposal systems, or other uses which the Department determines are consistent with the purpose of this zone, subject to the standards of Section 3.530 (5) and the following provisions:
- a. The location of accessory structures will be determined in each case on the basis of site-specific information provided by a Dune Hazard Report, pursuant to the provisions of Section 3.530 (5) B.
  - b. Any accessory structure higher than three feet as measured from existing grade will be subject to the variance procedure and criteria set forth in Article VIII of the Tillamook County Land Use Ordinance.
  - c. Accessory structures for on-site subsurface sewage disposal systems may not be located oceanward of the primary structure on the subject property unless the following provisions are met:
    - (1) The primary structure on the subject property is an authorized residential, commercial, or industrial structure in existence as of October 28, 1992;
    - (2) The accessory structure is required for repair of an existing disposal system, and there is no viable alternative system or location landward of the primary structure; and
    - (3) The owner of the subject property submits an affidavit to the Department acknowledging that the property owner has been informed an oceanfront protective structure will not be authorized to protect the disposal system against erosion, and that the owner has sole responsibility for notifying any purchaser of this condition prior to sale of the property.
3. Private Beach Access
- a. Boardwalks and pedestrian footpaths to the beach shall be permitted in all dune areas, except where restricted in Foredune Management Areas.



- b. Off-road recreational vehicle use in dune areas shall be permitted in Sand Lake Recreational Area. Motor vehicles registered to operate on public highways and roads shall be allowed to travel on beaches where posted by the State Parks and Recreation Division. Operation of motor vehicles at other beach locations will require a Vehicle Permit (ORS 390.668) form State Parks.
- c. In Foredune Management Areas, where heavy use of public easements or rights of way destabilizes dune areas on adjoining private property, signs may be placed at landward entrance points to encourage the use of alternative public access points. Signs shall be subject to review by the Foredune Management Authority, Tillamook County, and the State Parks and Recreation Division.

4. Beachfront Protective Structures

- a. For the purposes of this requirement, "development" means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through the construction of streets and provision of utilities to the lot.

Lots or parcels where development existed as of January 1, 1977, are identified on the 1978 Oregon State Highway Ocean Shores aerial photographs on file in Tillamook County.

- b. Beachfront protective structures (riprap and other revetments) shall be allowed only in Developed Beachfront Areas and Foredune Management Areas, where "development" existed as of January 1, 1977, or where beachfront protective structures are authorized by an Exception to Goal 18.
- c. Proposals for beachfront protective structures shall demonstrate that:
  1. The development is threatened by ocean erosion or flooding;
  2. Non-structural solutions can not provide adequate protection;
  3. The beachfront protective structure is place as far landward as possible;
  4. Adverse impacts to adjoining properties are minimized by angling the north and south ends of the revetment into the bank to prevent flank erosion;
  5. Public costs are minimized by placing all excess sand excavated during construction over and seaward of the revetment, by planting beachgrass on the sand-covered revetment, and by annually maintaining the revetment in such condition.

6. Existing public access is preserved; and
7. The following construction standards are met:
  - a. The revetment includes three components; an armor layer, a filter layer of graded stone (beneath armor layer), and a toe trench (seaward extension of revetment structure).
  - b. The revetment slope is constructed at a slope that is between 1:1 to 2:1.
  - c. The toe trench is constructed and excavated below the winter beach level or to the existing wet sand level during the time of construction.
  - d. Beachfront protective structures located seaward of the state beach zone line (ORS 390.770) are subject to the review and approval of the State Parks and Recreation Division. Because of some concurrent jurisdiction with the Division of State Land, the Parks Division includes the Division of State Lands in such beach permit reviews.
  - e. The State Parks and Recreation Division shall notify Tillamook County of emergency requests for beachfront protective structures. Written or verbal approval for emergency requests shall not be given until both the Parks and Recreation Division and the County have been consulted. Beachfront protective structures placed for emergency purposes, shall be subject to the construction standards in Section 3.140 (17).

5. Beach Log Removal

- a. Drift log removal from beach areas seaward of the state beach zone line is subject to the approval of the State Parks and Recreation Division. The Parks Division shall notify the county of all requests for commercial driftwood removal from Non-State Park Beaches, including requests for emergency permits to remove driftwood.

B. USES AND ACTIVITIES PERMITTED CONDITIONALLY

1. Public Beach Access

- a. New public beach access points shall be allowed where identified in Tillamook County's Public Access Program to Coastal Shorelands, contained in the Goal 17 (Coastal Shorelands) Element of the Comprehensive Plan.

2. Sand Mining and Mineral Extraction

- a. Sand mining and mineral extraction shall only be permitted outside Developed Beachfront or Foredune Management Areas.
- b. Sand mining shall be permitted in other beach and dune areas only where a geological investigation establishes that a historic surplus exists at the site, and the mining will not impair the beach and dune processes near the site, including ground water circulation and littoral drift. Sand mining operations seaward of the state beach zone line is subject to the approval by the State Parks and Recreation Division (ORS 390.725).

3. Dredged Material Disposal

- a. Shoreland disposal of dredged material shall be allowed only at acceptable sites identified in County Dredged Material Disposal Plans, contained in the Goal 16 Element of the Comprehensive Plan, unless the disposal is part of an approved ocean beach nourishment project.
- b. Beach nourishment projects shall be designed to either offset the effects of active erosion or to maintain a stable beach profile.
- c. Proposals for a beach nourishment project shall demonstrate that:
  - 1. No new buildable upland is created;
  - 2. The grain size and chemical characteristics of the material proposed for beach nourishment are substantially similar to the substrate in the beach nourishment area; and
  - 3. Erosion of dredged material from the beach nourishment area does not result in adverse impacts either to significant shoreland habitat areas identified in the Goal 17 Element of the comprehensive Plan or to nearby estuarine areas.

C. SPECIAL ACTIVITIES PERMITTED WITH STANDARDS

1. Foredune Breaching

- a. Definition: In areas subject to ocean flooding, foredune crest excavation one foot below the base flood elevation constitutes foredune breaching.
- b. Foredune breaching shall be allowed in recreational beach and dune areas solely to replenish sand supply to interdune recreational areas.
- c. In non-recreational areas, foredune breaching shall be allowed only on a temporary basis for emergency purposes, such as fire control and the alleviation of flood hazards or other disaster conditions. Foredunes may be breached for emergency vehicle access, only after it can be demonstrated that temporary access cannot be accomplished by the use of a fabric ground cover in combination with a crushed rock overlay. Such construction materials (rock, fencing, etc.) shall be removed following restoration of breached foredunes.
- d. Breached foredunes shall be restored and stabilized using permanent dune stabilization techniques, immediately following alleviation of emergency conditions. At a minimum, foredunes shall be restored to the pre-existing dune profile.
- e. Foredune breaching shall be allowed for the installation and maintenance of a fiber optic cable where an exception to Goal 18 is approved

## 2. Foredune Grading

- a. Definition: Foredune grading means the alteration of a foredune, by mechanical redistribution or removal of sand, which results in a lower or more uniform dune height. Foredune grading, unlike foredune breaching, does not increase the potential for ocean flooding at the site.
- b. Foredune grading shall be permitted only in Foredune Management Areas or in Developed Beachfront Areas. In these areas, grading shall be allowed only for siting a permitted use, for removing sand that is inundating a structure allowed by the underlying zone, or for dune restoration purposes where recommended in Foredune Management Plans. Sand graded from foredune lots shall be relocated either to the beach, to low and narrow dune areas on the site, or to alternative beach and dune areas as specified in an approved Foredune Management Plan.
- c. Foredune grading to remove inundating sand shall be permitted only if there is no feasible or reasonable alternative method of sand removal, or as specified in an approved Foredune Management Plan. Inundating sand shall be disposed of seaward of existing structures and distributed in a manner that shall not impact adjacent dwellings or adversely impact the public beach. Areas graded between

November and April shall be replanted with beachgrass or other appropriate vegetation approved by the Department. If grading occurs between the months of May and October, approved temporary stabilization measures, such as mulching with ryegrass straw or matting shall be employed.

In Foredune Management Areas, grading to remove inundating sand may occur on a parcel by parcel basis. An Administrative Review of a Remedial Grading Plan is required, as described in e., below.

- d. Foredune grading to maintain ocean views shall be permitted only in Foredune Management Areas, according to Foredune Grading Plans included in the Goal 18 Element of the Comprehensive Plan.

Grading in foredune crest areas shall only be allowed where the dune elevation is more than four feet above the base flood elevation. At a minimum, Foredune Grading Plans shall describe standards for redistribution of graded sand by identifying low and narrow dune areas suitable for dune restoration, define the appropriate timing for grading actions, and outline requirements for future monitoring.

- e. All foredune grading and other activities in foredune management areas may only be conducted as part of an approved grading plan developed as described below. A grading plan shall contain the following elements:
  - 1. Description of the proposed work, including location and timing of activities, and equipment to be used;
  - 2. Plan view and elevations of existing conditions in the grading area;
  - 3. Plan view and elevations of proposed modifications in the grading area; and
  - 4. Identity of the individual(s) responsible for supervising the project, and for conducting monitoring and maintenance activities.

All grading plans shall cover all or at least a 500 foot portion of a Management Unit plan contained in the Management Strategy and shall have approval of 60% of the property owners in the area covered, except for remedial grading which may be approved for a single parcel. The grading plan shall be submitted to the County for administrative review. Administrative Review of the plan shall be confined to determining consistency with the approved Foredune Management Plan. A review fee as determined by the County shall accompany the plan. The approval may be revoked and citations issued for noncompliance with the approval.

### 3. Sand Stabilization

- a. Definition: Sand Stabilization is a program to stabilize a dune area against the effects of excessive wind or water erosion, by either planting appropriate vegetation alone or in conjunction with the placement of sand fences.
- b. Sand fences for the creation or restoration of foredunes shall be permitted in Foredune Management Areas according to specifications in Foredune Management Plans.
- c. In other dune areas, proposals for sand fences shall demonstrate that:
  - 1. Sand fences will be located landward of the state zone line.
  - 2. The sand fences will be orientated parallel to the beach and located approximately 30 feet apart.
  - 3. Existing public access is preserved.
  - 4. Sand fences proposed seaward of the state zone line shall meet the approval of the State Parks and Recreation Division.
- d. In residential yards, fire resistant vegetation, such as purple beach pea, is recommended as a preferred vegetation in order to minimize fire hazards.

(5) SITE DEVELOPMENT REQUIREMENTS: All development within the Beach and Dune Overlay zone shall comply with the following standards and requirements.

A. General Development Criteria

- 1. Groundwater and Deflation Plain Areas:
  - a. No filling or draining of deflation plain wetlands identified as significant wetlands in the Goal 17 Element of the Comprehensive Plan shall be allowed.
  - b. The filling or draining of other deflation plains may be permissible if it can be demonstrated that the activity will not lead to the loss of stabilizing vegetation, a deterioration of water quality, or the intrusion of salt water into water supplies.
  - c. Prior to the approval of development using groundwater resources, a hydraulic analysis report shall demonstrate that groundwater withdrawal will not lead to the loss of stabilizing vegetation, a deterioration of water quality, or the intrusion of salt water into water supplies.

2. Land Grading Practices:

- a. No excavations for residential and commercial site development shall be done earlier than thirty (30) days prior to the start of construction. Following the completion of major construction, excavated areas shall be stabilized. At a minimum, the site shall be stabilized within nine (9) months of the termination of major construction.
- b. All sidehill roads and driveways shall be built entirely in cut areas, unless adequate structural support is provided for fill.
- c. Excavated, filled or graded slopes in dune areas shall not exceed 30 degrees in slope. All surplus excavated material shall be removed off-site to a location where it will not constitute a hazard.
- d. Land grading proposals shall demonstrate that the removal of vegetation shall be limited to what is necessary to place buildings, or to install utilities.

3. Drainage and Erosion:

- a. Temporary measures shall be taken to control runoff and erosion of soils during all phases of construction. Storm water (roof and footing drains) shall be intercepted by closed conduits and directed into adjacent drainageways with adequate capacity to prevent flooding of adjacent or downstream properties.
- b. Plans for temporary and permanent stabilization programs, and the planned maintenance of restabilized areas, shall be provided by the applicant for areas disturbed during site preparation. At a minimum, areas proposed for removal of native vegetation shall be identified on building plans and if approved, they shall be replanted within nine (9) months following the completion of major construction.

B. Dune Hazard and Modified Dune Hazard Reports

- 1. A Dune Hazard Report shall be required prior to the approval of subdivisions and partitions governed by the Land Division Ordinance, planned developments, mixed use developments, coast resorts, sand mining, and building permits, with the following exceptions:
  - a. Building permits for accessory structures;

- b. Development in older stabilized dunes, unless the area is a locally known hazard area based on evidence of past occurrences;
- c. Building permits for mobile home placement, single-family residential and duplex structures in Developed Beachfront Areas, if the structure will be located in AO, B, C, or D FIRM flood hazard zone. Where there is evidence of recent, active erosion at or near the proposed building site, a Modified Dune Hazard Report shall be required prior to issuance of building permits.

## 2. Modified Dune Hazard Report

- a. The purpose of a Modified Dune Hazard Report is to provide findings and conclusions that a residential structure located in or near a zone of recent, active erosion will be reasonably protected from the described hazard for the lifetime of the structure.
- b. Evidence of recent, active beach or dune erosion can include information provided by the following:
  - 1. Permits for shoreline stabilization structures that have been issued in the area within the past 5 years, or;
  - 2. Results of site investigation by County, State Parks and Recreation, or Division of State Lands representatives.
- c. The Report shall present findings on the average retreat of the shoreline, using either the line of established upland shore vegetation or a similar persistent geomorphic coastal feature that can be identified on aerial photographs. The Oregon Department of Transportation Ocean Shores aerials, or other similar historic records, are suitable for calculating the average rate of retreat of the shoreline.

## 3. Dune Hazards Report

The Dune Hazards Report shall include the results of a preliminary site investigation and where recommended in the preliminary report, a detailed site investigation.

- a. Preliminary Site Investigation
  - 1. The purpose of the Preliminary Site Report is to identify and describe existing or potential hazards in areas proposed for development. The report shall be based on site inspections conducted by a qualified person,



such as a geologist, engineering geologist, soil scientist, civil engineer, or coastal oceanographer.

2. The preliminary Site Report shall either recommend that a more detailed site investigation report is needed to fully disclose the nature of on-site hazards or it shall conclude that known hazards were adequately investigated, and recommend development standards for buildable areas.
3. The Preliminary Site Report shall include plan diagrams of the general area, including legal descriptions and property boundaries, and geographic information as required below:
  - a. Identification of each dune landform (according to either the Goal 18 or SCS system of classification);
  - b. History of dune stabilization in the area;
  - c. History of erosion or accretion in the area, including long-term trends;
  - d. General topography including spot elevations;
  - e. Base flood elevation and areas subject to flooding, including flood areas shown on the NFIP maps of Tillamook County;
  - f. Location of perennial streams or springs in the vicinity;
  - g. Location of the state beach zone line;
  - h. Location of beachfront protective structures in the vicinity;
  - i. Elevation and width of the foredune crest.
  - j. Land grading practices, including standards for cuts and fills and the proposed use and placement of excavated material.

Elevations shall relate to the National Geodetic Vertical Datum of 1929, NGVD.

- b. Detailed Site Investigation

1. The purpose of a Detailed Site Investigation is to fully describe the extent and severity of identified hazards. Such investigation shall be required either where recommended in a Preliminary Site Report or when building plans, including grading plans for site preparation, were not available for review as part of the preliminary site investigation.

The Detailed Site Report shall be based on site inspections or other available information and shall be prepared by a qualified person, such as a registered civil engineer or engineering geologist.

2. The report of a Detailed Site Investigation shall recommend development standards to assure that proposed alterations and structures are properly designed so as to avoid or recognize hazards described in the preliminary report or as a result of separate investigations. The report shall include standards for:
  - a. Development density and design;
  - b. Location and design of roads and driveways;
  - c. Special foundation design (for example spread footings with post and piers), if required;
  - d. Management of storm water runoff during and after construction.
- c. Summary Findings and Conclusions. The Preliminary and Detailed Site Reports shall include the following summary findings and conclusion:
  1. The proposed use and the hazards it might cause to life, property, and the natural environment;
  2. The proposed use is reasonably protected from the described hazards for the lifetime of the structure.
  3. Measures necessary to protect the surrounding area from any hazards that are a result of the proposed development;
  4. Periodic monitoring necessary to ensure recommended development standards are implemented or that are necessary for the long-term success of the development.

(6) PERMIT PROCEDURES:

- A. A County Development Permit shall be obtained prior to sand mining, beach nourishment, foredune grading, or proposals for beachfront protective structures and sand fencing within the Beach and Dune Overlay Zone.
- B. Applications shall be made to the Planning Director, Department of Community Development, on forms prescribed by Tillamook County.
- C. An appeal of the ruling by the planning director regarding a permit requirement of this section may be made to the Tillamook County Planning Commission pursuant to Article 10.

**SECTION 3.545: SHORELAND OVERLAY (SH)**

- (1) **PURPOSE:** The purpose of the SHORELAND OVERLAY ZONE is to:
  - (a) Provide for development, restoration, conservation of protection of coastal shorelands in a manner which is compatible with the resources and benefits of coastal shorelands and adjacent coastal water bodies.
  - (b) Protect identified priority dredged material disposal and mitigation sites from uses which would prevent their ultimate use for dredged material disposal or mitigation;
- (2) **AREAS INCLUDED:** The SHORELAND OVERLAY ZONE is designated on the Tillamook County Zoning Maps. Included in this zone are:
  - (a) Lands contiguous with the ocean estuaries and coastal lakes that contain the following features shown in the Coastal Shoreland Element of the Comprehensive Plan:
    - (1) Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or a coastal lake.
    - (2) Adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body.
    - (3) Riparian vegetation or other natural or man-made riparian resources necessary for shoreline stabilization or water quality maintenance.
    - (4) Significant shoreland and wetland biological habitats.
    - (5) Areas necessary for water-dependent and water-related uses.
    - (6) Shoreland areas of exceptional aesthetic or scenic quality.
    - (7) Coastal headlands.

- (b) Priority Dredged Material Disposal (DMD-1) and Mitigation (MIT-1) sites.
- (3) Categories of Coastal Shorelands: There are two categories of coastal shorelands included in the SHORELAND OVERLAY ZONE.
- (a) Rural Shorelands are the first category of Coastal Shorelands. Rural Shorelands are those areas that are outside an urban growth boundary and do not fall within the second category of Coastal Shorelands.
  - (b) The second category are those shorelands identified in the Estuarine Element and Coastal Shorelands Element of the Comprehensive Plan as:
    - (1) Significant shoreland and wetland biological habitat.
    - (2) Exceptional aesthetic or scenic resources and coastal headlands.
    - (3) Priority dredged material disposal and priority mitigation sites.
    - (4) Beaches, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping and interdune areas subject to ocean flooding.
- (4) USES PERMITTED: Uses authorized by the underlying zone as outright or conditional uses are permitted, except at locations identified in (3) above.
- (a) Rural Shorelands in General:
    - (1) Rural shorelands uses are limited to:
      - (a) Farm uses,
      - (b) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act,
      - (c) Aquaculture,
      - (d) Water-dependent recreational, industrial and commercial uses,
      - (e) Replacement, repair or improvement of existing state park facilities,
      - (f) Other uses are allowed only upon a finding by the County that such uses satisfy a need which cannot be accommodated at any alternative upland location, except in the following cases:

- (1) In built and committed exception shoreland areas, where all uses permitted in the underlying zone are permitted, and
  - (2) In the F-1, F, SFW-20, and RM zones, where the Other Uses listed in Sections 8.4.e, 8.4.f, 8.4.g and 8.5.e, respectively of the Coastal Shoreland Element, are permitted, if no suitable non-shoreland locations exist on the parcel.
- (b) Significant Shoreland and Wetland Biological Habitats (Identified in Section 3.2 of the Coastal Shorelands Element of the Comprehensive Plan).

- (1) Only low intensity uses and developments such as hiking trails and platforms for wildlife viewing or similar types of educational, scientific or recreational uses may be permitted providing that such uses and developments will not act as a barrier to or result in major disturbances or displacement of fish or wildlife species. Maintenance of existing drainageways and drainage structures is permitted.
- (2) In significant wetland biological habitats, no development is allowed except for the placement of a floating or pile supported dock or a boat ramp using less than 50 cubic yards of fill to allow boat access to a coastal lake providing that such developments are placed to minimize impacts on wetland habitats.

Where dwellings are permitted in the underlying zone, the density of allowed development shall be determined by the size of the entire parcel providing the allowed development will not result in a major impact to adjacent significant wetland habitat.

