

### SECTION 3.010. EXCLUSIVE FARM USE, EFU ZONE

A. Purpose. The purpose of the Exclusive Farm Use Zone is to preserve, protect and maintain agricultural lands for farm use, consistent with historical, existing and future needs, including economic needs, which pertain to the production of agricultural products. The EFU Zone is also intended to allow other uses that are compatible with agricultural activities, such as forest use, fish and wildlife habitat, and to maintain, improve, and utilize the quality of air, water and land resources of the county. It is also the purpose of the EFU Zone to qualify farms for farm use valuation under the provisions of Oregon Revised Statute (ORS) Chapter 308.

The EFU Zone has been applied to lands designated as Agriculture in the Comprehensive Plan (except for lands Zoned Space Age Industrial). The provisions of the EFU Zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and Oregon Administrative Rule (OAR) Chapter 660 Division 33. The minimum parcel size and other standards established by this Zone are intended to promote commercial agricultural operation.

B. Uses Permitted Outright. In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted subject to Zoning Permit approval in accordance with MCZO Section 5.010. Unless otherwise mandated by MCZO 5.020, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10). ~~the general provisions set forth by this ordinance:~~

1. Farm use.
2. Propagation or harvesting of a forest product.
3. Agricultural buildings customarily provided in conjunction with farm use.
4. Creation of, restoration of, or enhancement of wetlands.
5. Climbing and passing lanes within the right of way existing as of July 1, 1987.
6. 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.
7. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

8. 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.

9. Fire service facilities providing rural fire protection services.

10. Firearms training facility in existence on September 9, 1995.

11. An Expedited single-event agritourism or commercial event permit as described in subsection K(2).

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4.C. Uses Subject to Administrative Review. In the EFU Zone, the following uses and activities and their accessory buildings and uses may be permitted outright through the Site Plan Review process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

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5.1. 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.

6.2. Operations for the exploration for minerals as defined by ORS 517.750.

~~7.1. Climbing and passing lanes within the right of way existing as of July 1, 1987.~~

~~8.1. 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.~~

~~9.1. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.~~

~~10.1. 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.~~

~~41.3.~~ 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.

~~42.1. Fire service facilities providing rural fire protection services.~~

~~43.4.~~ Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.

~~44.1. Firearms training facility in existence on September 9, 1995.~~

~~45.5.~~ 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.

~~46.6.~~ A site for the takeoff and landing of model aircraft subject to Subsection D.12.

~~47.7.~~ A facility for the processing of farm crops, biofuel or poultry subject to Subsection D.1.

~~48.8.~~ Dog training classes or testing trials subject to Subsection D.4.

~~49.9.~~ Farm stands subject to Subsection D.5.

~~20.10.~~ A winery subject to ORS 215.452-.456

~~21.11.~~ A cider business as provided in ORS 215.451

~~22.12.~~ Agri-tourism and other commercial events or activities subject to Section J.

~~23.13.~~ Land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids subject to Subsection D.8.

~~24.14.~~ Utility facility service lines subject to Subsection D.9.

~~25.15.~~ Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection D.10.

~~26.16.~~ Churches, and cemeteries in conjunction with churches, subject to Subsection D.17. This use is not permitted on high-value farmland except that existing churches on high-value farmland may be expanded subject to Subsection D.19.

~~27.1. 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.~~

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~~28.17.~~ Dwelling customarily provided in conjunction with farm use subject to Subsection D.18 and Section E.

~~29.18.~~ A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse if the farm operator does, or will, require the assistance of the relative in the management of the farm use subject to Subsections D.3, and D.18.

~~30.19.~~ Accessory farm dwellings for year-round and seasonal farm workers subject to Subsection D.18 and Section F.

~~31.20.~~ One single-family lot of record dwelling on a lawfully created lot or parcel subject to Subsection D.18 and Section G.

~~32.21.~~ Single-family residential dwelling, not provided in conjunction with farm use subject to Subsection D.18 and Section H.

~~33.22.~~ Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 and listed on the National Register of Historic Places subject to Subsection D.18.