- (3) Dredging less than 50 cubic yards from a coastal lake to provide access to a public boat ramp or a public boat dock is allowed, subject to the approval of Tillamook County.
- (4) Within the Neskowin Community Growth Boundary, only the following uses are allowed within significant shoreland and wetland biological habitat and within 25 feet of the upland edge of such habitat:
  - (a) Low-impact recreational uses consistent with Section 3.545 (4)(b)(1);
  - (b) Existing park or golf course facilities which exist as of March 1, 1999, and maintenance of existing facilities. Improvements and additions, provided adverse impacts to shoreland and wetland habitat are not measurably increased, or are mitigated.
  - (c) Repair, replacement or maintenance of existing structures and drainage facilities, provided that size or capacity is not increased (unless necessary for improved fish passage);

- (d) Bank stabilization;
  - (e) Vegetation management of non-native plants;
  - (f) maintenance and improvement of stream corridors for storm drainage purposes or for fish and wildlife enhancement;
  - (g) Stormwater discharge;
- (5) The 25-foot setback requirement of Section 3.545 (4)(b)(4) may be reduced through the provisions of Article VIII. In addition to the standard variance criteria, the variance request shall meet the following criterion: Encroachment on the shoreland or wetland biological habitat, along with any proposed mitigation, will not have negative impacts on the natural functions and values of the resource area.
- (c) Exceptional Aesthetic or Scenic Resources and coastal Headlands (identified in Section 3.2 of the coastal Shorelands Element of the Comprehensive Plan).
- (1) Rock quarries, mining and mineral extraction, industrial uses, communication and energy generation towers other than wind energy conversion systems, power transmission lines, landfills and airports are not permitted.
  - (2) In the Cascade Head Scenic Research Area, and the Oswald West, Nahalem Bay, Cape Meares, Cape Lookout, Cape Kiwanda and Nestucca Spit State Parks, forest uses shall be limited to those allowed by the respective management plans for these areas. In other exceptional aesthetic or scenic resource areas or on coastal headlands, forest uses are limited to fire, insect and disease control, reforestation and hazard tree removal as long as the resource remains substantially unaltered.
  - (3) Buildings may be allowed only if they and the land preparation which precedes them preserves the natural topography and unique scenic features and does not substantially alter the scenic character or the natural vegetative cover of the area.
  - (4) Signs shall be constructed of wood and shall be limited to interpretive and directional signs having an area no greater than 16 square feet.
- (e) Priority Dredged Material Disposal and Priority Mitigation sites (identified by the symbols DMD-1 and MIT-1 respectively on the Estuary Zoning Maps).
- (1) Uses shall not preclude the ultimate use of the site as a dredged material disposal or mitigation site.
  - (2) Structures or other improvements shall be of a temporary nature, easily moved or of low value, so that demolition or removal of these structures can be easily accomplished in

order to accommodate dredged material disposal or mitigation. On priority mitigation sites only structures or other improvements which can be completely removed from the site are allowed.

- (3) Fill is permitted only where it is necessary to maintain or repair existing structures and facilities such as dikes. In priority mitigation sites there shall be no land grading which will reduce the potential of using the site for mitigation.

(5) **CONDITIONAL USES:**

- (a) Aquatic and shoreland disposal of dredged material shall be allowed only at approved sites listed in the Comprehensive Plan, unless the disposal is part of an approved fill project. Dredged material disposal is subject to the standards of Section 3.140 (4).
- (b) Mitigation actions shall be allowed only at approved sites listed in the Comprehensive Plan, unless the mitigation is part of an approved dredge or fill project. Mitigation actions are subject to the standards of Section 3.140 (12).
- (c) Estuarine restoration actions (as defined in Section 6.12 of the Estuarine Resources Element of the Comprehensive Plan) shall be allowed only at approved sites listed in the Comprehensive Plan, unless the restoration action is approved as part of a mitigation project. Restoration actions are subject to the standards of Section 3.140 (15).

(6) **STANDARDS:** Uses within the **SHORELAND OVERLAY ZONE** are subject to the provisions and standards of the underlying zone and of this section. Where the standards of the **SHORELANDS OVERLAY ZONE** and the underlying zone conflict, the more restrictive provisions shall apply.

- (a) Riparian vegetation shall be protected and retained according to the provisions outlined in Section 4.140, **REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION**.
- (b) Development in flood hazard areas shall meet the requirements of Section 3.510, **FLOOD HAZARD OVERLAY ZONE**.
- (c) Development in beach and dune and other geologic hazard areas shall meet the requirements of Section 3.085, **BEACH AND DUNE OVERLAY ZONE** and Section 4.130, **DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS**.
- (d) Forestry operations shall be consistent with the protection of the natural values of major marshes, significant wildlife habitat and riparian vegetation. A forest operation for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act and any supplemental agreements entered into by the Oregon State Board of Forestry and the Oregon State Fish and Wildlife Commission.

- (e) The productivity of resource land on Rural Shorelands shall be considered when determining the location of "Other Uses" within a given land parcel in the F-1, F, and SFW-20 zones. "Other Uses" within these zones shall be located so that the productivity of resource land is maintained.
- (f) Existing public ownerships, rights of way and similar public easements in coastal shorelands which provide access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Rights of way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(7) ADMINISTRATIVE PROVISIONS:

- (a) All applications for developments in the SHORELANDS OVERLAY ZONE shall be reviewed for compliance with the requirements of the underlying zone and the requirements of the SHORELANDS OVERLAY ZONE.
- (b) All applications shall be accompanied by a plot plan identifying the location of the parcel and its boundaries, the location of existing uses on the property, the proposed location of developments and uses and the location of any waterbodies, watercourses and wetlands in the vicinity of the proposed developments. Developments involving contiguous parcels under separate ownerships may be considered in a single application, provided that all affected property owners sign the final application.
- (c) In the following instances, public agencies shall be notified of applications for development in the SHORELANDS OVERLAY ZONE.
  - (1) Significant Wetland Biological Habitats: The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U. S. Fish and Wildlife Service, Environmental Protection Agency and U. S. Army Corps of Engineers shall be notified.
  - (2) Other Significant Shoreland Habitats: The Oregon Department of Fish and Wildlife, Oregon Department of Land Conservation and Development, and U. S. Fish and Wildlife Services shall be notified.
  - (3) Coastal Headlands and Exceptional Aesthetic and Scenic Resources: The Oregon Parks and Recreation Division and Oregon Department of Land Conservation and Development shall be notified.
  - (4) Priority Dredged Material Disposal and Mitigation Sites: The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Department of Economic Development, U. S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection



Agency, U. S. Army Corps of Engineers and the locally affected Port District shall be notified.

- (5) Public Access Projects: The Oregon Parks and Recreation Division and the Oregon Department of Land Conservation and Development shall be notified.
- (d) Notification Procedure
- (1) If a development application involves regulated activities (for definition see Section 3.120), notice will be mailed within 7 days of County receipt of the State or Federal permit notice. The Planning Department shall consider any comments received no later than seven days before the closing date for comments on the State or Federal permit notice.
  - (2) If a development application involves a conditional use or a variance, notification procedures shall be those of Articles VI or VIII respectively.
  - (3) In all other instances, notice will be mailed within seven days of the receipt of a completed application. The Planning Department shall consider all comments received within ten days after notice has been mailed.

#### SECTION 3.550: FRESHWATER WETLANDS OVERLAY (FW)

- (1) PURPOSE AND AREAS INCLUDED: The purpose of this zone is to protect significant areas of freshwater wetlands, marshes and swamps from filling, drainage or other alteration which would destroy or reduce their biological value. Areas included in this zone are:
  - (a) Significant Goal 5 Wetlands: wetlands identified as “significant” in the Goal 5 Element of the Comprehensive Plan;
  - (b) Notification Wetlands: wetlands shown on the Statewide Wetland Inventory (discussed in the Goal 5 Element of the Comprehensive Plan).

When required, the verification of zone boundaries shall be carried out in conjunction with the property owner and the Oregon Division of State Lands.

- (2) USES PERMITTED:
  - (a) Significant Goal 5 Wetlands:
    - (1) A forest operation for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act and any supplemental agreements entered

into by the Oregon State Board of Forestry and the Oregon State Fish and Wildlife Commission.

- (2) Other uses and developments permitted outright or conditionally in the underlying zone shall be permitted if they will not result in filling, drainage, removal of vegetation or other alteration which would destroy or reduce the biological value of the wetland. Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands shall be allowed where such an action has been fully coordinated with the Oregon Department of Fish and Wildlife and the Tillamook County Soil and Water Conservation District. Existing drainage ditches may be cleared to original specifications without review.

(b) Notification Wetlands:

- (1) uses permitted outright or conditionally in the underlying zone shall be permitted subject to approval by the Oregon Division of State Lands.

(3) STANDARDS: The following standard shall be met in addition to the standards of the underlying zone.

- (a) Where dwellings are permitted in the underlying zone, the density of allowed development shall be determined by the size of the entire parcel.
- (b) Development activities, permits, and land-use decisions affecting a Notification Wetland require notification of the Division of State Lands, and are allowed only upon compliance with any requirements of that agency. The applicant shall be responsible for obtaining approval from the Division of State Lands for activities on Notification Wetlands.

SECTION 3.555: MINERAL AND AGGREGATE OVERLAY (MA)

- (1) Purpose
- (2) Definitions
- (3) Overlay Zone Areas
- (4) Procedure for Applying the Overlay Zone
- (5) Extraction Area - Allowed Uses
- (6) Exemptions
- (7) Extraction Area - Development Standards
- (8) Site Reclamation
- (9) Site Plan Review
- (10) Impact Area - Uses and Development Standards
- (11) Termination of the Mineral and Aggregate Overlay

(1) PURPOSE

The purpose and intent of the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE is:

- (A) To provide a mechanism to identify and protect significant mineral and aggregate resource sites;
- (B) To allow the development and use of mineral and aggregate resources subject to uniform operating standards;
- (C) To balance and resolve conflicts between surface mining activities and activities on surrounding land;

(2) DEFINITIONS

**AGGREGATE RESOURCES:** The rock, gravel, sand and other similar resources that are used for the construction of roads, parking areas, walkways and structures.

**CONFLICTING USE:** A use authorized in the underlying zone and located within the impact area which, if allowed, could adversely affect operations at a significant mineral and aggregate resource site. For the purposes of this chapter, another Goal 5 resource located within the impact area may be considered a conflicting use if that resource could be adversely affected by mining or processing activities, or force a change in mining or processing at the site.

**ESEE ANALYSIS:** The analysis of Economic, Social, Environmental and Energy consequences of;

- (a) Allowing mining on a significant site, and
- (b) Allowing conflicting uses to displace mining on a significant site. Based on the results of the ESEE analysis, the County shall determine a level of protection for the resource, and implement a program to achieve the designated level of protection.

**EXTRACTION AREA:** The area of identified significant mineral and aggregate reserves in which mining and processing are permitted.

**GOAL 5 PROCESS:** The planning process required by Oregon Administrative Rules (OAR) Chapter 660, Division to implement the requirements of Statewide Planning Goal 5. This process includes the identification of conflicting uses, the analysis of economic, social, environmental and energy consequences of conflicting uses, the determination on the level of protection to be afforded a resource site, and the selection of a program to protect significant sites.

**IMPACT AREA:** The area surrounding the extraction area in which conflicting uses occur and in which ESEE consequences are analyzed, and the establishment of new conflicting uses is regulated.

**MINERAL RESOURCES:** The metallic, industrial and energy resources such as silver, copper, lead, zinc, clay, coal and natural gas.

MINING: All or any part of the process of extracting mineral or aggregate products. Mining does not include:

- (a) Excavations conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of constructing or maintaining roads to a mine site;
- (b) Excavation or grading conducted in the process of farm or cemetery operations;
- (c) Excavation or grading conducted within a road right-of-way or other easement for the primary purpose of road construction, reconstruction or maintenance; or
- (d) Removal, for compensation, of materials resulting from on-site construction for which a development permit and a construction time schedule have been approved by the County.

NOISE OR DUST SENSITIVE USE: A conflicting use which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. Forest uses and farm uses are not noise or dust sensitive uses unless so determined through the Goal 5 process to the effect that they satisfy this definition in more than an incidental manner.

PROCESSING: The washing, crushing, milling, sorting, handling, and conveying of mineral and aggregate resources, including the batching and blending of such resources into asphalt or portland cement concrete.

RESTRICTIVE COVENANT: An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel may be restricted in some fashion by mining occurring on another parcel, not to object to the terms of a permit used by a local government, state agency or federal agency. The restrictive covenant shall be recorded in the real property records of the County and shall run with the land, and is binding upon the heirs and successors of the parties. The covenant shall state that obligations imposed by the covenant shall be released when the site has been mined and reclamation has been completed.

SCREENED USES:

- (a) Conflicting uses identified through the Goal 5 process, and
- (b) Scenic viewpoints or other areas designated as significant Goal 5 resources.

SIGNIFICANT SITE: A site containing either significant aggregate resources or significant mineral resources.

- (A) A SIGNIFICANT AGGREGATE RESOURCE site is a site that contains aggregate or stone material which meet modified Oregon Department of Transportation specifications for construction grade material, which are the three materials tests of abrasion (OSHD TM 211) with

loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating aggregate or stone materials for road construction and maintenance.

- (B) A SIGNIFICANT MINERAL RESOURCE site is a site that contains non-aggregate minerals that have been determined to be significant based upon an analysis and findings concerning the commercial or industrial use of the resource and the relative quality and abundance of the resource in Tillamook County.

SITE PLAN: A County permit either;

- (a) To begin mining in the extraction area, or
- (b) To begin a use in the impact area.

The SITE PLAN shall include such surveys, maps, diagrams, narratives and other materials as may be necessary to describe the placement of and use of all improvements, equipment, fixtures, mitigation measures, landscaping, and vehicles on site.

### (3) OVERLAY ZONE AREAS

The MINERAL AND AGGREGATE OVERLAY ZONE comprises two areas, the Extraction Area and the Impact Area. Neither element of the overlay, the Extraction Area or the Impact Area, shall be applied independently by the County to land within another county, or within a city or its urban growth boundary.

- (A) EXTRACTION AREA: The Extraction Area shall be applied to significant sites where mining is permitted. This area may consist of one or more parcels or portions of parcels, and may be applied to contiguous properties under different ownership. The Extraction Area boundary may be modified through the Goal 5 process to reduce conflicts with uses existing when the overlay is applied. The Extraction Area shall be identified on the zoning map.
- (B) IMPACT AREA: The Impact Area may be applied to parcels or portions of parcels adjacent to and within 750 feet of the Extraction area boundary unless a different sized impact area is identified in the Goal 5 process. The Impact Area shall be identified on the zoning map.

### (4) PROCEDURE FOR APPLYING THE OVERLAY ZONE

- (A) DETERMINATION OF A SIGNIFICANT SITE: The County shall analyze information about the locations, quality and quantity of mineral and aggregate deposits. Information necessary to demonstrate the significance of a resource shall include:

- (1) A survey, map, tax lot map, or other legal description that identifies the location and perimeter of the mineral and aggregate resource with reasonable particularity; and
  - (2) Information demonstrating that the resource meets or can meet applicable quality specifications for the intended use(s). Information may consist of laboratory test data or the determination of a geologist, engineer, or other qualified person; and
  - (3) Information demonstrating the quantity of the resource as determined by exploratory test data, or other calculations compiled and attested to by a geologist, engineer, or other qualified person.
- (B) **PLACEMENT ON THE INVENTORY:** Based on the analysis of information about the location, quality and quantity of the mineral and aggregate resource, the County shall determine the inventory status of the resource site. Each site considered by the County shall be placed on one of three inventories based on the following criteria:
- (1) If the resource site meets the definition of an significant site, the County shall include the site on an inventory of "Significant Sites"; or
  - (2) If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Potential Sites". Sites shall remain on the "Potential Sites" inventory until information is available to determine whether or not the site is significant; or
  - (3) If the resource site does not meet the definition of a significant site, the County shall include the site on an inventory of "Other Sites".
- (C) **IDENTIFY THE IMPACT AREA:** For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area and all lands within 750 feet of the Extraction Area boundary, unless the Impact Area is modified through the Goal 5 process.
- (D) **IDENTIFY CONFLICTING USES:** For each significant site placed on the inventory, conflicting uses shall be identified.
- (1) The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).
  - (2) If no conflicting uses are identified, the Extraction Area portion of the MINERAL AND AGGREGATE OVERLAY ZONE shall be applied to the resource site. The Impact Area overlay shall not be applied.

- (E) ESEE ANALYSIS: For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.
- (1) The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.
  - (2) The ESEE analysis shall be limited to uses and Goal 5 resources identified pursuant to Subsection (D) of this Section.
  - (3) The ESEE analysis shall consider opportunities to avoid and mitigate conflicts. The analysis shall examine:
    - (a) The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining and processing;
    - (b) The consequences of allowing mining and processing fully, notwithstanding the possible effects on conflicting uses;
    - (c) The consequences of protecting conflicting Goal 5 resources;
    - (d) The applicability and requirements of other Statewide Planning Goals, the County Comprehensive Plan or provisions of the County Zoning Ordinance.
- (F) DECISION ON PROGRAM TO PROVIDE GOAL 5 PROTECTION: Based on the ESEE analysis, the County shall determine the amount of protection to be given each significant site. Each determination shall be incorporated into the Comprehensive Plan, and reflected on the County zoning maps. The County shall make one of the following determinations:
- (1) Protect the site fully and allow mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE. Development of the significant site shall be governed by the standards in Section 3.555 (7). As part of the final decision, the County shall adopt site-specific policies specifying the planned use of the site following reclamation and prohibiting the establishment of conflicting uses within the Impact Area.
  - (2) Balance protection of the significant site and conflicting uses and allow mineral and aggregate mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Section 3.555 (7) and other site-specific requirements developed through the Goal 5 process shall govern mining at the significant site. Section 3.555 (10) and any other site-specific requirements developed through the Goal 5 process shall govern development of conflicting uses within the Impact Area.

- (3) Allow conflicting uses fully, even though this may impair mining and processing. To implement this decision the County shall not apply the MINERAL AND AGGREGATE OVERLAY ZONE, and shall not include the site on the inventory of significant sites. The site will not be protected from conflicting uses.

- (G) DESIGNATION OF THE MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS: The MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS may be applied through the initial legislative planning process, the plan update process or through an individual application for a Comprehensive Plan amendment and zone change. The boundary of the Overlay Zone Area shall be all property within the Mineral and Aggregate Resources Extraction and Impact Areas.

Individual applications shall be initiated by the petition of the owner, contract purchaser, or option holder of property comprising the Extraction Area.

- (H) SITE PLAN APPROVAL: The operator of a Significant Site may seek approval of a Site Plan as part of the Goal 5 Process. The standards for Site Plan approval are state in Section 3.555 (9). If the operator chooses to delay application for a Site Plan until some later time, the procedure shall be as set forth in Section 3.555(9).

(5) EXTRACTION AREA ALLOWED USES

- (A) Uses permitted either outright or conditionally in the underlying zone may be allowed subject to the underlying zone criteria, any requirements adopted as part of the Goal 5 process, and the following criteria:

- (1) Permitted uses shall be reviewed according to the site plan review procedure;
- (2) Noise sensitive uses as defined in Section 3.555 (2) or those uses determined through the Goal 5 process to be conflicting uses may be permitted as conditional uses;
- (3) Applications for conditional uses within the Extraction Area shall be reviewed against the approval criteria of Section 3.555 (10).

- (B) The following uses shall be permitted subject to the review standards of Section 3.555 (7) and any requirements adopted as part of the Goal 5 process:

- (1) Mining;
- (2) Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;
- (3) Stockpiling of mineral and aggregate materials extracted and processed onsite;



- (4) Sale of mineral and aggregate products extracted and processed onsite;
- (5) Storage of equipment or vehicles used in conduction with onsite mining or processing;
- (6) Buildings, structures and activities necessary and accessory to development or reclamation of a mineral or aggregate resource.

(6) EXEMPTIONS

The following mining activities are exempt from the provisions of Section 3.555 (7). Operators or land owners claiming any of these exemptions have the burden of establishing the validity of the exemption.

- (A) Pre-existing or nonconforming activities subject to Article VII of this Ordinance;
- (B) In exclusive farm use zones, mining less than 1,000 cubic yards of material or excavation preparatory to mining of an area of less than one acre;
- (C) In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until such time that mining affects five or more acres;
- (D) Mining and processing auxiliary to forest practices.

(7) EXTRACTION AREA DEVELOPMENT STANDARDS

The following standards apply to mining and processing unless other standards are adopted in the Goal 5 process. Prior to the commencement of mining, the applicant shall demonstrate that the following standards or replacement standards adopted in the Goal 5 process are met or can be met by a specified date.