~~23.~~ Alteration, restoration, or replacement of a lawfully established dwelling subject to Subsection D.18 and Section I.

~~24.~~ Temporary hardship dwelling subject to Subsection D.18 and Article 7.

~~25.~~ Residential home as defined in ORS 197.660, in existing dwellings, subject to Subsection D.18.

~~26.~~ Room and board arrangements for a maximum of five unrelated persons in existing residences subject to Subsection D.18.

~~27.~~ Parking of up to seven log trucks.

~~34.28.~~ Confined animal feeding operation subject to Subsection D.2

~~C-D.~~ Conditional Uses. The following uses are permitted subject to county review, any specific standards for the use set forth in Section D, Article 6, the general standards for the zone, and any other applicable standards and review process in the ordinance:

1. A facility for the primary processing of forest products subject to Subsection D.2.
2. 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.

~~3.1.~~ Temporary hardship dwelling subject to Subsection D.18 and Article 7.

~~4.1. Residential home as defined in ORS 197.660, in existing dwellings, subject to Subsection D.18.~~

~~5.1. Room and board arrangements for a maximum of five unrelated persons in existing residences subject to Subsection D.18.~~

~~6.1. Parking of up to seven log trucks.~~

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~~7.3.~~ Home occupations as provided in Article 6.

~~8.4.~~ Commercial dog boarding kennels, as provided in Article 6, or dog training classes or testing trials that cannot be established under Subsection B.18.

~~9.5.~~ 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.

~~10.6.~~ Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Subsection B.17, but excluding activities in conjunction with a marijuana crop, and subject to D.6.

~~11.7.~~ Guest ranches subject to temporary provisions relating to guest ranches in ORS 215.

~~12.8.~~ 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.

~~13.9.~~ Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

~~14.10.~~ Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.

~~15.11.~~ Processing of other mineral resources and other subsurface resources.

~~16.12.~~ Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

~~17.13.~~ 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.

~~18.14.~~ 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.

~~19.15.~~ Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.

~~20-16.~~ Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities subject to Subsection D.7.

~~24-17.~~ Utility and transmission towers over 200 feet in height.

~~22-18.~~ 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 subject to Subsection K.1.

~~23-19.~~ Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection K.2.

~~24-20.~~ Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection K.3.

~~25-21.~~ 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. This use is not permitted on high-value farmland except that existing facilities on high-value farmland may be expanded subject to Subsection D.19 and Article 6.

~~26-22.~~ Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060 subject to Subsection D.11. This use is not permitted on high-value farmland except that existing facilities on high-value farmland may be expanded subject to Subsection D.19.

~~27-23.~~ Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.

~~28-24.~~ Living history museum and subject to Subsections D.13 and D.17.

~~29-25.~~ Public parks and playgrounds subject to Subsections D.14 and D.17.

~~30-26.~~ Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

~~34-27.~~ Operations for the extraction and bottling of water.

~~32-28.~~ Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located, subject to Subsection D.17. This use is not permitted on high value farmland except that existing schools on high value farmland may be expanded subject to D.19.

~~33-29~~ Private parks, playgrounds, hunting and fishing preserves, and campgrounds subject to Subsections D.15 and D.17. This use is not permitted on high value farmland except that existing private parks on high value farmland may be expanded subject to Subsection D.19.

30. Golf courses subject to Subsections D.16 and D.17. This use is not permitted on high value farmland as defined in ORS 195.300 except that existing golf courses on high-value farmland may be expanded subject to Subsection D.19.

31. 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.

#### D.E. Use Standards

1. 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.

2. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses as defined in Section 1.030 of this Ordinance. 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.

3. To qualify for a relative farm help dwelling:

a. A dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm.

- b. A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.
4. Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:
- a. 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
  - b. 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.
5. A farm stand may be approved if:
- a. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
  - b. 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.
  - c. 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.
  - d. 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.
  - e. As used in this Section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.
  - f. A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.
  - g. Farm Stand Development Standards
    - (1) Adequate off-street parking will be provided pursuant to the requirements in Article 4 of this Ordinance.

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

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

(4) No farm stand building or parking is permitted within the right-of-way.