(A) ACCESS:

- (1) Onsite roads used in mining, and access roads from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards:
  - (a) All access road intersections with public roads shall comply with the road approach regulations of the agency with jurisdiction for the public road;
  - (b) All onsite roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control, ambient air quality and water quality are met or can be met by a specified date;

- (c) Effective dust control measures shall be applied to all onsite roads within the Extraction Area within 250 feet of a noise or dust sensitive use existing on the effective date that the overlay is applied.
  - (2) Improvements to public roads outside of the Extraction Area may only be required as necessary to correct safety deficiencies and to provide effective dust control. Requirements for road improvements shall be specified in the Goal 5 program for the site, and shall be based upon the ESEE analysis.
- (B) SCREENING:
  - (1) The mining activities listed in Subsection (B) (2) of this Section shall be obscured from view of screened uses, unless one of the exceptions in Subsection (B) (4) of this Section applies. Screening shall be accomplished in a manner consistent with Subsection (B) (3) of this Section.
  - (2) Mining Activities to be Screened.
    - (a) All excavated areas except:
      - (1) Those areas where reclamation is being performed,
      - (2) Internal onsite roads existing on the effective date of this ordinance,
      - (3) New roads approved as part of the site plan review,
      - (4) Material excavated to create berms, and
      - (5) Material excavated to change the level of the mine site to an elevation which provides natural screening;
    - (b) All processing equipment;
    - (c) All equipment stored on the site.
  - (3) Types of Screening.
    - (a) Natural Screening. Existing vegetation or other landscape features which are located within the boundaries of the Extraction Area, and which obscure the view of mining activities from screened uses, shall be preserved and maintained consistent with the development and use of the resource.

- (b) **Supplied Screening.** Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees and shall not be required to exceed a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.
- (4) **Exceptions.** Supplied screening shall not be required when and to the extent that any of the following circumstances exist:
- (a) The natural topography of the site provides screening to obscure mining activities from screened uses;
  - (b) Supplied screening cannot obscure mining activities from screened uses due to local topography;
  - (c) The applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions;
  - (d) Mining activities that are visible from screened used will be completed or removed, and reclaimed within 6 months; or
  - (e) An alternate program or technique to achieve screening is developed, and determined to be at least as effective as the natural or supplied screening described above.
- (C) **AIR QUALITY:** The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards.
- (D) **STREAMS AND DRAINAGE:** Mining abutting a lake or other perennial body of water, shall be subject to the riparian protection measures contained in Section 4.140 of this ordinance unless mining is allowed within this area as part of the Goal 5 process.
- (E) **FLOOD PLAIN:** Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of Section 3.510 of this ordinance.
- (F) **NOISE:** Noise created by mining shall not exceed applicable DEQ noise control standards. Compliance with this standard can be demonstrated by the report of a certified engineer, and compliance methods may include use of existing topography, equipment modifications, equipment siting or use of supplied berms.
- (G) **HOURS OF OPERATION:**

- (1) Mining and processing are restricted to the hours of 7 a.m. to 10 p.m., Monday through Saturday, unless otherwise limited by the Goal 5 process. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met.
- (2) Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

(H) DRILLING AND BLASTING:

- (1) Drilling and blasting are restricted to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
- (2) Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within the impact area at least 48 hours prior to the blasting event. For ongoing blasting activities, notice shall be provided once each month for the period of blasting events, and specify the days and hours when blasting is expected to occur.

(I) SURFACE WATER: Surface water shall be managed in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

(J) COMPLIANCE WITH SPECIAL CONDITIONS: The applicant shall demonstrate that all special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.

(K) PERFORMANCE AGREEMENTS: The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.

(8) SITE RECLAMATION

- (A) No mining shall begin without the operator providing the County a copy of a DOGAMI operating permit and approved reclamation plan or exemption certificate issued in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.
- (B) The jurisdiction of the County with respect to mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with applicable provisions of the Comprehensive Plan, and ensuring that mine operations are consistent with adopted programs to protect other Goal 5 resources.

- (C) The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner:
    - (1) When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.
      - (a) If site plan approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.
      - (b) If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.
    - (2) When reviewing a proposed reclamation plan and operating permit application circulated by DOGAMI, the County shall review the plan against the following criteria:
      - (a) The plan will rehabilitate mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 process;
      - (b) The reclamation plan, and surface mining and reclamation techniques employed to carry out the plan complies with the standards of Section 3.555(7);
      - (c) Measures are included which will ensure that other significant Goal resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.
- (9) SITE PLAN REVIEW
- (A) Site plan review is required prior to commencement of mining. Applications shall be in the form required by the County, and shall demonstrate compliance with the standards of Section 3.555 (7) and any requirements adopted as part of the Goal 5 process.
  - (B) Applications for site plan approval of surface mining operations and activities authorized by Section 3.555(6) shall be reviewed in accordance with the provisions for making a limited land use decision as provided by ORS 215.425.
  - (C) The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.555 (7) and any other requirements adopted as part of the Goal 5 process.
  - (D) If the County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision

adopted as part of the Goal 5 process, or the applicant may choose to apply for a Comprehensive Plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.

(10) **IMPACT AREA - USES AND DEVELOPMENT STANDARDS**

- (A) **USES PERMITTED OUTRIGHT:** Uses permitted outright in the underlying zone, except noise or dust sensitive uses or conflicting uses, may be permitted subject to the standards and criteria of the underlying zone(s).
- (B) **USES ALLOWED CONDITIONALLY:**
  - (1) Noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and this Section.
  - (2) Conditional uses in the underlying zone(s) which are not noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone.
- (C) **PROHIBITED USES:** Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.
- (D) **APPROVAL CRITERIA:** To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:
  - (1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;
  - (2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter;
  - (3) The applicable criteria of Subsection (E) of this Section are met;
  - (4) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date through the imposition of conditions on the conflicting use.
- (E) **NOISE AND DUST REDUCTION:**
  - (1) The applicant for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent Extraction Area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use.

- (2) The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the adjoining mining operation. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation, such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the Impact Area.
- (3) As a condition of final approval for the establishment of a new noise sensitive use, the applicant may be required to execute a restrictive covenant in favor of the mining operator that incorporates the compliance items specified in Subsection (E) (2) of this Section.

(11) TERMINATION OF THE MINERAL AND AGGREGATE OVERLAY

When a significant site has been fully mined and reclamation has been complete, the property shall be rezoned to remove the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.

SECTION 3.560: TILLAMOOK AIRPORT OBSTRUCTION (TAO)

- (1) PURPOSE: It is hereby found that an obstruction has the potential for endangering the lives and property of users of Tillamook Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Tillamook; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Tillamook Airport and the public investment therein. Accordingly, it is declared:
  - (a) That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Tillamook Airport.
  - (b) That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.
  - (c) That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(2) DEFINITIONS:

- (a) AIRPORT - the Tillamook Airport.
- (b) AIRPORT ELEVATION - the highest point of an airport's usable landing area measured in feet from sea level. 35 feet above mean sea level for Tillamook Airport.
- (c) APPROACH SURFACE - a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Article IV of this ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (d) APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES - these zones are set forth in Article III of this ordinance.
- (e) CONICAL SURFACE - a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- (f) HAZARD TO AIR NAVIGATION - an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (g) HEIGHT - for the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (h) HORIZONTAL SURFACE - a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- (i) LARGER THAN UTILITY RUNWAY - a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
- (j) NONPRECISION INSTRUMENT RUNWAY - a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
- (k) OBSTRUCTION - any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Article IV of this Ordinance.
- (l) PERSON - an individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.



- (m) **PRIMARY SURFACE** - a surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Article III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
  - (n) **RUNWAY** - a defined area on an airport prepared for landing and takeoff of aircraft along its length.
  - (o) **STRUCTURE** - an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.
  - (p) **TRANSITIONAL SURFACES** - these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal surfaces.
  - (q) **TREE** - any object of natural growth.
  - (r) **UTILITY RUNWAY** - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
  - (s) **VISUAL RUNWAY** - a runway intended solely for the operation of aircraft using visual approach procedures.
- (3) **AIRPORT ZONES:** there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Tillamook Airport. Such zones are shown on Tillamook Airport Approach and Clear Zone Map consisting of one sheet, prepared by Century West Engineering Corporation, and dated June, 1979, which is attached to this Ordinance, and made a part hereof. An area located in more than on (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:
- (a) **UTILITY RUNWAY VISUAL APPROACH ZONE** - the inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide for Runway 1/19. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

- (b) **RUNWAY LARGER THAN UTILITY WITH A VISIBILITY MINIMUM GREATER THAN 3/4 MILE NONPRECISION INSTRUMENT APPROACH ZONE** - the inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide for Runway 13/31. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
  - (c) **TRANSITIONAL ZONES** - the transitional zones are the areas beneath the transitional surfaces.
  - (d) **HORIZONTAL ZONE** - the horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include approach and transitional zones.
  - (e) **CONICAL ZONE** - the conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.
- (4) **AIRPORT ZONE HEIGHT LIMITATIONS:** except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Section to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:
- (a) **UTILITY RUNWAY VISUAL APPROACH ZONES - RUNWAY 1/19** - slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
  - (b) **RUNWAY LARGER THAN UTILITY WITH A VISIBILITY MINIMUM GREATER THAN 3/4 MILE NONPRECISION INSTRUMENT APPROACH ZONE - RUNWAY 13/31** - slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
  - (c) **TRANSITIONAL ZONES** - slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation at the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 35 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the horizontal surface.
  - (d) **HORIZONTAL ZONE** - established at 150 feet above the airport elevation or at a height of 185 feet above mean sea level for Tillamook Airport.

- (e) CONICAL ZONE - slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
  - (f) EXCEPTED HEIGHT LIMITATIONS - nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.
  - (g) RESTRICTIVE LIMITATION - where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.
- (5) USE RESTRICTIONS: notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the Airport.
- (6) EXISTING USES:
- (a) REGULATIONS NOT RETROACTIVE - the regulations prescribed by this Section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this Section as of the effective date of this Ordinance, or otherwise interfere with the continuance of an existing use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit an existing use, structure or tree to become a greater hazard to air navigation amendments thereto.

- (b) MARKING AND LIGHTING - the owner of any existing structure or tree not in compliance with this Section is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport owner.
- (c) USES ABANDONED OR DESTROYED - whenever the Tillamook County Planning Department determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such

structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this section.

- (7) **VARIANCES:** any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variance shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Section may be considered by the Planning Commission unless a copy of the application has been furnished to the airport owner for advice as the aeronautical effects of the variance. If the airport owner does not respond to the request within forty-five (45) days after receipt, the Planning Commission may act to grant or deny said application without such advice.
- (a) **OBSTRUCTION MARKING AND LIGHTING** - any variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Planning Commission, this condition may be modified to require the owner to permit the airport owner at its own expense, to install, operate and maintain the necessary markings and lights.
- (8) **JURISDICTION:** within the boundaries of the property comprising the Port of Tillamook Bay Airport and Industrial Park, the provisions of this Section shall be administered directly by the Port of Tillamook Bay.

#### SECTION 3.565: PACIFIC CITY AIRPORT OBSTRUCTION OVERLAY ZONE (PAO)

- (1) **PURPOSE:** It is hereby found that an obstruction has the potential for endangering the lives and property of users of Pacific City Airport, and property or occupants of land in its vicinity; that increasing obstructions may affect the continued use of the Pacific City State Airport; and that an obstruction may reduce the size of areas available for the landing, take off, and maneuvering of aircraft, thus tending to destroy or impair the utility of Pacific City State Airport and the public investment therein. Accordingly, it is declared that:
- (a) The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Pacific City State Airport.

- (b) It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(2) DEFINITIONS:

- (a) AIRPORT: The Pacific City State Airport.
- (b) AIRPORT CENTERLINE: The center of the existing paved Pacific City State Airport runway surface.
- (c) AIRPORT ELEVATION: The highest point of an airport's usable landing area measured in feet from sea level. This is six (6) feet above mean sea level for Pacific City State Airport.
- (d) AIRPORT HAZARD: Any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
- (e) AIRPORT IMAGINARY SURFACES: The imaginary areas in space which are defined by the Approach Surfaces, Transitional Surfaces, Special Height Surface, Horizontal Surface, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.
- (f) APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline and extending upward from the end of the Primary Surface on the South and the displaced threshold on the North. The inner edge of the approach surface is the same width as the primary surface and extends to a width of seven hundred (700) feet. The airport approach surface extends for a horizontal distance of 5,000 feet at a slope of twenty (20) feet outward for each foot upward (20.1).
- (g) APPROACH ZONE: All the land lying beneath the Approach Surface.
- (h) CONICAL SURFACE: Begins at the edge of the Horizontal Surface (5,000 feet from the south end of the Primary Surface and 5,000 feet from the center of the displaced threshold on the north at one hundred fifty (150) feet above the airport elevation) and extends twenty (20) feet outward for each foot upward (20.1) for 4,000 feet extending to a height of three hundred fifty (350) feet above the airport elevation.
- (i) CONICAL ZONE: All the land lying beneath the Conical Surface.

- (j) **DISPLACED THRESHOLD:** A displaced threshold is a threshold located at a point on the runway other than at the runway end (which point is 300 feet south of the North property line for Pacific City State Airport) and reduces the length of runway available for landing airplanes. The runway behind the displaced threshold is available for completing landing rollouts in the opposite direction and takeoff in either direction.
- (k) **HORIZONTAL SURFACE:** A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of the south end of the Primary Surface and the center of the displaced threshold to the north and connecting the adjacent arcs by lines tangent to those arcs.
- (l) **HORIZONTAL ZONE:** All the land lying beneath the Horizontal Surface.
- (m) **MEAN SEA LEVEL:** Equivalent to National Geodetic Vertical Datum (NGVD) for the purposes of this Ordinance.
- (n) **OBSTRUCTION:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 3.565 (3).
- (o) **PRIMARY SURFACE:** A surface longitudinally centered on a runway. The width of the Primary Surface is one hundred (100) feet on each side of the Airport Centerline, for a total width of two hundred (200) feet for the Pacific City State Airport. This surface begins at the northern property boundary, remains south of Pacific Avenue and extends to the south the full length of the paved runway (1850 feet) plus 100 feet beyond. The elevation of any point on the Primary Surface is six (6) feet above mean sea level for the Pacific City State Airport.
- (p) **RUNWAY:** A defined rectangular area on an airport prepared for the landing and takeoff of aircraft along its length. For Pacific City State Airport, the paved runway begins at the north property line and extends one thousand eight hundred fifty (1850) feet to the south.
- (q) **SPECIAL HEIGHT SURFACE:** A surface elevated thirty-three (33) and thirty-seven (37) feet above mean sea level which is located over the Special Height Zone. The surface will be slightly irregular where it has been pierced by development prior to the adoption of this Section, in which case the surface lies so as to average the heights of the immediately adjacent neighboring structures or the height of the special height zone, whichever is higher.
- (r) **SPECIAL HEIGHT ZONE:** This area borders the Primary Surface and the Approach Zone on its inside edges. The outside edge of the zone is formed where the 37 foot MSL height intersects the Transition Zone each side of and perpendicular to the Primary Surface on the south and the Primary Surface and Displaced Threshold on the north (three hundred seventeen (317) feet from the Runway Centerline) and then angles to intersect the Approach Surfaces at points located six hundred twenty (620) feet beyond the end of the Primary Surface to the south, six hundred twenty

(620) feet beyond the Displaced Threshold to the north and one hundred thirty-one (131) feet perpendicular to each side of the extended Runway Centerline at the six hundred twenty (620) foot locations. This zone could also be described as all the land lying beneath the Transitional Surface from the Primary Surface to a point where the Transitional Surface reaches thirty-seven (37) feet above mean sea level. The Special Height Zone is now divided into two zones. Zone A runs between one hundred (100) and one hundred twenty (120) feet from the runway centerline within the Special Height Zone, and allows structures to be thirty-three (33) feet above mean sea level. Zone B runs between one hundred twenty (120) feet and three hundred seventeen (317) feet from the Runway Centerline within the Special Height Zone and allows structures to be thirty-seven (37) feet above mean sea level.

- (s) **STRUCTURE:** An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.
  - (t) **TRANSITIONAL SURFACE:** A surface which extends one (1) foot upward for each seven (7) feet outward (7:1) from the sides of the Primary Surface south of the Displaced Threshold at a height of six (6) feet above mean sea level, and from the sides of the Approach Surfaces thence extending 1 foot upward for each seven (7) feet outward (7:1) to a height of one hundred fifty (150) feet above the airport elevation to where they intersect the horizontal surfaces.
  - (u) **TRANSITIONAL ZONE:** All the land lying beneath the transitional surface, except the area within the Special Height Zone.
  - (v) **TREE:** Any object of natural growth.
  - (w) **UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
  - (x) **VISUAL RUNWAY:** A runway intended solely for the operation of aircraft using visual approach procedure.
- (4) **USE RESTRICTIONS:** Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with aviation radio communications, result in glare in the eyes of pilots using the airport, impair the visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, of maneuvering of aircraft intending to use the airport.
- (a) **ALLOWABLE USES IN APPROACH ZONE EAST OF NESTUCCA RIVER:** Uses permitted are those which do not congregate more than one person per 100 square feet of ground floor at one time. Examples of permitted uses include, but are not limited to, single family dwellings; barbers; tailors; printers; cleaners; shoe repair; tennis and racquetball courts; fire and ambulance stations; car wash; utility substations; warehousing, including ministorage; light industry; wholesale sales

establishments not open to the general public; sales and service with large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery, and marine craft; the storage of construction, plumbing, heating, paving, electrical, and painting materials; and parking for trucks as part of a construction or shipping operation. Business and professional offices are permitted if it can be demonstrated that they will not congregate more than one person per one hundred (100) square feet of ground floor space at any one time. Examples of uses not permitted include, but are not limited to, public or private schools or day care centers; churches; mobile home or RV parks; motels or hotels; group cottages; multi-family dwellings; hospitals; medical or other health care clinics; sanitarium, rest home or nursing home; animal hospital; retail sales establishments, including grocery stores, convenience stores, dining and drinking establishments, and shopping malls; private and public meeting facilities such as lodges or community centers; libraries; and commercial amusement and entertainment establishments.

- (b) No use shall occur within the area defined by the Primary surface which will present an obstruction to aircraft except parking as allowed under (3) (e) above, or as approved through the variance procedure described in Section 3.565(6).

(5) EXISTING USES:

- (a) **REGULATIONS NOT RETROACTIVE:** The regulations prescribed by this Section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this Section as of the effective date of this Ordinance, or otherwise interfere with the continuance of an existing use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and which shows signs of progress toward completion every six months.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit an existing use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto.

- (b) **EXISTING USES DESTROYED:** In the Approach Zone existing structures as of the date of the adoption of this Ordinance may be reconstructed in the event they are destroyed, so long as the new structure has the same height, floor area and location as the old structure or as long as they comply with existing uses and restrictions then applicable whichever is more lenient. Existing uses in the Approach Zone as of the date of adoption of this Ordinance will be allowed to continue and be re-established on the same lot.
- (c) **MARKING AND LIGHTING:** The owner of any existing structure or tree not in compliance with this Section is hereby required to permit the installation operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport owner.



- (6) **VARIANCES:** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. To obtain a determination, an FAA form 7460-1 must be filed in advance with the FAA and the Oregon State Aeronautics Division. Such variance shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, if relief is granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. If the airport owner and the FAA do not respond to the request within forty-five (45) days after receipt, the Planning Commission may act to grant or deny said application without such advice.

**NOTE: OBSTRUCTION MARKING AND LIGHTING:** Any variance granted may be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain at the owner's expense, such markings and lights as may be necessary.

- (7) **NOTICE OF PENDING APPLICATIONS:** In addition to the Requirements of the Oregon Administrative Rule 738-100 and Oregon Revised Statute 215.223, the Oregon State Aeronautics Division shall be notified of all applications including building permits within the Approach Zone east of the Nestucca River and shall be given fourteen (14) days to comment before action is taken on the application.
- (8) **COMPLIANCE:** In addition to complying with the provisions of the primary zoning district, uses shall comply with the provisions of this overlay zone. In the event of any conflict between any provisions of this overlay zone and the primary zoning district, the more restrictive provision shall apply. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation, except for those properties within the Special Height Zone.

(9) HOLD HARMLESS AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned, hereinafter referred to as Grantors (whether singular or plural), hereby covenant and agree that Grantors shall not, by reason of their ownership or occupation of the following described real property, protest or bring a suit or action in any court or administrative forum against Tillamook County or its officers, employees or agents, or the State of Oregon, Department of Transportation and Aeronautics Division, or its officers, employees or agents, for aviation related noise, property damage or personal injury based on the fact that the State of Oregon, Department of Transportation, and Aeronautics Division own and operate the Pacific City State Airport and that Tillamook County granted building and development permits to grantor to develop the following described real property. The Grantors acknowledge that the Pacific City State Airport does not conform to Federal Aviation Administration Standards and that development of the Grantor"s real property also will not conform to Federal Aviation Administration Standards.

The real property of Grantors subject to this covenant and agreement is situated in the County of Tillamook, State of Oregon, and described as follows:

(Insert Legal Description and Appropriate Map)

This covenant and agreement is made and executed by the Grantors in consideration for Tillamook County's granting a building permit for Grantor's use and development of the above described real property, which real property is located in the Airport special Height Zone or Approach Zone of the Pacific City State Airport. The execution of this covenant and agreement by Grantors is required by Tillamook County as a prerequisite to the granting of the above said building permit to Grantors. This agreement is executed for the protection and benefit of Tillamook County, the State of Oregon, the Oregon Department of Transportation and the Aeronautics Division. This covenant and agreement is intended to be binding upon the Grantors, their heirs, assigns and successors and inure to the benefit of Tillamook County and the State of Oregon, Department of Transportation and Aeronautics Division, their successors and assigns.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

STATE OF OREGON )  
 )  
 ) ss. \_\_\_\_\_  
 )  
County of \_\_\_\_\_ ) \_\_\_\_\_

SECTION 3.570: NESKOWIN COASTAL HAZARDS OVERLAY ZONE (NESK-CH)

- (1) **PURPOSE:** The purpose of the Neskowin Coastal Hazards Overlay Zone is to manage development in areas subject to chronic coastal hazards in a manner that reduces long term risks to life, property, and the community by:
  - (a) Identifying areas that are subject to chronic coastal natural hazards including ocean flooding, beach and dune erosion, dune accretion, bluff recession, landslides, and inlet migration;
  - (b) Assessing the potential risks to life and property posed by chronic coastal natural hazards; and
  - (c) Applying standards to the site selection and design of new development which minimize public and private risks to life and property from these chronic hazards; such measures may include hazard avoidance and other development limitations consistent with Statewide Planning Goals 7 and 18 as well as the Hazards Element and Beaches and Dunes Element of the Tillamook County Comprehensive Plan.

It is recognized that risk is ever present in identified hazard areas. The provisions and requirements of this section are intended to provide for full identification and assessment of risk from natural hazards, and to establish standards that limit overall risk to the community from identified hazards to a level acceptable to the community. It must be recognized, however, that all development in identified hazard areas is subject to increased levels of risk, and that these risks must be acknowledged and accepted by present and future property owners who proceed with development in these areas.

- (2) **AREAS INCLUDED:** All lands within coastal erosion hazard zones as depicted on the Coastal Erosion Hazard Zone map adopted as Appendix D to the Neskowin Community Plan are subject to the provisions of this section.
- (3) **PERMITTED USES:** Within the Neskowin Coastal Hazards Overlay Zone, all uses permitted pursuant to the provisions of the underlying zone may be permitted, subject to the additional requirements and limitations of this section.
- (4) **NESKOWIN COASTAL HAZARD AREA PERMIT:**
  - (a) Except for activities identified in subsection (4)(b) as exempt, any new development, new construction or substantial improvement, as defined in Article I, in an area subject to the provisions of this section shall require a Neskowin Coastal Hazard Area Permit. The Neskowin Coastal Hazard Area Permit may be applied for prior to or in conjunction with a building permit, grading permit, or any other permit or land use approval required by Tillamook County.
  - (b) Except for beach or dune areas subject to the limitations of subsection (8) of this section, the following activities are exempt from the requirement for a Neskowin Coastal Hazard Area Permit:

- (A) Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation and do not constitute substantial improvement;
  - (B) An excavation which is less than two feet in depth or which involves less than twenty-five cubic yards of volume;
  - (C) Fill that is less than two feet in depth or that involves less than twenty-five cubic yards of volume;
  - (D) Exploratory excavations under the direction of a certified engineering geologist or registered geotechnical engineer;
  - (E) Construction of structures for which a building permit is not required;
  - (F) Removal of trees smaller than 8 inches dbh (diameter breast height);
  - (G) Removal of trees larger than 8 inches dbh (diameter breast height) provided the canopy area of the trees that are removed in any one year period is less than twenty-five percent of the lot or parcel area;
  - (H) Yard area vegetation maintenance and other vegetation removal on slopes less than 25% slopes;
  - (I) Forest operations subject to regulation under ORS 527 (the Oregon Forest Practices Act);
  - (J) Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside the previously disturbed area;
  - (K) Maintenance and repair of utility lines, and the installation of individual utility service connections;
  - (L) Emergency response activities intended to reduce or eliminate an immediate danger to life or property, or flood or fire hazard;
  - (M) Restoration, repair, or replacement of a lawfully established structure damaged or destroyed by fire or other casualty in accordance with subsection (12) of this section; and
  - (N) Construction/erection of beachfront protective structures subject to regulation by the Oregon Parks and Recreation Department under OAR 736, Division 20.
- (c) Application, review, decisions, and appeals for Neskowin Coastal Hazard Area Permits shall be in accordance with the following requirements:

- (A) A property owner or authorized agent shall submit an application for a Neskowin Coastal Hazard Area Permit to the department on a form prescribed by the department.
- (B) Upon determination that the application is complete, the department may refer the application to affected cities, districts, and/or local, state and federal agencies for comments.
- (C) Upon completion of the period for comments from affected agencies, the director shall approve or deny the application, or, at the director's discretion, refer the application to the Planning Commission for a public hearing.
- (D) Notice of a decision by the director to approve or deny an application shall:
  - (i) Be provided to the applicant and to the owners of record of property within 250 feet of the subject property on the most recent Tillamook County property tax assessment roll;
  - (ii) Be provided to the Neskowin Citizen Planning Advisory Committee;
  - (iii) Explain the nature of the decision and the use or uses that could be authorized;
  - (iv) List the applicable criteria from this ordinance that apply to the subject decision;
  - (v) Set forth the street address or other easily understood information identifying the location of the subject property;
  - (vi) State that a copy of the department's staff report and record of decision is available for inspection at no cost and can be provided at reasonable cost;
  - (vii) Provide the name and telephone number of the department staff person to contact for additional information; and,
  - (viii) Provide an explanation of the procedure and deadline for appealing the decision to the commission for a public hearing
- (E) A decision by the director to approve or deny an application for a Neskowin Coastal Hazard Area Permit may be appealed in accordance with Article 10.
- (F) An approved Neskowin Coastal Hazard Area Permit shall be valid for a period of two (2) years from the effective date of the decision. If development authorized by the permit is not initiated within this two (2) year time period, the Neskowin Coastal Hazard Area permit shall expire.

- (d) In addition to a completed application as prescribed in subsection (c), an application for a Neskowin Coastal Hazard Area Permit shall include the following:
- (A) A site plan that illustrates areas of disturbance, ground topography (contours), roads and driveways, an outline of wooded or naturally vegetated areas, watercourses, erosion control measures, and trees with a diameter of at least 8 inches dbh (diameter breast height) proposed for removal;
  - (B) An estimate of depths and the extent of all proposed excavation and fill work;
  - (C) Identification of the bluff- or dune-backed hazard zone or landslide hazard zone for the parcel or lot upon which development is to occur. In cases where properties are mapped with more than one hazard zone, an engineering geologist shall identify the hazard zone(s) within which development is proposed.
  - (D) A geologic report prepared by an engineering geologist that meets the content requirements of subsection (5);
  - (E) If engineering remediation is required to make the site suitable for the proposed development, an engineering report, prepared by a registered civil engineer, geotechnical engineer, or certified engineering geologist (with experience relating to coastal processes), which provides design and construction specifications for the required remediation; and,
  - (F) A Hazard Disclosure Statement, executed by the property owner, which sets forth the following:
    - (i) A statement that the property is subject to potential chronic natural hazards and that development thereon is subject to risk of damage from such hazards;
    - (ii) A statement that the property owner has commissioned a geologic report for the subject property, a copy of which is on file with Tillamook County, and that the property owner has reviewed the geologic report and has thus been informed and is aware of the type and extent of hazards present and the risks associated with development on the subject property;
    - (iii) A statement acknowledging that the property owner accepts and assumes all risks of damage from natural hazards associated with the development of the subject property.
- (e) A decision to approve a Neskowin Coastal Hazard Area Permit shall be based upon findings of compliance with the following standards:

- (A) The proposed development is not subject to the prohibition of development on beaches and certain dune forms as set forth in subsection (8) of this section;
  - (B) The proposed development complies with the applicable requirements and standards of subsections (6), (7), (8), and (10) of this section;
  - (C) The geologic report conforms to the standards for such reports set forth in subsection (5) of this section;
  - (D) The development plans for the application conform, or can be made to conform, with all recommendations and specifications contained in the geologic report; and
  - (E) The geologic report provides a statement that, in the professional opinion of the engineering geologist, the proposed development will be within the acceptable level of risk established by the community, as defined in subsection (5)(c) of this section, considering site conditions and the recommended mitigation.
- (f) In the event the director determines that additional review of a Neskowin Coastal Hazard Area Permit application by an appropriately licensed and/or certified professional is necessary to determine compliance with the provisions of this section, the County may retain the services of such a professional for this purpose. All costs incurred by the County for this additional review shall be paid by the applicant in addition to the application fee for a Neskowin Coastal Hazard Area Permit established pursuant to Section 10.020.
  - (g) In approving a Neskowin Coastal Hazard Area Permit, the director or commission may impose any conditions that are necessary to ensure compliance with the provisions of this section or with any other applicable provisions of the Tillamook County Land Use Ordinance.

(5) GEOLOGIC REPORT STANDARDS

- (a) Geologic reports required by this section shall be prepared consistent with standard geologic practices employing generally accepted scientific and engineering principles, and shall, at a minimum, contain the items outlined in the Oregon State Board of Geologist Examiners

"Guidelines for Preparing Engineering Geologic Reports in Oregon". Reports shall reference the published guidelines upon which they are based. All engineering geologic reports are valid for purposes of meeting the requirements of this section for a period of five (5) years from the date of preparation. Such reports are valid only for the development plan addressed in the report. Tillamook County assumes no responsibility for the quality or accuracy of such reports.

- (b) For the purposes of Section 3.570, geologic reports should be prepared by these guidelines for engineering geologic reports. All references in Section 3.570 that refer to geologist reports assume that they are prepared with these guidelines.
- (c) In addition to the requirements set forth in subsection (5)(a), geologic reports for lots or parcels abutting the ocean shore shall, to the extent practicable based on best available information, include the following information, analyses and recommendations:
  - (A) Site description:
    - (i) The history of the site and surrounding areas, such as previous riprap or dune grading permits, erosion events, exposed trees on the beach, or other relevant local knowledge of the site.
    - (ii) Topography, including elevations and slopes on the property itself.
    - (iii) Vegetation cover.
    - (iv) Subsurface materials – the nature of the rocks and soils.
    - (v) Conditions of the seaward front of the property, particularly for sites having a sea cliff.
    - (vi) Presence of drift logs or other flotsam on or within the property.
    - (vii) Description of streams or other drainage that might influence erosion or locally reduce the level of the beach.
    - (viii) Proximity of nearby headlands that might block the longshore movement of beach sediments, thereby affecting the level of the beach in front of the property.
    - (ix) Description of any shore protection structures that may exist on the property or on nearby properties.
    - (x) Presence of pathways or stairs from the property to the beach.
    - (xi) Existing human impacts on the site, particularly any that might alter the resistance to wave attack.
  - (B) Description of the fronting beach:
    - (i) Average widths of the beach during the summer and winter.



- (ii) Median grain size of beach sediment.
- (iii) Average beach slopes during the summer and winter.
- (iv) Elevations above mean sea level of the beach at the seaward edge of the property during summer and winter.
- (v) Presence of rip currents and rip embayments that can locally reduce the elevation of the fronting beach.
- (vi) Presence of rock outcrops and sea stacks, either offshore or within the beach zone.
- (vii) Information regarding the depth of beach sand down to bedrock at the seaward edge of the property.

(C) Analyses of Erosion and Flooding Potential:

- (i) Analysis of DOGAMI beach monitoring data for the site (if available).
- (ii) Analysis of human activities affecting shoreline erosion.
- (iii) Analysis of possible mass wasting, including weathering processes, landsliding or slumping.
- (iv) Calculation of wave run-up beyond mean water elevation that might result in erosion of the sea cliff or foredune.<sup>1</sup>
- (v) Evaluation of frequency that erosion-inducing processes could occur, considering the most extreme potential conditions of unusually high water levels together with severe storm wave energy.
- (vi) For dune-backed shoreline, use an established geometric model to assess the potential distance of property erosion, and compare the results with direct evidence obtained during site visit, aerial photo analysis, or analysis of DOGAMI beach monitoring data.
- (vii) For bluff-backed shorelines, use a combination of published reports, such as DOGAMI bluff and dune hazard risk zone studies, aerial photo analysis, and fieldwork to assess the potential distance of property erosion.

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<sup>1</sup> Stockdon, H. F., Holman, R. A., Howd, P. A. and Sallenger, A. H., 2006, Empirical parameterization of setup, swash, and runup: Coastal Engineering, 53, p 573-588.

- (viii) Description of potential for sea level rise, estimated for local area by combining local tectonic subsidence or uplift with global rates of predicted sea level rise.
- (D) Assessment of potential reactions to erosion episodes:
- (i) Determination of legal restrictions of shoreline protective structures (Goal 18 prohibition, local conditional use requirements, priority for non-structural erosion control methods).
  - (ii) Assessment of potential reactions to erosion events, addressing the need for future erosion control measures, building relocation, or building foundation and utility repairs.
- (E) Recommendations:
- (i) Use results from the above analyses to establish setbacks (beyond any minimums set by this section), building techniques, or other mitigation measures to ensure an acceptable level of safety and compliance with all local requirements.
  - (ii) Recommend a foundation design, or designs, that render the proposed structures readily moveable.
  - (iii) Recommend a plan for preservation of vegetation and existing grade within the setback area, if appropriate.
  - (iv) Include consideration of a local variance process to reduce the building setback on the side of the property opposite the ocean, if this reduction helps to lessen the risk of erosion, bluff failure or other hazard.
  - (v) Recommend methods to control and direct water drainage away from the ocean (e.g. to an approved storm water system); or, if not possible, to direct water in such a way so as to not cause erosion or visual impacts. In addition, the report shall specify erosion control measures as necessary to conform to the requirements of Section 5.100.
- (d) Geologic reports required by this section shall include a statement of the engineering geologist’s professional opinion as to whether the proposed development will be within the acceptable level of risk established by the community, considering site conditions and the recommended mitigation.

As used in this section, “acceptable level of risk” means the maximum risk to people and property from identified natural hazards deemed acceptable to the community in fulfilling

its duty to appropriately protect life and property from natural hazards. For development subject to the provisions of this section, the acceptable level of risk is:

(A) Assurance that life safety will be protected from the identified hazard(s), excluding a tsunami resulting from a Cascadia megathrust earthquake, for a period of [50-70] years, considering site conditions and specified mitigation; and

(B) A high likelihood that the proposed structures will be protected from substantial damage from the identified hazard(s), excluding a Cascadia megathrust earthquake and resultant tsunami, for a period of [50-70] years, considering site conditions and specified mitigation.

(e) Geologic reports required by this section shall include a statement certifying that all of the applicable content requirements of this subsection have been addressed.

(6) **ADDITIONAL DEVELOPMENT LIMITATIONS IN COASTAL HAZARD AREAS:** In addition to the conditions, requirements, and limitations imposed by any required geologic report, all development subject to a Neskowin Coastal Hazard Area Permit shall conform to the following requirements:

(a) **Moveable structure design:** Except for non-habitable accessory structures (e.g. garages, storage buildings), to facilitate the relocation of structures that become threatened by coastal hazards.

(b) **Safest site requirement:** All new construction or substantial improvement shall be located within the area most suitable for development based on the least exposure to risk from coastal hazards as determined by an engineering geologist as part of a geologic report prepared in accordance with subsection (5). Notwithstanding the provisions of the underlying zone, as necessary to comply with this requirement:

(A) Any required yard or setback may be reduced by up to 50%; and,

(B) The maximum building width may be increased to up to 90% of the distance between opposite side lot lines.

(c) **New lot or parcel development prohibition:**

Unless exempt from the requirements of subsection (10)(a) of this section, on lots and parcels created after [insert effective date of this section], new construction or substantial improvement in the area subject to the provisions of this section is prohibited.

(d) **Residential density limitation:**

Within the Neskowin Low Density Residential Zone (NeskR-1) and the Neskowin Rural Residential Zone (Nesk-RR) , on lots or parcels which are developed with an existing dwelling or

dwellings, the construction of additional dwelling units, including accessory dwelling units, is prohibited.

- (7) **MINIMUM OCEANFRONT SETBACKS:** In areas subject to the provisions of this section, the building footprint of all new construction or substantial improvement subject to a Neskowin Coastal Hazard Area Permit shall be set back from the ocean shore in accordance with the following requirements:
- (a) Of the following, the requirement that imposes the greatest setback shall determine the minimum oceanfront setback:
    - (A) A setback specified in a required geologic report;
    - (B) A setback that coincides with the Oceanfront Setback Line (OSL) determined pursuant to Section 3.530 (4)(A)(1)c.; or
    - (C) On bluff-backed shorelines, a setback from the bluff edge a distance of 50 times the annual erosion rate (as determined by an engineering geologist) plus 20 feet (or other distance determined to be an adequate buffer). The bluff edge shall be as defined in the required geologic report.
  - (b) On lots or parcels subject to the minimum oceanfront setback, the required yard setback opposite the oceanfront may be reduced by one foot for each one foot of oceanfront setback provided beyond the required minimum, down to a minimum of 10 feet.
  - (c) On lots or parcels created prior to the effective date of this section, where the application of the minimum oceanfront setback, together with any other required yards and/or setbacks, results in a building footprint area of less than 1,500 square feet, the minimum oceanfront setback may be reduced by an amount necessary to provide a building footprint of not more than 1,500 square feet.
- (8) **ADDITIONAL LIMITATIONS ON DEVELOPMENT ON BEACHES AND DUNES:** In addition to the conditions, requirements, and limitations imposed by any required engineering geologic report, all development subject to a Neskowin Coastal Hazard Area Permit in identified beach and dune areas shall be subject to the following requirements:
- (a) Foredune breaching and restoration shall be conducted in a manner consistent with sound principles of conservation. Such breaching may be permitted only:
    - (A) To replenish sand supply in interdune areas;
    - (B) On a temporary basis in an emergency, such as for fire control, hazard removal or clean up, draining farm lands, or alleviating flood hazards; or

- (C) For other purposes only upon adoption of an exception to Statewide Planning Goal 18.
- (b) Applications for development that will utilize groundwater resources shall provide a hydrologic analysis that demonstrates that groundwater withdrawal will not:
    - (A) Lead to the loss of stabilizing vegetation;
    - (B) Lead to a deterioration of water quality; or
    - (C) Result in the intrusion on salt water into water supplies.
  - (c) Fore-dune grading may be performed only as authorized by and in accordance with a fore-dune management plan adopted and acknowledged in conformance with Statewide Planning Goal 18.
  - (d) Identified beach and dune areas that are not subject to an exception to Goal 18, Implementation Requirement 2, as set forth in Section 6.1d of the Beaches and Dunes Element of the Tillamook County Comprehensive Plan, shall be subject to the following requirements:
    - (A) Required geologic reports shall address, in addition to the requirements of subsection (5), the following:
      - (i) The type of use proposed and the adverse effects it might have on the site and adjacent areas;
      - (ii) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;
      - (iii) Methods for protecting the surrounding area from any adverse effects of the development; and
      - (iv) Hazards to life, public and private property, and the natural environment that may be caused by the proposed use.
    - (B) On beaches, active foredunes, other foredunes that are only conditionally stable and subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) that are subject to ocean flooding:
      - (i) Residential developments and commercial and industrial buildings are prohibited.
      - (ii) Other development in these areas shall be permitted only if findings are provided which demonstrate that the proposed development is adequately protected from

any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves, and is designed to minimize adverse environmental effects.

(9) REQUIREMENTS FOR BEACHFRONT PROTECTIVE STRUCTURES:

- (a) In reviewing a Land Use Compatibility Statement (LUCS) for an Oregon Parks and Recreation Department Ocean Shore Permit authorized by ORS 390.640, the director may determine that an application to construct a beachfront protective structure is in compliance with the local comprehensive plan and implementing regulations only if the beachfront protective structure will be placed where development existed on January 1, 1977, or where an exception to Goal 18, Implementation Requirement 2 has been adopted as set forth in Section 6.1d of the Beaches and Dunes Element of the Tillamook County Comprehensive Plan.
- (b) For the purposes of this subsection, "development" means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot.
- (c) Review and decisions on Land Use Compatibility Statements for Ocean Shore Permits shall be conducted in accordance with the requirements for an administrative action in accordance with Article 10.

(10) LAND DIVISION REQUIREMENTS: All land divisions in areas subject to the provisions of this section shall be subject to the following requirements:

- (a) Except as provided for in subsection (10)(b) below, all new lots and parcels shall have a building site located outside the Nesk-CH Overlay Zone. Such a building site shall consist of a minimum of 1,500 contiguous square feet of area that complies with all required lot setbacks and is located landward of the area subject to the provisions of this section.
- (b) In a land division, one new lot or parcel may be exempted from the requirements of subsection (10)(a) to allow for the development or maintenance of one new single family dwelling within the Neskowin Coastal Hazards Overlay zone for properties capable of a land division. The new lot or parcel:
  - (A) Shall be divided from a lot or parcel that was created prior to November 5, 2014; and
  - (B) Is subject to an approved Coastal Hazard Area permit in accordance with subsection (4) of this section; and
  - (C) Shall be divided from a lot or parcel that is vacant; or
  - (D) Shall be divided from a lot or parcel that contains an existing dwelling located outside of the Nesk-CH Overlay Zone; or

(E) The net result shall contain only existing single family dwelling(s) located within the Nesk—CH Overlay Zone.