(5) Approval is required from County Public Works regarding adequate egress and access. All egress and access points shall be clearly marked.

(6) Vision clearance areas at street intersections must be clear of obstruction, consistent with the requirements in Article 4 of this Ordinance.

(7) All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways.

(8) Signs are permitted where consistent with the requirements of Article 4 of this Ordinance.

h. Permit approval is subject to compliance with the established sanitation requirements, the Department of Agriculture requirements, and the development standards of this zone.

6. Commercial activities in conjunction with farm use may be approved when:

a. The commercial activity is either exclusively or primarily a customer or supplier of farm products;

b. The commercial activity is limited to providing products and services essential to the practice of agriculture by surrounding agricultural operations that are sufficiently important to justify the resulting loss of agricultural land to the commercial activity; or

c. The commercial activity significantly enhances the farming enterprises of the local agricultural community, of which the land housing the commercial activity is a part. Retail sales of products or services to the general public that take place on a parcel or tract that is different from the parcel or tract on which agricultural product is processed, such as a tasting room with no on-site winery, are not commercial activities in conjunction with farm use.

7. 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.

8. Agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior ~~to the~~ ~~the~~ land application of biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251. For the purposes of this section, onsite treatment of septage prior to the land application of biosolids is limited to the treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

9. 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:

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

10. A utility facility that is necessary for public service.

- a. 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.

(1) To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

- (a) Technical and engineering feasibility;
- (b) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
- (c) Lack of available urban and nonresource lands;
- (d) Availability of existing rights of way;
- (e) Public health and safety; and
- (f) Other requirements of state and federal agencies.

(2) Costs associated with any of the factors listed in Subsection (1) 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.

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

(4) 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.

(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Article 6. 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.

(6) In addition to the provisions of Subsection D.10.a(1) through (4), the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.

(7) The provisions of Subsection a do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

b. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (1) or Subsection (2) of this Subsection.

(1) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

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

(b) The associated transmission line is co-located with an existing transmission line;

(c) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

(d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

(2) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections D.10.b(3) and (4), two or more of the following criteria:

(a) Technical and engineering feasibility;

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

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

(d) Public health and safety; or

(e) Other requirements of state or federal agencies.

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

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

11. 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 Subsection D.19.

a. Compost facility operators must prepare, implement and maintain a site-specific Odor Minimization Plan that:

- (1) Meets the requirements of OAR 340-096-0150;
- (2) Identifies the distance of the proposed operation to the nearest residential zone;
- (3) Includes a complaint response protocol;
- (4) Is submitted to the DEQ with the required permit application; and
- (5) May be subject to annual review by the county to determine if any revisions are necessary.

b. Compost operations subject to Section D.11.a include:

- (1) A new disposal site for composting that sells, or offers for sale, resulting product;  
or
- (2) An existing disposal site for composting that sells, or offers for sale, resulting product that:
- (3) Accepts as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste (type 3 feedstock); or
- (4) Increases the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.

12. 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.

13. 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.

14. Public parks may include:

a. All outdoor recreation uses allowed under ORS 215.213 or 215.283.

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

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

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

(3) Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

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

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

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

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

(8) 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.

c. 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:

(1) Meeting halls not exceeding 2000 square feet of floor area;

(2) Dining halls (not restaurants).

15. Private Campgrounds are subject to the following:

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

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

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

16. Accessory uses provided as part of a golf course shall be limited consistent with the following standards:

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

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

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

17. Three-mile setback. For uses subject to Subsection 17:

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

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.

18. 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.

19. 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 Subsection C.34 and Article 6.

20. Confined animal feeding operations. A confined animal feeding operation may exist within a farm use zone if:

a. A Land Use Compatibility Statement must be issued for the site.

b. A new large confined animal feeding operation is to include a setback or buffer, composed of a natural or created vegetative barrier, berm or terrain, if the parcel of land on which the new large confined animal feeding operation would be located is adjacent to a parcel on which:

(1) A residential structure is lawfully sited; or

A structure that was lawfully sited when constructed, but no longer conforms with or is allowed under new or changed land use requirements, is sited.