(11) **CERTIFICATION OF COMPLIANCE:** Permitted development shall comply with the recommendations in any required geologic or engineering report. Certification of compliance shall be provided as follows:

- (a) **Plan Review Compliance:** Building, construction or other development plans shall be accompanied by a written statement from an engineering geologist stating that the plans comply with the recommendations contained in the geologic report for the approved Neskowin Coastal Hazard Area Permit.
- (b) **Inspection Compliance:** Upon the completion of any development activity for which the geologic report recommends an inspection or observation by an engineering geologist, the engineering geologist shall provide a written statement indicating that the development activity has been completed in accordance with the applicable geologic report recommendations.
- (c) **Final Compliance:** No development requiring a geologic report shall receive final approval (e.g. certificate of occupancy, final inspection, etc.) until the department receives:
  - (A) A written statement by an engineering geologist indicating that all performance, mitigation, and monitoring measures specified in the report have been satisfied;
  - (B) If mitigation measures incorporate engineering solutions designed by a licensed professional engineer, a written statement of compliance by the design engineer.

(12) **RESTORATION AND REPLACEMENT OF EXISTING STRUCTURES:**

- (a) Notwithstanding any other provisions of this ordinance, application of the provisions of this section to an existing use or structure shall not have the effect of rendering such use or structure nonconforming as defined in Article VII.
- (b) Replacement, repair, or restoration of a lawfully established building or structure subject to this section that is damaged or destroyed by fire, other casualty or natural disaster shall be permitted, subject to all other applicable provisions of this ordinance, and subject to the following limitations:
  - (A) Replacement authorized by this subsection is limited to a building or structure not larger than the damaged/destroyed building.
  - (B) Structures replaced pursuant to this subsection shall be located no further seaward than the damaged structure being replaced.

- (C) Replacement or restoration authorized by this subsection shall commence within one year of the occurrence of the fire or other casualty that necessitates such replacement or restoration.
  - (D) Where the cost of restoration or replacement authorized by this subsection equals or exceeds 80 percent of the RMV of the structure before the damage occurred, such restoration or replacement shall also comply with subsections (6) and (7) of this section.
- (c) A building permit application for replacement, repair or restoration of a structure under the provisions of this subsection shall be accompanied by a geologic report prepared by an engineering geologist that conforms to the standards set forth in subsection (5). All recommendations contained in the report shall be complied with in accordance with subsection (11).
  - (d) A building permit application for replacement, repair, or restoration authorized by this subsection shall be processed and authorized as an administrative action pursuant to Article 10.

**SECTION 3.575: NETARTS PLANNED RESIDENTIAL DEVELOPMENT OVERLAY ZONE (NT-PRD)**

1. **PURPOSE:** The purpose of a Planned Residential Development is to encourage development designs that preserve the natural features and amenities of a property such as but not limited to: stream corridors, water frontage (bay, stream, wetland and shoreline), wetlands, sloping topography and natural geologic features, groves of trees and significant views. A Planned Residential Development shall conform to the general objectives as presented by the comprehensive plan for the area and it shall be compatible with the established and proposed surrounding land uses.
2. **STANDARDS AND REQUIREMENTS:** The following standards and requirements shall govern the application of a Planned Residential Development in an area in which it is permitted.
  - a. A Planned Residential Development overlay zone is allowed in the RR, NT-R2 and NT-R3 zones.
  - b. The density of a Planned Residential Development shall conform to the density and standards of the underlying zone.
  - c. Dimensional standards for lot area, depth, width, and all yard setback standards of the underlying zone shall not apply. These standards shall be established through the Planned Residential Development approval process in order to fulfill the purpose of the NT-PRD Overlay Zone. In the RR/PRD zoned areas, only those properties located within a Community Growth Boundary can utilize this item.
  - d. The height limit may be increased to not more than 35 feet by the Planning Commission in approving a specific Planned Residential Development project.



3. **PLANNED RESIDENTIAL DEVELOPMENT PROCEDURE:** The following procedures shall be observed in applying for and acting on a planned residential development.
  - a. To establish a new Planned Residential Development Overlay designation under Article IX of this ordinance, the applicant must submit to the Department the following material in addition to the requirements of Article IX and Section 3.575 (3)(b) through (k):
    1. A conceptual development plan for the proposed site with the object of demonstrating that the property possesses the characteristics set forth in Section 3.575 (1) of this ordinance. The plan shall include a scale drawing of the entire site showing proposed land uses, road ways, pedestrian ways, drainage patterns, common areas, recreation facilities, natural features, residential lots and the approximate location of structures other than single family residences.
    2. Parcels receiving the Planned Residential Development Overlay Zone designation after the effective date of this ordinance , will be eligible for development under the Land Division Ordinance, with the approved and recorded conceptual plan serving as the zoning map for the land parcel.
    3. Any proposed change to an approved conceptual plan which may increase the intensity of use or off-site impacts must conform to the criteria and procedures contained in Article IX of this ordinance. This determination shall be made by the Director. Notice of such a determination shall be provided to those within the required notice area.
  - b. An applicant shall submit a preliminary development plan to the Planning Department for review. The preliminary plan shall include the following information:
    1. Proposed land uses, building locations and housing unit densities.
    2. Proposed circulation pattern indicating the status of street ownership.
    3. Proposed open space uses.
    4. Proposed grading and drainage pattern.
    5. Proposed method of water supply and sewage disposal.
    6. Inventory of and plan for protecting existing natural and cultural resources (e.g., wetlands, estuaries, wildlife, vegetation, historic and cultural sites).
    7. Relation of the proposed development to the surrounding area and the comprehensive plan.

8. Narrative addressing applicable provisions of the Comprehensive Plan and Sections in the underlying zone .
- c. During its review the Planning Department shall distribute copies of the proposal to County agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:
1. There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
  2. Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.
  3. The plan can be completed within a reasonable period of time.
  4. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
  5. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
  6. The parcel is suitable for the proposed use, considering its:
    - o size (5-40 acres)
    - o shape (not a linear or separated parcel)
    - o existence of improvements (adequate sewer, water, and fire facilities)
    - o natural features (avoids sensitive natural, cultural or historic resources, particularly streams, significant trees and cultural sites)
  7. 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.
  8. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
  9. Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
- d. The Planning Department shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.

- e. Following this preliminary review, the applicant may request approval of the Planned Residential Development by the Planning Commission according to the provisions in Article VI if the proposal is to take place on property designated with the Planned Development Overlay Zone prior to May 30, 1985.
- f. If the property is to be divided under the provisions of the Land Division Ordinance, a request according to the requirements of that Ordinance shall be included as part of the Planning Commission's review.
- g. The filing fee for a Planned Residential Development is the total of all fees for the action requested.
- h. In addition to the requirements of this section, the Planning Commission may attach conditions that are necessary to carry out the purpose of this ordinance.
- i. Planned Residential Development shall be identified on the zoning map with the letters "PRD" in addition to the abbreviated designation of the existing zone.
- j. Building permits in a Planned Residential Development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for approval in accordance with the procedures for approval of a conditional use request.
- k. In an existing PRD overlay zone, lots or parcels of record as of the date of adoption of this ordinance which are less than one acre in size, may be built upon in accordance with all other requirements of the zone in which the lot or parcel is located and of this ordinance.

## Land Division Ordinance Draft

The following describes a recommended reorganization and re-write of the Tillamook County Land Division Ordinance (LDO), which contains the County's standards for the division of land in Tillamook County outside of incorporated cities. Staff is recommending that the existing LDO be replaced with a new LDO that is consistent with Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions, and accurately reflects existing County procedures and practices.

The proposed LDO reflects organizational modifications and depicts both existing as well as proposed new code language. Table 1 provides a key to the larger organizational changes made, as well as how specific sections in the existing LDO have been incorporated, modified or eliminated from the proposed LDO.

Table 2 contains the proposed LDO. The left column contains proposed code language and the right column provides commentary indicating areas where existing language was used and/or new language was drafted.<sup>1</sup>

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<sup>1</sup> The Oregon Transportation and Growth Management Department's Model Development Code and User's Guide for Small Cities ("Model Code")<sup>1</sup> was a resource for the structure and procedural language; adopted language from other Counties was also used as guidance, and in some instances modified for Tillamook County.

Table 1: LDO Modification Key

ORIGINAL SECTION	NEW SECTION
SECTION 1: PURPOSE	Section 010: Purpose
SECTION 2: DEFINITIONS	Section 020: Definitions. <i>Removed definitions that did not appear in the LUO or LDO. Updated definitions to reflect current statutory requirements.</i>
SECTION 3: SCOPE OF REGULATIONS	Renamed: “Section 030: General Provisions.”
SECTION 4: PRE-APPLICATION MEETING; BACKGROUND INFORMATION	Deleted. Procedural requirements now included in LUO Article 10.
	New: “Section 040: Preliminary Plat Approval Process” <i>Incorporates Model Code, Section 15, and Section 30.</i>
SECTION 5: LARGE LOT AND LAND DIVISIONS	Renamed: “Section 050: Pre-Planning for Large Sites.” <i>Section largely replaced with new language.</i>
	New Section 060: Preliminary Plat Submission Requirements. <i>Incorporates old Section 12 and Section 21.</i>
	New Section 070: Preliminary Plat Approval Criteria
	New Section 080: Land Division-Related Variances
SECTION 10: PURPOSE AND SCOPE OF MAJOR PARTITION REVIEW	Deleted. Contents moved to Section 3.
SECTION 11: APPLICATION FOR PARTITION	Deleted. Contents moved to (new) LUO Article 10.
SECTION 12: PREPARATION OF A TENTATIVE PLAN	Replaced with “Section 090: Tentative Plan Submission Requirements”
SECTION 13: TECHNICAL REVIEW OF A TENTATIVE PLAN	Deleted. Included in Section 12.
SECTION 14: PREPARATION OF FINAL PLAN	Included in Section 060: Final Plat Submission Requirements and Section 070: Final Plat approval Criteria” Includes Sections 31, 32, 33, 34.
SECTION 15: EXTENSIONS OF TENTATIVE PLAT APPROVAL; SUBMISSION OF FINAL PLAT	Deleted. Included in Section 040.
SECTION 16: REVIEW OF A FINAL PLAN FOR A MAJOR PARTITION	Deleted.
SECTION 17: MAJOR PARTITION APPROVAL LETTER	Deleted.
SECTION 20: APPLICATION AND FILING FEES; DISTRIBUTION OF TENTATIVE PLAT; NOTIFICATION AND HEARING	Deleted. Addressed in (new) LUO Article 10.
SECTION 21: TENTATIVE PLAT; GENERAL	Deleted. Included in Section 060: Preliminary Plat

ORIGINAL SECTION	NEW SECTION
INFORMATION	Submission Requirements.
SECTION 22: TENTATIVE PLAT; EXISTING CONDITIONS	Deleted. Included in Section 060: Preliminary Plat Submission Requirements.
SECTION 23: TENTATIVE PLAT; PROPOSED PLAN OF LAND DIVISION	Deleted. Included in Section 060: Preliminary Plat Submission Requirements.
SECTION 24: TENTATIVE PLAT; SUPPLEMENTAL INFORMATION	Deleted. Included in Section 060 Preliminary Plat Submission Requirements
SECTION 25: REVIEW OF TENTATIVE PLAT	Deleted. Included in Section 040: Preliminary Plat Approval Process.
SECTION 30: EXTENSIONS OF TENTATIVE PLAT APPROVAL; SUBMISSION OF FINAL PLAT	Deleted. Included in Section 040: Preliminary Plat Approval Process.
SECTION 31: FINAL PLAT; INFORMATION REQUIRED	Deleted. Included in Section 090: Final Plat Submission Requirements and Approval Criteria
SECTION 32: FINAL PLAT; SUPPLEMENTARY INFORMATION	Deleted. Included in Section 090: Final Plat Submission Requirements and Approval Criteria
SECTION 33: TECHNICAL REVIEW OF THE FINAL PLAT	Deleted. Included in Section 090: Final Plat Submission Requirements and Approval Criteria
SECTION 34: FINAL PLAT APPROVAL AND RECORDING	Deleted. Included in Section 090: Final Plat Submission Requirements and Approval Criteria
SECTION 35: CLUSTER SUBDIVISIONS	Renumbered: Section 100
	New Section 110: Minor Revisions to Preliminary Approved Land Divisions
	New Section 120: Re-Platting and Vacation of Plats
	New Section 130: Property Line Adjustments
SECTION 40: IMPROVEMENT PROCEDURES	Renumbered: Section 140
SECTION 41: IMPROVEMENT REQUIREMENTS	Renamed: Section 150 Development Standards for Land Divisions Includes Section 41 and part of Section 42 (Easements, Lots)
SECTION 42: IMPROVEMENT STANDARDS	Renamed: Section 170: Improvement Standards. Street standards are retained in new Section 160.
SECTION 43: IMPROVEMENT SPECIFICATIONS	Deleted: Include in Public Works procedures.
SECTION 50: IMPROVEMENT EXCEPTIONS FOR LARGE-SCALE DEVELOPMENTS	Deleted. Include in Article 8 and (new) Article 10.
SECTION 51: VARIANCE APPLICATION	Deleted. Included in Section 80 and Article 8.
SECTION 52: PLANNING COMMISSION HEARING	Deleted. Included in Section 110

<b>ORIGINAL SECTION</b>	<b>NEW SECTION</b>
SECTION 53: APPEAL	Deleted. Included in (new) LUO Article 10
SECTION 54: INTERPRETATION	Renumbered: Section 170
SECTION 55: VALIDITY	Renumbered: Section 180
SECTION 66: ENFORCEMENT	Renumbered: Section 190
SECTION 57: REPEALER	Renumbered: Section 200
SECTION 58: ADOPTION	Renumbered: Section 210
SECTION 59: PROHIBITION	Renumbered: Section 220

Table 2: Proposed LDO and Notes

DRAFT LDO Development Approval Procedures	Notes
Section 010: Purpose Section 020: Definitions Section 030: General Provisions Section 040: Preliminary Plat Approval Process Section 050: Pre-planning for large sites Section 060: Preliminary Plat Submission Requirements Section 070: Preliminary Plat Approval Criteria Section 080: Land Division-Related Variances Section 090: Final Plat Submission Requirements and Approval Criteria Section 100: Cluster Subdivisions Section 110: Minor Revisions to Preliminary Approved Land Decisions Section 120: Re-Platting and Vacation of Plats Section 130: Property Line Adjustments Section 140: Improvement Procedures Section 150: Development Standards for Land Divisions Section 160: Street Improvements Section 170: Interpretation Section 180: Validity Section 190: Enforcement Section 200: Repealer Section 210: Adoption Section 220: Prohibition	New Table of Contents
INTRODUCTION	
SECTION 010: PURPOSE	



DRAFT LDO Development Approval Procedures	Notes
<p>(1) The purpose of this Ordinance is to establish standards for <del>lot property</del> line adjustments, for the division of land <u>by way of partition or subdivision</u> and for the development of improvements for areas of Tillamook County outside the urban growth boundaries of incorporated cities.</p>	<p>Subsection (1) amended to include <del>lot property</del> line adjustments.</p>
<p>(2) These regulations are necessary:</p> <ul style="list-style-type: none"> <li>(a) In order to provide uniform procedures and standards for the division of land;</li> <li>(b) To coordinate proposed developments with development plans for highways, utilities, and other public facilities;</li> <li>(c) To provide for the protection, conservation and proper use of land, water, and other natural resources;</li> <li>(d) To carry out the policies and intent of the County Comprehensive Plan;</li> <li>(e) To ensure adequate lot and parcel sizes for homesites;</li> <li>(f) To encourage safe and convenient access for vehicles, pedestrians, and bicyclists;</li> <li>(g) To ensure adequate sanitation and water supply services;</li> <li>(h) For the equitable allocation of costs for improvements such as roads, sewers, water, and other service facilities;</li> <li>(i) For the protection of the public from pollution, flood, slides, fire, and other hazards to life and property;</li> <li>(j) To provide for energy efficient land use and the use of renewable energy systems;</li> <li>(k) To provide for the accurate and timely recording in the office of the County Clerk all newly created property boundaries, street, roads, right-of-ways and easements; and</li> <li>(l) To protect in other ways the public health, safety, and general welfare.</li> </ul>	<p>(f) Amended “adequate width” with “encourage safe and convenient access” for vehicles, pedestrians and bicyclists.</p>

DRAFT LDO Development Approval Procedures	Notes
<p>(3) It is expressly not the purpose or intent of this Ordinance to encourage the division of land or the provision or extension of roads or sewer lines into lands designated for resource use by the Tillamook County Land Use Ordinance. Thus Subdivisions <del>shall not</del> <u>shall be limited to be allowed in zones other than</u> those <u>zones</u> designated for residential, commercial or industrial use. All references to sewer lines in this Ordinance apply only to lands where such services conform to the intent and purposes of the County Comprehensive Plan.</p>	<p>This section has been modified to indicate that subdivisions are allowed in all industrial zones (Rural, Community and General).</p>
<p>SECTION 020: DEFINITIONS</p>	
<p>As used in this Ordinance, unless it is apparent from the context that different meanings are intended, the words and phrases below shall have the following meanings. Other words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage, and to give this Ordinance its most reasonable application. Words used in the present tense include the future; words in the singular include the plural, and words in the plural include the singular. The word "building" includes the "structure". The word "shall" is mandatory and not directory.</p>	
<p><u>AASHTO: American Association of State Highway and Transportation Officials</u></p> <p>ACCESS: The legally established route by which pedestrians and vehicles enter and leave property from a public way which can be developed for safe access.</p> <p>ALLEY: A narrow public way through a block provided for access to the back or side of properties fronting on a street.</p> <p><u>BICYCLE LANE: That part of the roadway or highway, adjacent to the roadway or</u></p>	

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<p><u>highway, designated by official signs or markings for use by persons riding <i>bicycles</i> except as otherwise specifically provided by law.</u></p> <p><b><u>BICYCLE PATH:</u></b> <u>A public way, not part of a roadway or highway, that is designated by official signs or markings for use by persons riding <i>bicycles</i> except as otherwise specifically provided by law.</u></p> <p>BOARD: The Tillamook County Board of Commissioners.</p> <p>BUILDOUT: The number of parcels or lots possible within a tract if developed to capacity meeting all requirements of development.</p> <p>BUILDING LINE: A line on a <u>preliminary</u> plat <u>or map</u> indicating the limit beyond which buildings or other structures may not be erected.</p>	
<p>CLUSTER SUBDIVISION: A Subdivision which includes undeveloped land or park facilities ("open space") belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract.</p> <p>COMMISSION: The Tillamook County Planning Commission.</p>	
<p>DEPARTMENT: The Tillamook County Planning Department.</p> <p>DEVELOPER: Any person proposing to or completing a division of land into lots</p>	-

DRAFT LDO Development Approval Procedures	Notes
<p>or parcels for eventual sale, lease, or trade through a partition or Subdivision.</p> <p>DEVELOPMENT: Any <del>man-made</del><u>human-caused</u> purposeful alteration or division of, or construction upon, improved or unimproved land, excluding farming or forestry practices.</p> <p>DIRECTOR: The Director of the Tillamook County Planning Department, or a designee thereof.</p>	
<p>EASEMENT: A grant of the right to use a strip of land for specific purposes, such as ingress, egress, the placement of utilities or access to solar radiation.</p> <p>INSOLATION: The incident solar radiation available at a building site for utilization by a solar energy system.</p> <p><u>LAND DIVISION: The creation of any new lot or parcel by partition or subdivision. See definition for “Partition”. See definition for “Subdivision”.</u></p>	
<p>LOT: A unit of land intended for eventual lease, transfer of ownership, or development, that is created by a Subdivision.</p> <p>(1) CORNER LOT: A lot with at least two adjacent sides which abut streets other than alleys, provided that the angle of street intersection does not exceed 135 degrees.</p> <p>(2) FLAG LOT: A generally "L" shaped lot or parcel for which the only portion of the property line adjacent to a street consists of a 25-foot minimum to a 40-</p>	

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<p>foot maximum utilized for street access.</p> <p>(3) THROUGH LOT: A lot fronting on two parallel or approximately parallel streets other than alleys.</p>	
<p>PARCEL: A unit of land intended for eventual lease, transfer of ownership, or development, that is created by a partition. A parcel may be a corner parcel, flag parcel, or through parcel as described for lots above.</p>	

DRAFT LDO Development Approval Procedures	Notes
<p>PARTITION: The division of a tract of land into not more than three parcels of land within one calendar year when such land exists as a single unit or contiguous units of land under single ownership at the beginning of the same year.</p> <p>PARTITION does not include:</p> <ol style="list-style-type: none"> <li>(1) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;</li> <li>(2) Adjusting a property line as property line adjustment is defined in this section;</li> <li>(3) Dividing land as a result of the recording of a subdivision or condominium plat;</li> <li>(4) Selling or granting by a person to a public agency or public body of property for state highway, county road or other right of way purposes if the road or right of way complies with the comprehensive plan and uses permitted in the Farm <u>(F-1)</u> Zone. However, any property sold or granted for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned; or</li> <li>(5) Selling or granting by the County of excess property resulting from the acquisition of land by the the County for county roads or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.</li> </ol>	<p>Definition has been modified to be consistent with ORS 92.010.</p> <p>Language in Subsection (4) references the LUO instead of ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (2)(p) to (r) and 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (2)(q) to (s).</p>
<p>PEDESTRIAN WAY: A right-of-way for pedestrian traffic.</p>	
<p>PERSON: An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, including a trustee, receiver, assignee, or other similar representative thereof.</p>	
<p>PLAT: A final subdivision plat, replat or partition plat.</p>	<p>Definition modified to be consistent with ORS 92 definition.</p>

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PRIVATE STREET or ROAD: A private way that is created by the developer to provide vehicular access to one or more parcels of land, and is reserved for use by an identifiable set of persons.	-
RIGHT-OF-WAY: A legally described portion or strip of land which is condemned, reserved, or dedicated for specific purposes such as streets , water and sewer lines, or other traffic or utility uses.	
ROAD: a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes. The terms "street", "access drive" and "highway" for the purposes of this Ordinance shall be synonymous with the term "road".	
ROAD, COUNTY: A public way under County jurisdiction which has been accepted into the County road maintenance system by order of the board of county Commissioners.  ROAD, PUBLIC: A public way dedicated or deeded for public use but not accepted into the County road maintenance system, intended primarily for vehicular circulation and access to abutting properties.  ROADWAY: The portion or portions of a street right-of-way or easement which is developed for vehicular traffic.	-
SIDEWALK: A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb, drainage facility (e.g.,	Original definition has been replaced to provide a clearer distinction between a “sidewalk” (paved)

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ditch or swale),† or planter strip.	and a pedestrian way. Original definition: A pedestrian walkway with surfacing suitable for pedestrian or bicycle traffic.
SOLAR ENERGY SYSTEMS: Any device, structure, mechanism or series of mechanisms which uses <del>insulation</del> <u>insolation</u> for heating, cooling or electrical energy.	
STREET: See definition for “Road.”	
<p>STREET FUNCTIONAL CLASSIFICATION: The classification for streets based on the type of use of the street. For purposes of this ordinance the following functional classifications are used:</p> <p>ARTERIAL: A street of considerable continuity which is primarily for <del>intercommunication</del><u>connectivity</u> among developed areas. Arterial streets shall be as designated by the Tillamook County Functional Classification List.</p> <p>COLLECTOR: A street supplementary to an arterial street that provides <del>intercommunication</del><u>connectivity</u> between arterial and local streets. Collector streets shall be as designated by the Tillamook County Functional Classification List.</p> <p>LOCAL STREET: A street designed primarily for access to abutting properties, and further subclassified as follows:</p> <p>A. Major Local - A local street with truck traffic (industrial, timber or farm) or ADT greater than <del>250</del><u>400</u> vehicles per day.</p> <p>B. Minor Local - A local street with no truck traffic (industrial, timber or</p>	



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<p>farm) and ADT of <a href="#">250400</a> or <del>less-fewer</del> vehicles per day.</p> <p>C. Minimum Local - A local street accessing 4 or less residences.</p> <p><b>STREET DOES NOT INCLUDE:</b></p> <p>A private driveway providing access to a single parcel fronting on a street.</p> <p>A road created to provide access to a parcel in conjunction with the use of such a parcel for forestry, mining or agricultural purposes.</p>	
<p><b>SUBDIVISION:</b> A tract of land divided into four or more units, or lots, within a single calendar year, for the purpose of eventual lease, transfer of ownership or building development.</p>	
<p><b>TURNAROUND:</b> The area defined as a cul-de-sac or area designated for vehicles to maneuver, i.e., emergency vehicles, etc. Turnarounds shall be located within designated rights-of-way or easements.</p>	
<p><del><b>TERRAIN CLASSIFICATION:</b></del></p>	<p>Terrain classifications are not used in the LDO. Original language recommended for deletion:</p> <p><del><b>TERRAIN CLASSIFICATION:</b> This refers to the general character of a specific route corridor based on the topography of the land traversed by the roadway. For purposes of this ordinance the following terrain classifications are used:</del></p> <p><del>"LEVEL" terrain is where highway sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made to be so without construction difficulty or major expense.</del></p>

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	<p>"ROLLING" terrain is where the natural slopes consistently rise above and fall below the road grade and where occasional steep slopes offer some restriction to normal horizontal and vertical roadway alignment.</p> <p>"MOUNTAINOUS" terrain is where longitudinal and transverse changes in the elevation of the ground with respect to the road are abrupt and where benching and side hill excavations are frequently required to obtain acceptable horizontal and vertical alignment.</p>
<p><del>URBAN DENSITY.</del></p> <p><u>UNINCORPORATED COMMUNITY BOUNDARY: The boundary of any unincorporated community designated in the Tillamook County Comprehensive Plan, including the community boundaries of Neahkahnie, Mohler, Idaville, Barview/Twin Rocks/Watseco, Oceanside, Netarts, Pacific City, Neskowin, Beaver, Hebo, Cloverdale and Siskeyville.</u></p>	<p>This term not used in LDO and it was not clear if it was referring to gross or net acre</p> <p>Original language recommended for deletion: URBAN DENSITY. Four dwelling units per acre or greater.</p>
<p>SECTION 030: GENERAL PROVISIONS</p> <p>(1) Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation according to the following two steps:</p> <p>(a) The preliminary plat <del>must shall</del> be approved, <u>by the Tillamook County Planning Commission</u>, before the final plat can be submitted for approval consideration; and</p> <p>(b) <del>The final plat must demonstrate compliance with all conditions of approval of the preliminary plat. Compliance with all conditions of approval of the preliminary plat shall be demonstrated prior to final plat</del></p>	<p>Changed section heading from SCOPE OF REGULATIONS.</p> <p>Retained original language for Subsections (3), (4) and (5); other subsections are new.</p> <p>Note that these provisions, as proposed, are valid for all plats. For “major partitions” the County currently requires the following (Section 10, Subsection 5): <i>All roads created through a Major Partition shall be recorded within 30 days of final</i></p>

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<p style="text-align: center;"><u>approval.</u></p> <p>(2) All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and partitions.</p> <p>(3) No deed for a parcel created through a Partition shall be filed in the office of the County Clerk without the prior approval, by the Department, of the Partition.</p> <p>(4) No Subdivision shall be filed in the office of the County Clerk without the signature of the Chair of the Planning Commission and all other signatures required by law.</p> <p>(5) Approval of a final plat shall be void 30 days after the final approving signature is made thereon, unless the plat has been recorded in the office of the County Clerk.</p> <p>(6) All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant with Section 150. These systems shall be located and constructed underground where feasible.</p> <p>(7) All partition and subdivision proposals shall demonstrate that lots have adequate surface water drainage facilities or that these will be provided in order to reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant with Section 150.</p> <p>(8) All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant with Section 150.</p>	<p><i>approval of the Major Partition map. Approval of any road created through a Major Partition that is not so recorded shall be void.</i></p>
<p>SECTION 040: PRELIMINARY PLAT APPROVAL PROCESS</p> <p>(1) <b>Review Procedures.</b> Preliminary plats for partitions shall be processed using the Type II procedure under Article 10 Section 070. Preliminary plats for subdivisions shall be processed using the Type III procedure under Article 10 Section 080. All preliminary plats are subject to the approval criteria in Section</p>	<p>This new Section incorporates elements of Subsections 15 (partition tentative plat extensions) and 30 (subdivision tentative plat extensions). Note that, as proposed, this new Section is applicable to both partitions and subdivisions. New criteria are proposed for</p>

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<p>070 of this ordinance.</p> <p>(2) <b>Approval Period.</b> Preliminary plat approval shall be effective for a period of two (2) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided within the two-year period. The Planning Commission may approve phased subdivisions with an overall time frame of more than two (2) years between preliminary and final plat approvals pursuant to Subsection 040(4).</p> <p>(3) <b>Extensions.</b> The County may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period provided that all of the following criteria are met:</p> <p>(a) All requests for extensions of preliminary plat approval shall be received in the Department office at least <del>360</del> days prior to the expiration date of the approval.</p> <p>(b) Where there has been substantial improvement after two (2) years from the date of original plat approval, the Department may extend preliminary plat approval for a single 2-year period under a Type I procedure, pursuant to Article 10 Section 060. Substantial improvement will have occurred where the layout of improvements completed at the time of the request for an extension precludes the alteration of either street placement or the number of lots within the tract.</p> <p>(c) If the developer requests an extension beyond 2-years from preliminary plat approval and no substantial improvement has occurred, as described in (3)(b)., the request shall be reviewed through a Type III procedure, pursuant to Article 10 Section 080. The Department shall review the conditions of preliminary plat approval to determine their relevance, given changes in Ordinance requirements, State laws, or development circumstances in the vicinity of the proposed Subdivision. In making such a determination, the Department may consult with any other County Department. The Department shall present its review</p>	<p>phased subdivisions (Subsection 040(4)).</p> <p>The term “preliminary plat” is used uniformly in proposed ordinance language (current LDO uses the terms somewhat interchangeably, relying predominantly on “tentative plat.”)</p> <p>As proposed, the “substantial improvement” period for both partitions and subdivisions is 2 years (currently it is 1 year for partitions). The approval period for both is proposed to be 2 years.</p> <p>The following Subsections have been eliminated or partially eliminated:</p> <p><i>15(3)(a) Requests for extensions of tentative plat approval which require review as set forth in Section 30 (3) of this Ordinance shall be subject to fees identical to those set for Commission review of Conditional Uses. Any request for an extension that is not received at least 60 days prior to the expiration date of tentative plat approval shall be charged double the applicable fees.</i></p> <p><i>30(4) All requests for an extension of tentative plat approval beyond 36 months from the Commission's original approval may be subject to either new conditions or denial by the Commission following its consideration of the Department's review as described in Section 30 (3). A denial of a request for an extension shall not preclude an application for preliminary plat approval as set forth in Sections 20 through 25 of this Ordinance.</i></p>

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<p>and any suggested changes in the conditions of preliminary plat approval to the Commission for its review.</p> <p>(d) All requests for an extension of preliminary plat approval may be subject to either new conditions or denial by the Commission following its consideration of the Department's review as described in Subsection 3(c).</p> <p>(e) A denial of a request for an extension shall not preclude an application for preliminary plat approval as set forth in Section 070 of this Ordinance.</p> <p>(f) No preliminary plat shall be approved for a period greater than <del>48 months</del><del>4 years</del>.</p> <p>(4) Phased Subdivisions. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided applicant's proposal meets all of the following criteria:</p> <p>(a) In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than two (2) years;</p> <p>(b) Public facilities shall be constructed in conjunction with or prior to each phase;</p> <p>(c) The phased development shall not result in requiring the County or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;</p> <p>(d) The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and</p> <p>(e) Planning Commission approval is required for modifications to phasing plans.</p>	
SECTION 050 – PRE-PLANNING FOR LARGE SITES	Section 5 (Large Lot Land Division) has been

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<p>(1) Pre-planning of large sites is required within <del>Community Growth</del><del>Unincorporated Community</del> Boundaries as designated in the Land Use Ordinance, or that are within one mile of either Urban or <del>Unincorporated Community Growth</del> Boundaries in conjunction with applications for partitions or phased subdivisions, the purpose of which is to avoid piecemeal development with inadequate public facilities.</p> <p>(2) This section applies to land use applications affecting more than 11,000 square feet in size of land under the same contiguous ownership, even where only a portion of the site is proposed for subdividing. For the purposes of this Section, the same contiguous ownership means the same individual, or group of individuals, corporations, or other entities, controls a majority share of ownership.</p> <p><del>(3) Prior to submittal of a land division application for an area subject to this Section, a conceptual master plan shall be submitted to the County Planning Official/Director with the required pre-application materials for the project or proposal. The conceptual master plan shall illustrate the type and location of planned streets, utility corridors, open spaces, and land uses for the ultimate buildout of the subject property and all lands under contiguous ownership. The plan shall demonstrate how future development, including any proposed phasing, can meet the guidelines under Subsection (4), below.</del></p> <p><del>(4)(3) The conceptual master plan required under Subsection (3) above is not required to be engineered but shall have a sufficient level of detail so that the County officials can determine that it meets and demonstrate that the following design guidelines can be met:</del></p> <p>(a) Streets are interconnected and are shown with logical extensions to neighboring parcels and to the planned transportation system.</p> <p>(b) Water, sewer and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations,</p>	<p>renamed and a “conceptual master plan” is required. The requirement still only applies to urban and “urban fringe” areas and for parcels greater than 11,000 sq. ft. and the “consent” form (new Subsection (5)) is still required.</p> <p>The requirement as proposed requires submittal of a conceptual master plan with pre-application materials; currently the requirement is tied to tentative plan or plat submittal/review.</p>

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<p>etc.) in the future, the plan shall describe conceptually how such improvements can be accommodated.</p> <p><del>(e) The plan reserves land needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.</del></p> <p><del>(d)(c)</del> Within <u>Unincorporated</u> Community <del>Growth</del> Boundaries, the plan demonstrates that housing densities and urban uses can be accommodated, consistent with the Comprehensive Plan and <del>Development Code</del><u>Tillamook County Land Use Ordinance</u>.</p> <p><del>(5) The conceptual master plan required under Subsection (3) above shall be accompanied by consent forms signed by the property owner agreeing to connect to, and to pay their equitable share of costs for, any sanitary sewer, storm drainage, or road improvements that may be necessary to serve the proposed development in the future. Such forms shall stipulate that the agreement is to run with the land, and shall be binding on all subsequent purchasers. The forms shall be filed in the office of the County Clerk prior to final approval of the proposed land division.</del></p>	
<p>SECTION 060: PRELIMINARY PLAT SUBMISSION REQUIREMENTS</p> <p>(1) Applications for Preliminary Plat approval shall contain the following information:</p> <p>(a) General Preliminary Plat Requirements. Information required for a Type II Review (for partitions) or Type III Review (for subdivisions), pursuant to Article 10 Section 070 and Section 080, respectively.</p> <p>(b) Preliminary Plat Information. In addition to the general information described in Subsection (a) above, the Preliminary Plat application shall consist of drawings and supplementary material adequate to provide the following information, in quantities determined by the <del>Official County Surveyor and Tillamook County Planning Commission</del><u>Planning</u>.</p>	<p>Sections 12 (Preparation of a Tentative Plan) and 21 (Tentative Plat; General Information) have been incorporated into this new Section, which is applicable to both partitions and subdivisions. Some new language is proposed, including new (1)(a) and introductory language in (1)(b). Preliminary plat “general information” has been modified from Section 21. “Existing conditions” and “proposed development” subsections are also new. Subsection (1)(c) is existing Section 24 (Tentative</p>



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<p>i. General Information.</p> <ol style="list-style-type: none"> <li>1. For subdivisions, the proposed name. <del>This name</del> shall not duplicate or resemble the name of another land division in the County, and shall be approved by the <u>County Surveyor</u><del>Commission</del>.</li> <li>2. Date, north arrow, scale of drawing.</li> <li>3. Location of the development sufficient to define its location, boundaries, and a legal description of the site.</li> <li>4. Zoning of parcel to be divided, including any overlay zones.</li> <li>5. A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey.</li> <li>6. Clear identification of the drawing as a “Preliminary Plat” and date of preparation.</li> <li>7. Name and addresses of the owner(s), developer, and the engineer or surveyor.</li> </ol> <p>ii. Existing Conditions. Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions:</p> <ol style="list-style-type: none"> <li>1. Existing streets or roads (public or private), including location, names, right-of-way and pavement widths on and abutting the site; and location of existing access point</li> <li>2. Width, location and purpose of all existing easements of record on and abutting the site;</li> <li>3. The location and present use of all structures on the</li> </ol>	<p>Plat: Supplemental Information).</p> <p>Note that, with this proposed language, the County retains discretion to waive specific submittal requirements (“required except where the Director deems certain information is not relevant.”)</p> <p>The County currently requires “spot elevations” for slopes less than 10%; for slopes over 10%, the required elevation contours depends on the percentage slope (Section 22(4)). Proposed Subsection (ii)(6) simplifies the requirement, but requires a greater detail (2-foot interval) for an entire site.</p> <p><i>SECTION 12: PREPARATION OF A Tentative Plan</i></p> <p><i>(1) A Tentative Plan for a Partition shall consist of materials adequate to provide the following information:</i></p> <p><i>(a) A map of the tract proposed to be divided, showing the proposed parcels and their approximate dimensions.</i></p> <p>-</p>



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<p>site and indication of which, if any structures are to remain after platting;</p> <ol style="list-style-type: none"> <li>4. Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;</li> <li>5. Location of all existing subsurface sewerage systems, including drainfields and associated easements on the site.</li> <li>6. Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Director may waive this standard for partitions when grades, on average, are less than 10 percent;</li> <li>7. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);</li> <li>8. Natural features such as <u>drainage ways</u>, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes and tide flats;</li> <li>9. <del>A</del><u>For any</u> plat that is five (5) acres or larger, <u>or proposes 50 lots or greater, shall include;</u> the Base Flood Elevation, per FEMA Flood Insurance Rate Maps,</li> <li>10. North arrow and scale; and</li> <li>11. Other information, as deemed necessary by the Planning Director for review of the application. The</li> </ol>	

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<p>County may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.</p> <p>iii. Proposed Development. Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:</p> <ol style="list-style-type: none"> <li>1. Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;</li> <li><del>1.2.</del> <u>City boundary lines when crossing or adjoining the subdivision;</u></li> <li><del>2.3.</del> Easements: location, width and purpose of all proposed easements;</li> <li><del>3.4.</del> Proposed deed restrictions, if any, in outline form.</li> <li><del>4.5.</del> Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;</li> <li><del>5.6.</del> Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;</li> <li><del>6.7.</del> On slopes exceeding an average grade of 10%, as shown on a submitted topographic survey, the</li> </ol>	

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<p>preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;</p> <p><del>7-8.</del> Preliminary utility plans for sewer, water and storm drainage when these utilities are to be provided. This information may be included <del>don-ehon the</del> preliminary plat <del>map</del> provided all information is legible.</p> <p><del>8-9.</del> The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;</p> <p><del>9-10.</del> Evidence of compliance with applicable overlay zones, including but not limited to the Flood Hazard Overlay (FH) zone;</p> <p><del>10-11.</del> Evidence of contact with the applicable road authority for proposed new street connections; and</p> <p><del>11-12.</del> Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development.</p> <p>(c) Any of the following information may be required by the Department to supplement a proposed subdivision plan:</p> <ul style="list-style-type: none"> <li>i. If the Subdivision plat occupies only part of a tract owned or controlled by a developer, a sketch of preliminary street layout in the undivided portion.</li> <li>ii. Special studies of areas which appear to be hazardous due to local geologic conditions.</li> <li>iii. Where the plat includes natural features subject to the conditions or requirements contained in the County's Land Use Ordinance, materials shall be provided to demonstrate that</li> </ul>	

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<p>those conditions and/or requirements can be met.</p> <ul style="list-style-type: none"> <li>iv. Approximate center line profiles of streets, including extensions for a reasonable distance beyond the limits of the proposed Subdivision, showing the proposed finished grades and the nature and extent of construction.</li> <li>v. Profiles of proposed drainage ways.</li> <li>vi. In areas subject to flooding, materials shall be submitted to demonstrate that the requirements of the Flood Hazard Overlay (FHO) zone of the County's Land Use Ordinance will be met.</li> <li>vii. If lot areas are to be graded, a plan showing the nature of cuts and fills, and information on the character of the soil.</li> <li>viii. Proposed method of financing the construction of common improvements such as street, drainage ways, sewer lines and water supply lines.</li> </ul> <p>(d) Fifteen (15) <u>legible “to scale” hard copies, or a lesser amount as deemed necessary by the Director,</u> and one digital copy of the preliminary plat and all supplementary <del>maps</del> materials shall be submitted to the Department.</p> <p>(e) Upon receipt of the preliminary plat and supplementary material, the Department shall furnish one copy each to the County Surveyor, the County Health Department, the County Sanitarian, the County Public Works Department, the County Assessor, and the appropriate school and fire districts. If the proposed Subdivision lies within one mile of the city limits of an incorporated city, or within the Urban Growth Boundary of a city, the Department shall furnish one copy to the <del>Planning Commission-City or City Engineer for that city.</del> If the proposed Subdivision is within 500 feet of a state highway, one copy shall be furnished to the Oregon <del>State Highway Department</del><u>Department of Transportation.</u> Where the Department determines that it is necessary to do so, it shall furnish a copy of the plans to</p>	