#### E-F. Dwellings Customarily Provided in Conjunction with Farm Use

1. Large Tract Standards. On land not identified as high-value farmland as defined in Article 1, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The parcel on which the dwelling will be located is at least

(1) 160 acres and not designated rangeland; or;

(2) 320 acres and designated rangeland

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

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

d. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.

2. 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:

a. 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:

(1) At least \$40,000 in gross annual income from the sale of farm products; or

(2) 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

b. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;

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

d. In determining the gross income required by Subsection a:

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

(2) Only gross income from land owned, not leased or rented, shall be counted; and

(3) 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.

3. 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:

a. 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

b. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and

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

d. In determining the gross income required by Subsection a:

- (1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
- (2) Only gross income from land owned, not leased or rented, shall be counted; and
- (3) 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.

#### 4. Farm Capability Standards.

a. 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 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;
- (2) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Subsection (1);
- (3) The subject tract is currently employed for a farm use, at a level capable of producing the annual gross sales required in Subsection (1);
- (4) The subject lot or parcel on which the dwelling is proposed is not less than 20 acres;
- (5) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
- (6) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
- (7) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection (3).
- (8) In determining the gross sales capability required by Subsection (3):

(a) The actual or potential cost of purchased livestock shall be deducted from the total gross sales attributed to the farm or ranch tract;

(b) Only actual or potential sales from land owned, not leased or rented, shall be counted; and

(c) Actual or potential gross farm sales earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

b. In order to identify the commercial farm or ranch tracts to be used in Subsection (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).

#### 5. Additional Farm Income Standards.

a. For the purpose of Subsections 2 or 3, noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.

b. Prior to the final approval for a dwelling authorized by Subsections 2 and 3 that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall complete and record with the county clerk the covenants, conditions, and restrictions form provided by the county (Exhibit A to OAR Chapter 660 Division 33). The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

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

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

c. 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;

6. Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by Subsections 2 or 3 above, subject to the following requirements:

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

- b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
- c. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
- d. 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;
- e. 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
- f. The Oregon Department of Agriculture has approved the following:
  - (1) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
  - (2) 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 Subsections 2 or 3, whichever is applicable, from the sale of fluid milk.

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

- a. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection 2 or 3, whichever is applicable;
- b. The subject lot or parcel on which the dwelling will be located is:
  - (1) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection 2 or 3, whichever is applicable; and
  - (2) At least the size of the applicable minimum lot size under Section L;
- c. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
- d. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection a; and
- e. In determining the gross income required by Subsection a and Subsection b:

(1) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(2) Only gross income from land owned, not leased or rented, shall be counted.

8. Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria ~~for~~ a primary farm dwelling.

F.G. Accessory Farm Dwellings

1. Accessory farm dwellings may be considered customarily provided in conjunction with farm use if 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:

(1) On the same lot or parcel as the primary farm dwelling;

(2) 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;

(3) 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;

(4) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this Subsection to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

(5) 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 Subsection 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:

(1) 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

(2) 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 1.030; and

(1) 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;

(2) 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

(3) 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 Subsection L.1.

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 Subsection B.32.

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

6. Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.

7. 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.

#### G.H. Lot of Record Dwellings

1. A lot of record 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 Subsection 5:

(1) Since prior to January 1, 1985; or

(2) 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 Subsections 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 Subsection G.1.e, a single-family dwelling may be sited on high-value farmland if:
- a. It meets the other requirements of Subsections 1 and 2;
  - b. The lot or parcel is protected as high-value farmland as defined in Section 1.030;
  - c. The Planning Director determines that:
    - (1) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.
      - (a) For the purposes of this Section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot or parcel cannot be practicably managed for farm use.
      - (b) Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms.
      - (c) A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;
    - (2) The dwelling will comply with the provisions of Article 6; and
    - (3) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in Subsection H.1.
4. Notwithstanding the requirements of Subsection G.1.e, a single-family dwelling may be sited on high-value farmland if:

- a. It meets the other requirements of Subsections 1 and 2;
  - b. The tract on which the dwelling will be sited is:
    - (1) Not high-value farmland defined in Section 1.030; and
    - (2) 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:
    - (1) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
    - (2) "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 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 lot of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.