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<p>the <del>Natural Resources Conservation Service</del> <u>Tillamook County Soil and Water Conservation District (SWCD)</u>, the appropriate water and sewer districts, the telephone service and electric service companies, and appropriate state or federal resource protection agencies.</p>	
<p>SECTION 070: PRELIMINARY PLAT APPROVAL CRITERIA</p> <p>(1) Approval Criteria. The Approval Authority (Director for partitions and Planning Commission for subdivisions) may approve, approve with conditions or deny a preliminary plat. The Approval Authority decision shall be based on findings of compliance with all of the following approval criteria:</p> <ul style="list-style-type: none"> <li>(a) The land division application shall conform to the requirements of this ordinance;</li> <li>(b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance – Article 3 Zone Regulations and the standards in Section 150 of this ordinance;</li> <li>(c) Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to the standards in Sections 150 and 160 of this ordinance;</li> <li>(d) The proposed plat name is not already recorded for another subdivision, does not bear a name similar to or pronounced the same as the name of any other subdivision within the County, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name;</li> <li>(e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County’s adopted master plans and applicable engineering standards and, within <u>Unincorporated</u> Community <del>Growth</del></li> </ul>	<p>New Section.</p> <p>-</p>

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<p>Boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;</p> <p>(f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;</p> <p>(g) Provisions for access to and maintenance of off-right-of-way drainage, if any;</p> <p>(h) Evidence that any required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and</p> <p>(i) Evidence that improvements or conditions required by the road authority, Tillamook County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met, including but not limited to:</p> <p>(i) Water Department/Utility District Letter which states that the partition or subdivision is either entirely excluded from the district or is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.</p> <p>(ii) Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.</p> <p>(2) Conditions of Approval. The Approval Authority may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.</p>	
<p>SECTION 080: LAND DIVISION-RELATED VARIANCES</p> <p>(1) Variances shall be processed in accordance with Article 8 of the Land Use Ordinance.</p> <p>(2) Applications for variances shall be submitted at the same time an application</p>	<p>New Section.</p>

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<p>for land division or property line adjustment is submitted; when practical the applications shall be reviewed concurrently.</p>	
<p>SECTION 090: FINAL PLAT SUBMISSION REQUIREMENTS AND APPROVAL CRITERIA</p> <p>Final plats require review and approval by the County per the requirements, approval criteria, and procedure below. These regulations are applicable to both partitions and subdivisions.</p> <p>(1) Submission Requirements. The applicant shall submit the final plat within two (2) years of the approval of the preliminary plat unless an extension is granted as provided by Section 040.</p> <p>(a) Additional Information for Final Plats. In addition to that otherwise specified by law, the following information shall be shown on the final plat for subdivisions:</p> <ol style="list-style-type: none"> <li>i. The date, scale, north arrow, legend, highways, and railroads contiguous to the plat perimeter;</li> <li>ii. Description of the plat perimeter;</li> <li>iii. The names and signatures of all interest holders in the land being platted, and the surveyor; and</li> <li>iv. Monuments of existing surveys identified, related to the plat by distances and bearings, and referenced to a document of record as follows:                         <ol style="list-style-type: none"> <li>1. Monuments or other evidence found on the ground and used to control the boundaries of the Subdivision;</li> <li>2. Monuments of adjoining Subdivisions; or</li> <li><del>3. City boundary lines when crossing or adjoining the Subdivision.</del></li> </ol> </li> </ol> <p>(b) All plats submitted for approval shall show the following, where applicable; all distances shall be shown to the nearest 0.01 foot, and no</p>	<p>Sections 14 (Preparation of Final Plan) and 31 (Final Plat; Information Required) have been incorporated into this new Section, which is applicable to both partitions and subdivisions. Text is from Sections 31 and 32.</p> <p>This approach is consistent with ORS 92.090, which identifies the “requisites for approval of tentative subdivision or partition plan or plat.”</p> <p>Note that the time period would change from one (1) to 2 years for partition.</p> <p>Subsection (1)(b)(iii) and Subsections (3) and (4) are new.</p>

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<p>ditto marks shall be used:</p> <ul style="list-style-type: none"> <li>i. The exact location and width of all streets, pedestrian ways, easements, and any other rights-of-way located within the plat perimeter, including, where applicable, their center lines, bearings, central angles, radii, arc lengths, points of curvature, and tangent bearings.</li> <li>ii. Easements shall be denoted by fine dotted lines, and clearly identified as to their purpose. Their recorded reference shall be indicated. If the easement is being dedicated by the final plat, it shall be properly referenced in the owner's certificates of dedication.</li> <li>iii. Provisions for access to and maintenance of off-right-of-way drainage, if any.</li> <li>iv. Block and lot boundary lines, their bearings and lengths.</li> <li>v. Block numbers, beginning with the number "1", and continuing consecutively without omission throughout the Subdivision. Block numbers in an addition to a Subdivision of the same name shall be a continuation of the numbering in the original Subdivision.</li> <li>vi. Lot numbers, beginning with the number "1", and numbered consecutively within each block. If all lots in the Subdivision are to be consecutively numbered without repetition, then no block numbers shall be required.</li> <li>vii. The area, to the nearest hundredth of an acre, of each lot which is larger than one acre.</li> <li>viii. Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots intended for sale.</li> </ul> <p>(c) The following certificates, which may be combined where appropriate,</p>	



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<p>shall accompany the final plat for subdivisions.</p> <ul style="list-style-type: none"> <li>i. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recordation of the plat.</li> <li>ii. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map intended for public use except those parcels which are intended for the exclusive use of the lot owners in the Subdivision, their licensees, vendors, and tenants.</li> <li>iii. A certificate bearing the seal and signature of the engineer or surveyor responsible for the survey and the final map.</li> <li>iv. A certificate from the Water Department/Utility District indicating that the partition or subdivision is within the district for purposes of receiving services.</li> <li>v. A certificate, signed by the County Public Works Director, stating that the developer has complied with the requirements of Sections 180 and 190 of this Ordinance.</li> </ul> <p>(d) Any County Department involved in the review of the final plat for a subdivision may require any of the following materials to assist in the review of the final plat:</p> <ul style="list-style-type: none"> <li>i. A subdivision guarantee issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary for the preparation and recordation of the final plat, and their interest in the premises.</li> <li>ii. Sheets and drawings showing the following:             <ul style="list-style-type: none"> <li>1. Coordinates of the corners in the Subdivision boundary and coordinates of all lot corners.</li> <li>2. The computation of all distances, angles, and courses shown on the final map.</li> </ul> </li> </ul>	

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<p style="text-align: center;">3. Ties to existing monuments, adjacent Subdivisions, street corners, and State Highway stationing.</p> <p style="padding-left: 40px;">iii. A copy of any deed restrictions applicable to the Subdivision which are to be filed with the final plat.</p> <p style="padding-left: 40px;">iv. A copy of any dedications requiring separate documents.</p> <p>(2) Technical Review of the Final Plat.</p> <p style="padding-left: 20px;">(a) Upon receipt of the final plat and related documents as described in this Ordinance, the staff of the department shall review the final map and documents to determine that the plat conforms with the approved preliminary plat, including any special conditions of approval, and that there has been compliance with provisions of the law and of this Ordinance.</p> <p style="padding-left: 20px;">(b) The County Surveyor shall examine the plat for compliance with requirements for accuracy and completeness, and shall collect such fees as are provided by State law. The County Surveyor may make checks in the field to verify that the map is sufficiently correct on the ground, and he may enter the property for this purpose. If it is determined that there is not full conformity, he shall advise the developer of the changes or additions that must be made, and afford the developer an opportunity to make such changes or additions.</p> <p style="padding-left: 20px;">(c) When the County Surveyor determines that full conformity has been made, he shall so certify, and return the plat to the Department.</p> <p>(3) Approval Process and Criteria. By means of a Type I Review, the Director shall review and approve or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria:</p> <p style="padding-left: 20px;">(a) The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat and, if applicable, any modifications as approved pursuant to Section 140, and all conditions of approval have been satisfied;</p>	

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<p>(b) All public improvements required by the preliminary plat have been installed and approved by the County or applicable service provider if different than the County (e.g., road authority), or otherwise bonded in conformance with Section 150;</p> <p>(c) The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;</p> <p>(d) All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;</p> <p>(e) The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets and roads, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;</p> <p>(f) As applicable, the applicant has furnished acceptable copies of Covenants, Conditions and Restrictions (CC&amp;R's); easements, maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat;</p> <p>(g) Unless a subsurface sewerage permit or site evaluation approval has been issued from the appropriate agency for all the preliminary approved <del>lot or</del> parcels, a notation shall be placed on the plat stating that the allowance of the partition <del>or subdivision</del> does not warrant that sewer or <del>septic tank</del> <u>site evaluation</u> approval is or will be available to the <del>affected-approved lots or</del> parcels; and</p> <p>(h) The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner approved by</p>	

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<p style="text-align: center;">the Tillamook County Surveyor for purposes of identifying its location.</p>	
<p>(4) Recording</p> <ul style="list-style-type: none"> <li>a. Within two (2) years of final review and approval, all final plats for land divisions shall be filed and recorded with the County Clerk, except as required otherwise for the filing of a plat to lawfully establish an unlawfully created unit of land.</li> <li>b. Prior to acceptance of a final subdivision or partition plat for recording by the County Clerk, a copy of all supplemental information that must be recorded, such as restrictive covenants, shall be attached to the final plat. Supplemental information that is required to be recorded shall be recorded immediately after recording the plat. The County Clerk shall note the document recording numbers on the plat.</li> <li>c. All subdivision plats shall be approved and signed by the County Surveyor, the County Assessor, and the Chairperson or Vice-Chairperson of the <u>Tillamook County Planning Commission and Board of County Commissioners</u>.</li> </ul>	
<p>SECTION 100: CLUSTER SUBDIVISIONS</p> <p>(1) All Cluster Subdivisions shall be reviewed according to the provisions contained in this Ordinance. Standards for improvements in Cluster Subdivisions shall be as set forth in this Ordinance. All applicable Land Use Ordinance standards shall be as set forth therein.</p> <p>Notwithstanding minimum lot size requirements found in the Land Use Ordinance, minimum lot sizes in Cluster Subdivisions for detached single-family dwellings shall be as follows:</p>	<p>Note: Section 50 (Improvement Exceptions for Large-scale Developments) allowed the Commission to modify improvement standards through a variance procedure for cluster subdivisions, as well as planned industrial areas and mixed use development. Section 50 is recommended to be deleted; standards for cluster developments, as well as mixed-use development, should be flexible enough that variances won't be frequently needed.</p>

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<p>ZONE MINIMUM CLUSTER LOT SIZE (square feet)</p> <p>R-1 6,000 R-2 4,000 R-3 4,000 RR 12,000</p> <p>Lot sized may be further reduced only in Cluster Subdivisions which involve condominiums or other types of attached, individually owned, dwellings.</p>	
<p>(2) Setbacks shall be as follows in Cluster Subdivisions for detached single family dwellings:</p> <p>Front/Rear yards 10 feet Side yards _____ 5 feet Street side yards 10 feet</p> <p>The Department may require greater setbacks from collector or arterial roads. All multi-family dwellings must maintain 25-foot setbacks from all plat boundaries. Attached row houses or condominiums may be platted with no side yards. <del>No two buildings situated on multiple lots shall be constructed closer than 20 feet to each other, unless, based on topography, view enhancement, preservation of additional open space, or other similar benefits, a different separation standard is established by the Planning Commission in approving a Subdivision or planned development. This standard shall take into account applicable regulations which address public health and safety.</del></p>	
<p>(3) The plans submitted for review of Cluster Subdivisions, as defined in Section</p>	

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<p>020 of this Ordinance, shall include the following, in addition to meeting the Subdivision review requirements of this Ordinance.</p> <p>(a) Preliminary Plan:                      An analysis of the allowable development density of the tract to be developed, according to the applicable provisions of the Tillamook County Land Use Ordinance, and calculated as follows:</p> <ol style="list-style-type: none"> <li>i. The total acreage of the tract to be developed, minus the total area of all existing easements, roads or road right-of-ways, and all other areas which cannot be developed due to the existence of sensitive natural features protected by the requirements of the Land Use Ordinance, is considered the gross acreage of the tract to be developed;</li> <li>ii. The gross acreage, reduced by fifteen percent (15%) for proposed roads and parking areas-, is considered to be the net acreage for development;</li> <li>iii. The net acreage of the tract shall be divided by the minimum lot size for lots for single-family dwellings in the applicable zone, under the applicable provisions for sewage disposal, to determine the maximum number of dwellings allowed in the Cluster.</li> <li>iv. A map of the proposed areas designated for common ownership, accompanied by a discussion of the nature of their proposed uses and the site limitations or justifications for creating a Cluster Subdivision on the tract.</li> <li>v. A map of the proposed lots and their building lines, showing that each can be built upon within setbacks.</li> <li>vi. A map showing parking areas and emergency access routes.</li> <li>vii. A draft of the legal documents providing for the ownership and</li> </ol>	

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<p style="padding-left: 40px;">maintenance of the lands held in common, and preventing redivision of any land within the boundaries of the Cluster Subdivision under review.</p>	
<p>(b) Final Plat:</p> <ul style="list-style-type: none"> <li>i. The final plat for a Cluster Subdivision shall indicate that further division of any lot within the boundaries of the Subdivision shall not be permitted.</li> <li>ii. The final plat shall indicate that development will be permitted only in accordance with the land uses indicated on the final plat.</li> <li>iii. A copy of the final, recorded legal documents showing ownership, utilization and maintenance of all common areas shown on the final plat. All covenants and agreements shall be perpetual and recorded along with the final plat.</li> </ul>	
<p>SECTION 110: MINOR REVISIONS TO PRELIMINARY APPROVED LAND DIVISIONS</p> <p>(1) Minor revisions to preliminary approved land divisions <u>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.</u> -Minor revisions to a preliminary approval for a land division may be made through a Type I procedure for the following:</p> <ul style="list-style-type: none"> <li>(a) Lot dimensions;</li> <li>(b) Street locations;</li> <li>(c) Lot patterns; and</li> <li>(d) Density decreases.</li> </ul> <p><del>(2) Minor revisions shall meet the following standards:</del></p> <ul style="list-style-type: none"> <li><del>(a) Streets within a development that abut an adjacent property or an</del></li> </ul>	<p>New Section.</p> <p style="text-align: center;">-</p>

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<p><del>exterior adjacent street shall not be relocated more than one-half (1/2) the width of the right of way, easement or tract; or relocated so they abut a different property than approved in the preliminary plat approval, or as required in the primary district;</del></p> <p><del>(b) Stub streets within a development that abut an adjacent property or an exterior adjacent street shall not be changed to permanent “dead end” streets (e.g., cul-de-sac or hammerhead) within the development;</del></p> <p><del>(c) Permanent “dead end” streets within a development shall not be changed to a stub street which abuts an adjacent property or connected to an exterior adjacent street;</del></p> <p><del>(d) The revisions shall comply with the circulation standards in Section 160 of this Ordinance. However, where connections were approved as direct, they must remain direct. Where connections were approved as circuitous, they must remain circuitous. The street network must maintain the planned functional classification of new and existing roads in the area.</del></p> <p><del>(e) Density decreases shall not exceed five (5) percent and must meet the minimum density standards required in the applicable land use district;</del></p> <p><del>(f) Lot dimensions and lot patterns: Minor changes to lot dimensions and lot patterns may occur, but the overall lotting pattern shall remain the same as the original.</del></p> <p><del>(3)</del>(2) All other revisions shall be processed as a new application and shall be subject to the standards- <u>deemed necessary</u> that are in effect at the time the new application is submitted.</p>	
<p>SECTION 120: RE-PLATTING AND VACATION OF PLATS</p> <p>(1) Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed, or vacated pursuant to subsection (5) or (6).</p> <p>(2) The same procedure and standards that apply to the creation of a plat</p>	<p>New Section.</p> <p>-</p>



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<p>(preliminary plat followed by final plat) shall be used to re-plat a recorded plat.</p> <p>(3) Limitations on replatting include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>(a) a replat shall only apply to a recorded plat;</li> <li>(b) a replat shall not vacate any public street or road; and</li> <li>(c) a replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.</li> </ul> <p>(4) A re-plat application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable County standards.</p> <p>(5) Vacation of lot lines: Quasi-judicial Review. One or more interior lot lines in a recorded plat may be vacated either by private petition or by public resolution as prescribed in ORS 368:<del>326-366</del>. A lot line vacation under this provision is a quasi-judicial action subject to an established fee, petition/application, notice and hearing before the Planning Commission.</p> <p>(6) Vacation of lot lines: Owner Consent. Notwithstanding the above provision, and as authorized in ORS 368:<del>351</del>, one or more interior lines in an approved subdivision or partition may be vacated upon written consent from 100 percent of those who own the private property proposed to be vacated; or in cases involving public property, written consent shall be obtained from 100 percent of property owners abutting the public property proposed to be vacated.</p> <ul style="list-style-type: none"> <li>(a) A pre-application conference and administrative action fee shall be required. Property owner consent shall be obtained by the applicant and submitted to the Planning Department on forms provided by the County. Those owners whose consent signature is required shall be identified by the Planning Department. Property owner consent signatures shall be verified by sending a copy of the signed consent form to each identified property owner.</li> <li>(b) The line vacation shall be approved:</li> </ul>	

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<ul style="list-style-type: none"> <li>i. Upon verification of the required consent signatures, and</li> <li>ii. After the Director or the Public Works Director file a written report finding that the action                             <ul style="list-style-type: none"> <li>1. Complies with applicable land use regulations;</li> <li>2. Facilitates development of the private property subject to the vacation; and,</li> <li>3. Any vacation of public property is in the public interest.</li> </ul> </li> <li>(c) If the required owner consent signatures cannot be obtained, then in order to continue with the proposed lot line vacation, the applicant(s) shall remit the additional fee required for an quasi-judicial lot line vacation and proceed under the provisions of Section 120.5.</li> </ul>	
<p>SECTION 130: PROPERTY LINE ADJUSTMENTS</p> <p>(1) A Property Line Adjustment is the modification of a parcel or lot boundary when no parcel or lot is created. The Director reviews applications for Property Line Adjustments pursuant with the Type I procedure under Article 10 Section 060. The application submission and approval process for Property Line Adjustments is as follows:</p> <p>(a) Submission Requirements. All applications for Property Line Adjustment shall be made on forms provided by the County and shall include information required for a Type I review, pursuant with Article 10 Section 060. The application shall include a preliminary <del>lot property</del> line map drawn to scale <u>and based upon the Director's determination, may be required to</u> identify <del>ing</del> all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; <del>location of lands subject to the a FEMA FIR</del> <u>Mette identifying the subject properties and demonstration of compliance to Section 3.060:</u> Tillamook County Flood Hazard Overlay <u>zone</u>; existing fences and walls; and any other</p>	<p>New Section.</p>

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<p>information deemed necessary by the Director for ensuring compliance with County codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.</p> <p>(b) Approval Criteria. The Director shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:</p> <ul style="list-style-type: none"> <li>i. Parcel Creation. No additional parcel or lot is created by the lot line adjustment;</li> <li>ii. Lot standards.                         <ul style="list-style-type: none"> <li>1. All lots and parcels conform to the applicable lot standards of the <del>zoning district</del> including lot area, dimensions, setbacks, and coverage, except where 2. or 3. applies.</li> <li>2. For properties entirely outside <del>the boundary of a Community Growth Boundary</del> <u>an Unincorporated Community Boundary</u>, where one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable <del>district zone</del> before the property line adjustment, one property <del>must</del> <u>shall</u> be as large or larger than the minimum lot or parcel size for the applicable <del>district zone</del> after the adjustment.</li> <li>3. For properties entirely outside <del>a Community Growth Boundary</del> <u>an Unincorporated Community Boundary</u>, both abutting properties are smaller than the minimum lot size for the applicable <del>district zone</del> before and after property line adjustment.</li> <li>4. As applicable, all lots and parcels shall conform the Tillamook County Flood Hazard Overlay <u>Zone</u>.</li> </ul> </li> <li>iii. Access and Road authority Standards. All lots and parcels</li> </ul>	

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<p>conform to the standards or requirements of Section 150: Development Standards for Land Divisions, and all applicable road authority requirements are met. If a lot is nonconforming to any road authority standard, it shall not be made less conforming by the property line adjustment.</p> <p>(c) Recording Property Line Adjustments</p> <ol style="list-style-type: none"> <li>i. All property line adjustments shall <u>comply with ORS Chapter 92 and</u> be executed by deed <del>and must comply with ORS Ch. 92.</del></li> <li>ii. <del>Within two (2) years of approval, all</del><u>All</u> deeds necessary to execute a property line adjustment shall be filed and recorded with the Tillamook County <del>Department of Records</del><u>Clerk's Office</u>.</li> </ol> <p>(2) Property Line Adjustments in Subdivisions and Partitions</p> <ol style="list-style-type: none"> <li>(a) Except as provided for in subsection (b), all property line adjustments within recorded plats shall be accomplished by replatting in accordance with Section 120.</li> <li>(b) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments set forth in Section 130, rather than by replatting, when the director determines that:             <ol style="list-style-type: none"> <li>i. The property line or lines to be adjusted will not result in a substantial reconfiguration, <u>as deemed by the Director</u>, of the affected lots or parcels; and</li> <li>ii. All of the other requirements for property line adjustments set forth in 130 will be met.</li> </ol> </li> </ol>	
<p>SECTION 140: IMPROVEMENT PROCEDURES</p> <p>(1) Before final approval of any land division action, the developer shall install all improvements required by this Ordinance, and shall repair existing streets and other public facilities damaged in the process of development, or shall provide</p>	