#### H.I. Dwellings Not in Conjunction with Farm Use

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. Non-farm dwelling suitability standards.
  - a. The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a 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 parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then it is not "generally unsuitable." A new parcel or portion of an existing lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

c. If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

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 (a) through (c) below. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in (a) through (c) below;

a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsection G.1 and Section H, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4) ORS 215.263(5), and ORS 215.284(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this Subsection; and

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

4. If a single-family dwelling is established on a lot or parcel as set forth in Subsection B.31, no additional dwelling may later be sited under the provisions of this Section.

5. Conversion of an existing farm related dwelling to a non-farm dwelling. An existing farm related dwelling converted to a farmer retirement dwelling or a non-farm dwelling shall be subject to the following criteria:

a. Meets the non-farm dwelling criteria in this section except Subsection H(2).

b. The provisions of Subsection L are applicable if a non-farm parcel will be created for the non-farm dwelling.

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#### 4.J. Alteration, Restoration or Replacement of a Lawfully-established Dwelling

1. 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:

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

- (1) Intact exterior walls and roof structure;
- (2) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (3) Interior wiring for interior lights;
- (4) A heating system; and
- (5) 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.

b. Notwithstanding Subsection 1.1.a(5), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

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

(2) 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.

2. For replacement of a lawfully established dwelling under Subsection B.34:

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

(1) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

(2) 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

(3) 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.

b. 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.

c. 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.

3. 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.

a. The siting standards of Subsection b apply when a dwelling qualifies for replacement because the dwelling:

- (1) Formerly had the features described in Subsection I.1.a;
- (2) Was removed from the tax roll as described in Subsection I.1.b; or
- (3) Had a permit that expired as described under Subsection I.4.c.

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

- (1) 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
- (2) 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.

c. Replacement dwellings that currently have the features described in Subsection I.1.a and that have been on the tax roll as described in Subsection I.1.b may be sited on any part of the same lot or parcel.

4. A replacement dwelling permit that is issued under B.34:

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

- (1) Formerly had the features described in Subsection I.1.a; or
- (2) Was removed from the tax roll as described in Subsection I.1.b;

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

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

- (1) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and
- (2) 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.

#### [J.K.](#) 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:

1. 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:

- a. The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;
- b. The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;
- c. The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;
- d. 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;
- e. The agri-tourism or other commercial event or activity complies with the standards described in Subsection 6.025(A). ;
- f. 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
- g. The agri-tourism or other commercial event or activity complies with conditions established for:
  - (1) Planned hours of operation do not extend before 7 a.m. or after 11 p.m.
  - (2) Adequate off-street parking will be provided pursuant to the requirements in Article 4 of this ordinance.
  - (3) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
  - (4) All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
  - (5) No parking is permitted within the right-of-way.
  - (6) Approval is required from County Public Works regarding adequate egress and access. All egress and access points shall be clearly marked.
  - (7) Vision clearance areas at street intersections must be clear of obstruction, consistent with the requirements in Article 4 of this Ordinance.

(8) Permit approval is subject to compliance with the established sanitation requirements, the Department of Agriculture requirements, and the development standards of this zone.

2. In the alternative to Subsections 1 and 3, 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:

- a. Must be incidental and subordinate to existing farm use on the tract;
- b. May not begin before 6 a.m. or end after 10 p.m.;
- c. May not involve more than 100 attendees or 50 vehicles;
- d. May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
- e. 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;
- f. 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
- g. Must comply with applicable health and fire and life safety requirements.

3. In the alternative to Subsections 1 and 2, 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:

- a. Must be incidental and subordinate to existing farm use on the tract;
- b. May not, individually, exceed a duration of 72 consecutive hours;
- c. 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;
- d. Must comply with the standards described in Subsection 6.025(A). ;

e. 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

f. Must comply with conditions established for:

(1) 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;

(2) 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;

(3) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(4) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(5) Sanitation and solid waste

(6) Must comply with the requirements of J.8.

g. 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 3, 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.