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<p>assurance of completion as provided in this Section.</p> <p>(2) All improvements shall conform to the requirements of this Ordinance and improvement standards and specifications adopted by the County or required by the Public Works Department, and shall be installed according to the following procedure:</p> <ul style="list-style-type: none"> <li>(a) Work shall not commence until the County has been notified in advance, and improvement plans <u>drawn by a licensed professional</u> have been reviewed for adequacy and approved by the County Public Works Department.</li> <li>(b) Required improvements shall be inspected by and constructed to the satisfaction of the County. The Public Works Department may require changes in typical sections or details if unusual conditions arising during construction warrant such changes.</li> <li>(c) All <u>subsurface</u> improvements <del>placed beneath streets by the developer</del> shall be constructed and inspected prior to street surfacing. Stubs for service connections to underground improvements shall be placed so as to avoid the need to disturb paved surfaces when service connections are made.</li> <li>(d) A map showing the as-built location and the nature of public improvements shall be filed with the Public Works Department upon completion of installation.</li> </ul>	
<p>(3) In lieu of completing improvements prior to filing the final plat, the developer may execute and file with Tillamook County an agreement between himself and the County, specifying the period in which the required improvements and repairs shall be completed. Such agreement shall provide that if the work <del>isn't</del> not completed within the specified period, the County may complete or contract to complete the work and recover the full cost and expense thereof from the developer. The agreement may provide for the construction of the</p>	

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<p>improvements in units and for an extension of time under specified conditions.</p> <p>(a) The developer shall file with the agreement, to assure his full and faithful performance thereof, one of the following:</p> <ul style="list-style-type: none"> <li>i. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the District Attorney.</li> <li>ii. In lieu of said bonds, the developer may elect either of the following alternatives:                         <ul style="list-style-type: none"> <li>1. A Time Certificate of Deposit naming Tillamook County as beneficiary, placed on file with Tillamook County by the developer.</li> <li>2. Written Certification by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses and that an amount approved by the County Public Works Director will not be released until written authorization is received from the County Public Works Director.</li> </ul> </li> </ul> <p>(b) All such Bonds, Deposits, Certificates, and agreements shall be for an amount deemed sufficient by the Public Works Director to cover the cost of said improvements, incidental expenses, the replacement and repair of existing improvements, and shall be at least one hundred and ten percent (110%) of the cost of all work to be done.</p> <p>(4) If the developer fails to carry out the provisions of the agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or deposit for reimbursement. If the amount deposited exceeds the cost and expense incurred by the County, the County shall release the remainder. If the amount deposited is less than the cost and expense incurred by the County, the developer shall be liable to the County for the difference.</p>	

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<p>SECTION 150: DEVELOPMENT STANDARDS FOR LAND DIVISIONS</p> <p>The following requirements and standards shall apply to all land divisions:</p> <p>(4) WATER SUPPLY: All lots or parcels shall either be served by a public domestic water supply system conforming to State <u>of Oregon</u> specifications, or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the Sanitarian considers adequate for soil and water conditions. Lot sizes in areas without public water supplies shall be adequate to maintain a separation of at least 100 feet between each well and sewage disposal facility, and shall be at least 100 feet wide and 20,000 square feet in area.</p> <p>(5) SEWAGE: All lots or parcels shall either be served by a public or community sewage disposal system conforming to state specifications and the policies and intent of the Comprehensive Plan, or the lot size shall be increased to provide sufficient area for an individual subsurface sewage disposal system. Such systems shall be approved by the County Sanitarian, considering soil and water conditions and the nature of the water supply.</p> <p>(6) STREETS, GENERAL: The developer shall grade and improve all streets in the subdivision or partition, and shall extend such streets to the paving line of existing streets, in conformance with standards contained in this Ordinance. Street improvements shall be provided consistent with the standards in Sections 150 and 160, and shall include curbs and shoulders to the extent that they are required by the density or character of development. Improvements may be required by the Public Works Department on streets serving, but not within the boundaries of, the Subdivision or through the Partition of a parcel with a buildout potential of 5 or more parcels. Such improvements which are required in areas not within the plat perimeter shall be limited to the extent required to serve the proposed Subdivision or Partition.</p> <p>(3) ACCESS:</p> <p>(a) All parcels created by a partition shall abut a public road or a private easement for at least 25 feet for access. All private easements serving</p>	<p>New “Development Standards for Land Divisions” incorporates Section 41 (Improvement Requirements) and portions of Section 42 (Improvement Standards). Street standards have been left in a stand-alone Section.</p> <p>Introduction language to Section 150 has been changed from “The following improvements shall be installed at the expense of the developer.”</p> <p>Subsection (4)(a) is from (existing) Section 10 (Purpose and Scope of Major Partition Review).</p> <p>The original “Drainage” requirements have been replaced/modified with “Storm Drainage Systems” standards and include access easement requirements.</p> <p>Requirements for “Blocks” and “Lots” have been included in this Section (originally in Section 42).</p>

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<p>four or fewer lots shall be at least 25 feet wide, unless a lesser width is approved by the Public Works Department.</p> <p>(b) All parcels or lots created by a subdivision shall abut a street or private road, other than an alley, for <del>a minimum of</del> <u>at least</u> 25 feet at a point which can be developed for safe access.</p> <p>(5) STORM DRAINAGE SYSTEMS: Such grading shall be performed and drainage facilities installed conforming to <u>Tillamook County Public Works Department</u> specifications as are necessary to provide proper drainage within the development and other affected areas in order to secure safe, healthful and convenient conditions for the residents of the Subdivision and the general public. When feasible, and when such off-site drainage facilities have the capacity to carry the increased drainage flow, drainage facilities in the development shall be connected to drainage facilities outside the development. Areas subject to inundation shall comply with the applicable provisions of the Tillamook County Land Use Ordinance. Provisions for the access and maintenance of storm drainage facilities that are not located in a public right of way shall be provided as required in accordance with adopted County standards. An easement or tract with adequate width for access and maintenance of drainage facilities shall be provided.</p> <p>(a) Design exceptions to these standards may be approved by the <del>County Engineer</del> <u>Tillamook County Public Works Director</u>. For subdivisions, such approval is subject to approval ratification by the Planning Commission. The County Engineer may, in concurrence with the Community Development Department, approve design exceptions to these standards for partitions. Design exceptions may only be approved if the provisions of Section 110: Minor Revisions to Preliminary Approved Land Divisions are met</p> <p>(b) When lot sizes are increased to provide separation of water sources and sewage disposal systems, but are likely to be capable of further division as described in Section 050 of this Ordinance, the requirements of</p>	



DRAFT LDO Development Approval Procedures	Notes
<p>Section 050 must be met.</p> <p>(6) BLOCKS:</p> <p>(a) GENERAL: The length, width and shape of blocks shall take into account the need for adequate lot size and street width, and shall recognize the limitations of the topography.</p> <p>(b) SIZE: No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street or unless topography or the location of adjoining streets requires otherwise. The recommended minimum length of blocks along an arterial is 2,000 feet.</p> <p>(7) BUILDING LINES</p> <p>(a) If special building setback lines are to be established in the Subdivision, they shall be shown on the <u>preliminary</u> Subdivision plat. If setbacks are proposed which are less than the minimum <del>yard</del> requirements contained either in the Land Use Ordinance or in Section 100 of this Ordinance, the Planning Commission may approve such special setbacks only in accordance with the requirements of Section 080 of this Ordinance. Special setback lines shall not be established which would preclude the use of <del>insulation</del><u>insolation</u> for alternative energy production on adjacent lots.</p> <p>(8) LAND FOR PUBLIC PURPOSES</p> <p>(a) If the County has an interest in acquiring any portion, besides dedicated roads, of any proposed Subdivision for a public purpose, or if the County has been advised of such interest by a school district or other public agency, and there is written notification to the developer from the County that steps will be taken to acquire the land, then the Commission may require that those portions of the Subdivision be reserved, for a period not to exceed one year, for public acquisition at a cost not to exceed the value of the land.</p>	

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<p>(9) DEDICATIONS. The Commission may require as a condition of approval the dedication to the public of rights-of-way for public purposes, <del>on or off of the property subject to the approval.</del> All dedications must appear on the final plat, and be approved by the County prior to <del>recreation</del><u>recording</u>.</p>	
<p>(10) EASEMENTS</p> <p>(a) UTILITY LINES: Easements for <del>sewers, water mains, electric lines, or other public</del> utilities shall be dedicated whenever necessary. <del>The easements shall be at least 10 feet wide. Utility line tieback easements may be 5 feet wide.</del></p> <p><del>(b) WATER COURSES: If a Subdivision is traversed by a watercourse such as a drainage way, channel or stream, a storm water easement or drainage right-of-way shall be created.</del></p> <p><del>(c)</del>(b) PEDESTRIAN WAYS: When desirable for public convenience, pedestrian ways may be required to connect cul-de-sacs or to pass through unusually long or oddly-shaped blocks.</p>	<p><u>Easement widths are determined by the district/agency.</u></p>
<p>(11) LOTS</p> <p>(a) SIZE: Lot sizes shall conform to standards contained in the Tillamook County Land Use Ordinance. Lots reserved for commercial or industrial purposes shall be adequate to provide off-street parking and service facilities required by the type of use <del>proposed</del><u>contemplated</u>.</p> <p>(b) In areas that will not be served by a public water supply or a public sewer, minimum lot sizes shall conform to the requirements of the County Health Department and shall take into consideration requirements for water supply and sewage disposal.</p> <p>(c) ACCESS: Each lot shall abut upon a street or private road, other than an alley, for a width of at least 25 feet.</p>	

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<p>(d) THROUGH LOTS: Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation.</p> <p>(e) LOT SIDE LINES: Where possible, the side lines of lots shall run at right angles to the street upon which the lots face, unless a different angle is required to provide optimum solar orientation, or is necessary to conform to topography or road orientation.</p> <p>(f) <del>LOT GRADING: Lot Grading shall conform to the following standards unless topography, soil type, or other physical conditions require otherwise. In such cases, grading shall conform to</del> a plan approved by the County Public Works Director.</p> <p><del>(g) CUT SLOPES: Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.</del></p> <p><del>(h) FILL SLOPES: Fill slopes shall not exceed two feet horizontally to one foot vertically.</del></p> <p><del>(i) SOIL CHARACTER: The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.</del></p> <p><del>(j) _____</del></p>	
<p>SECTION 160: STREET IMPROVEMENTS</p> <p>The design, improvement, and construction of all roads and streets resulting from the division of land shall comply with the following standards and requirements, to the extent possible given topography, aesthetics, safety, or other design considerations.</p> <p>(1) STREETS GENERAL</p>	<p><del>Development standards related to streets (originally in Section 42, Improvement Standards) have been retained in this Section.</del></p> <p><del>The AASHTO reference has been moved from “standards” to “general” and has been updated.</del></p> <p><del>Provisions to allow minor changes (existing</del></p>

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<p>(a) The design of improvements governed by these standards shall, in general, conform to policies set forth in the current editions of the following publications by the American Association of State Highway and Transportation Officials (AASHTO):</p> <ul style="list-style-type: none"> <li>i. “A Policy on Geometric Design on Highways and Streets”.</li> <li>ii. “Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT &lt; 400)”</li> </ul> <p><del>(b) Standards in Section 160 apply to both public and private streets.</del>  <u>(b) Standards in Section 160 apply to both public and private streets.</u></p> <p><del>(c) These standards apply to improvements required within the land division and for any street improvements required to access the land division.</del>  <u>(c) These standards apply to improvements required within the land division and for any street improvements required to access the land division.</u></p> <p>(d) Except for design exceptions to standards as provided in Section 150, deviations from the standards may only be approved through the Variance procedures in Article 8.</p>	<p><del>Section 42, Subsection (A)(1)(d) have been replaced by Section 140, Minor Revisions to Preliminary Approved Land Divisions.</del></p> <p><del>Note that a roadway maintenance agreement can be required as part of the final plat submission/approval criteria (Section 100).</del></p>
<p>(2) ROADWAY WIDTH AND ALIGNMENT STANDARDS</p> <p>(a) The design, improvement, and construction of all streets resulting from the division of land or creation of an access easement shall comply with the <u>County</u> Public Road Improvement Ordinance <del>for adopted TSP</del> design standards, as well as the following standards and requirements.</p> <p>(b) Average Daily Traffic (ADT) for design is to be determined based on the anticipated future usage of the roadway based on maximum density</p>	<p>The “standards” now reference the adopted Public Road Improvement Ordinance and/or adopted TSP, not AASHTO standards.</p>

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<p>allowed by the zoning. For residential developments the ADT is assumed to be 10 vehicles per day per residence.</p> <p>(c) The traveled way shall be paved except for:</p> <ul style="list-style-type: none"> <li>i. Minimum Local Streets, and</li> <li>ii. Minor Local Streets in zones with minimum lot sizes of greater than ten (10) acres.</li> </ul> <p>(d) All roadways with a profile grade in excess of 12% shall be paved, including the exceptions listed.</p>	
<p>(3) MINIMUM RIGHT-OF-WAY WIDTHS:</p> <p>(a) The minimum Right-of-Way width for roadways shall be based on their functional classification as follows:</p> <p style="padding-left: 40px;">Width</p> <p>Arterial &amp; Collectors   <u>   </u>60 ft.                      Major Local           <u>   </u>60 ft.                      Minor Local           <u>   </u>50 ft.                      Minimum Local        <del>25</del><u>30</u> ft.</p> <p>(b) Side slope easements are required whenever roadway cuts or fills extend beyond the right-of-way.</p> <p>(c) Additional right-of-way may be required when features such as left turn refuges or deceleration tapers are needed.</p> <p>(d) Any right-of-way less than 50 feet wide shall be a private street and be dedicated as an easement.</p>	-
<p>(4) DEAD END STREETS</p>	-

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<p>(a) A dead end street is allowed if all of the following conditions exist:</p> <ul style="list-style-type: none"> <li>i. The street is a Minor Local Street or a Minimum Local Street, and</li> <li>ii. the street is not more than 2000 feet in length, and</li> <li>iii. the street serves no more than 18 dwellings.</li> </ul> <p>(b) A dead end street shall terminate with a turnaround adequate for emergency vehicle turn-around. Temporary dead end streets shall have temporary turnarounds within temporary easements which may expire upon the extension of the street into adjacent land.</p>	
<p>(5) FUTURE EXTENSION OF STREETS:</p> <p>(a) Streets shall be extended to the parcel boundary where they are necessary to serve adjoining properties or to improve traffic circulation in and around the tract.</p> <p>(b) Public streets may be required through the subdivisions when it is necessary to:</p> <ul style="list-style-type: none"> <li>i. provide for continuation, through projection, of an existing principal street in the surrounding areas; or</li> <li>ii. permit future subdivision of adjoining land.</li> </ul>	-
<p>(6) INTERSECTIONS</p> <p>(a) Streets shall be in alignment with existing streets by continuations of the centerlines thereof. Staggered street alignment resulting in T-intersections shall, wherever practical, leave a minimum distance of 250 feet between the center lines of intersecting. Such intersections shall not be less than 125 feet apart.</p> <p>(b) Streets shall be laid out to intersect as near to right angles as practical. In no case shall the angle be less than 60 degrees unless there is a special</p>	

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<p>intersection design.</p> <p>(c) Arterial or collector streets shall have at least 100 feet of tangent adjacent to any intersection. Local streets shall have at least 50 feet of tangent adjacent to any intersection.</p>	
<p>(7) IMPROVEMENTS TO EXISTING STREETS: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way and surfacing shall be provided by the applicant as part of the Subdivision or Partition.</p> <p>(8) STREET NAMES: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets.</p> <p>(9) FRONTAGE STREETS: Where a Subdivision abuts or contains an existing or proposed arterial, the County may require limited access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation, or other treatment necessary to afford separation of through and local traffic and incompatible land uses.</p>	-
<p>(10) ALLEYS: Alleys shall be provided in commercial and industrial <del>districts</del><del>zones</del>, unless other permanent provisions for access to utilities and off-street parking and loading facilities are approved by the Commission.</p> <p>(11) FEATURES PROHIBITED IN PUBLIC STREETS: Roadway gates, parking lots and islands are not allowed in public street <del>rights</del><del>-of-ways</del>.</p>	
<p>SECTION 170: INTERPRETATION</p> <p>Where the provisions of this Ordinance are less restrictive than the provisions of any</p>	

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other Ordinance, resolution or regulation, or are inconsistent in their requirements, the more restrictive provisions shall be applied.	
SECTION 180: VALIDITY If, for any reason, a provision of this Ordinance is judged invalid or unconstitutional, such judgment shall not affect the validity or applicability of the rest of the Ordinance.	
SECTION 190: ENFORCEMENT This Ordinance may be enforced in any manner authorized by State or local law, including ORS Chapters 92, 203, 215 and Tillamook County Ordinance No. 35, the Tillamook County Citation Ordinance.	
SECTION 200: REPEALER Tillamook County Ordinance No. 34, effective March 30, 1982, is repealed upon the effective date of this Ordinance. Any use of land which was illegal under the provisions of Ordinance No. 34 is a violation of this Ordinance, and may be the subject of enforcement action pursuant to Section 31 hereof.  SECTION 210: ADOPTION This Ordinance shall be in full force and effect immediately upon its adoption.  SECTION 220: PROHIBITION Any use of land by any person which is contrary to the terms of this Ordinance or of any permit or other approval issued hereunder is prohibited.	Will need to be updated to reflect effective date of the current LDO.





# LIST OF FUTURE PRIORITIES:

- Flood Hazard Overlay Zone
- Development Requirements for Geologic Hazard Areas (Goal 7)
- Beach and Dune Hazard Overlay Zone (Goal 18)
- Article 6: Conditional Uses
- Article 7: Non-Conforming Uses and Structures
- Unincorporated Community Plan Updates (Goal 14)
- Port of Tillamook Bay Master Plan
- Transportation Plan Amendments and incorporation of a Multi-Modal Transportation Plan
- Airport Overlay Zone Revisions (POTB Airport and Pacific City Airport)
- Stormwater Management Development Code for Unincorporated Communities
- Erosion Control and Grading Development Code for Unincorporated Communities
- Lighting Standards for Unincorporated Communities
- TCLUO Section 3.010- Consideration of amending the 100-foot setback requirement from resource zones for the placement of residential structures.
- Amendments to County airport overlay zones to be consistent with state and federal law requirements.
- Parking Standards
- Comprehensive Plan Amendments to those elements not already listed above.
- Land Division Ordinance Revisions- Consideration of forming a working task group comprised of DCD planning staff, local fire chiefs, two planning commission members, citizen representation (CACs), Tillamook County Public Works Department, Tillamook County Surveyor's Office and private surveyors.
- Building Height Definition and Calculation
- Regulation of Cannabis Dispensaries- Medical and Recreational
- Definitions
- Hazard Framework Plans
- Day use areas in Forest Zones
- Temporary Uses

March 23, 2015

Tillamook County Planning Commission  
c/o Bryan Pohl, Department of Community Development  
1510 B Third Street  
Tillamook, OR 97141

RE: Department of Community Development - Code Modernization Project

Dear Planning Commissioners:

The desire of the Department of Community Development's (DCD) current leadership to document and reorganize statements of procedure as reflected in the Code Modernization Project is highly commendable. The product of these efforts can only serve to improve the functioning of the Department and DCD staff interactions with individuals, developers, and other government agencies seeking to conduct such business in Tillamook County.

The Pacific City-Woods Citizens Advisory Committee (PC-W CAC) has completed a review of the proposed changes to the Land Division Ordinance and the Land Use Ordinance Articles 1 – 11 as presented on the DCD web site. Specific editing comments/observations have been forwarded to Director Bryan Pohl for his use as he sees fit.

The purpose of this letter is to give you, the Planning Commissioners, an overview of the PC-W CAC's observations.

We find the added language to be clear and succinct. We find the re-organization of the information in the LUO articles to be perfectly logical and, therefore, more easily accessible. This will greatly enhance the efficiency of communicating these complicated concepts and rules.

Definitions of words or terms contained in the body of the documents have been carefully worded and are located in one Article (11) for easy access. Again, we see enhanced efficiency for the county and the public.

In several instances care is taken to show fairness in the intent of new language and an atmosphere of cooperation and support of applicants for land use actions. Example: Article 10 includes a reference to the pre-application conference process as intended to aid the applicant, respond to requests of developers, etc. This language signals a new and long overdue openness and support for those parties interested in developing properties in the County.

In conclusion, at tonight's special meeting the PC-W CAC recommended (by a vote of 9 to 0) to support the outcome of the Code Modernization Project as reflected in the revised documents shown on the Department of Community Development's web page as of March 23, 2015.

Respectfully submitted on behalf of the PC-W CAC,

Sean Carlton  
Chair, PC-W CAC

Cc: Tillamook County Board of Commissioners  
Bryan Pohl, Director of Community Development