4. In addition to Subsections 1 to 3, 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 1 to 3 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:

a. 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;

b. Comply with the requirements of J.3.c, d, e, and f;

c. Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

- d. Do not exceed 18 events or activities in a calendar year.
5. A holder of a permit authorized by a county under Subsection 4 must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:
- a. Provide public notice and an opportunity for public comment as part of the review process; and
  - b. 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 4.
6. 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.
7. The authorizations provided by Subsection 3 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.
8. Conditions of Approval. Agri-tourism and other commercial events permitted under Subsections 3 and 4 are subject to the following- standards and criteria:
- a. A permit application for an agri-tourism or other commercial event or activity shall include the following:
    - (1) A description of the type of agri-tourism or commercial events or activities that are proposed, including the number and duration of the events and activities, the anticipated daily attendance and the hours of operation and, for events not held at wineries, how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract.
    - (2) The types and locations of all existing and- proposed temporary structures, access and egress, parking facilities, sanitation and solid waste facilities to be used in connection with the agri-tourism or other commercial events or activities;
    - (3) Authorization to allow inspection of the event premises. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and the Exclusive Farm Use Zone and any other applicable laws or ordinances.

b. Approval Criteria.

(1) The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.

(2) No more than two agri-tourism or commercial events or activities may occur in one month.

(3) The maximum number of people shall not exceed 500 per calendar day.

(4) Notification of agri-tourism and other commercial events or activities.

(a) The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1 of the subject calendar year or within 30 days of new or renewed permits to County Planning Department.

(b) The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the Department at least 10 days prior to any change in the date of approved dates.

(c) The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.

(5) Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 11:00 p.m].

(6) Overnight camping is prohibited.

(7) Noise Control. Agri-tourism activities shall comply with the Morrow County Code Enforcement Ordinance.

(8) Transportation Management

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

(b) Driveways extending from paved roads shall have a paved apron, requiring review and approval by Morrow Public Works.

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

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

(e) Adequate off-street parking will be provided pursuant to provisions of Article 4 of this Ordinance.

(9) Health and Safety Compliance

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

(b) All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of Building Official and any other applicable federal, state and local laws.

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

[K.L.](#) Commercial Facilities for Generating Power

1. Commercial Power Generating Facility.

a. 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. A power generation facility must submit a plan for dismantling of uncompleted construction and/or decommissioning and/or re-powering of the Power Generation Facility.

(1) Restoration of the site shall consist of the following:

(a) Dismantle all related aboveground equipment.

(b) Remove underground collection and communication cables, unless said equipment is at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard and do not interfere with agricultural use or other resource uses of the land.

(c) Gravel shall be removed.

(d) Private access road areas shall be restored by removing gravel and restoring the surface grade and soil, unless the landowner directs otherwise.

Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Morrow County indicating said landowner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

2. Wind Power Generation Facility.

a. For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.

(1) Temporary workforce housing described in Subsection K.1.b must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.

(2) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

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

(1) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(a) Technical and engineering feasibility;

(b) Availability of existing rights of way; and

(c) The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under Subsection (2);

(2) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

(3) Costs associated with any of the factors listed in Subsection (1) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

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

(5) The criteria of Subsection c are satisfied.

c. For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

(1) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;

(2) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(3) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and

(4) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable 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.

d. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection K.2.c(4) are satisfied.

e. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections c and d, the approval criteria of Subsection c shall apply to the entire project.

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

a. "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

b. "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

c. "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

d. "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.

e. "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.

f. 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 or the requirements of paragraph (7) are met. The governing body or its designate must find that:

(1) 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;

(2) 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;

(3) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

(4) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

(5) The project is not located on high-value farmland soils unless it can be demonstrated that:

(a) Non high-value farmland soils are not available on the subject tract;

(b) 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

(c) 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

(6) 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:

(a) 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.

(b) 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) A photovoltaic solar generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C) without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4, provided the land:

(a) Is not located within the boundaries of an irrigation district;

(b) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;

(c) Is located within the service area of an electric ~~utility~~ described in ORS 469A.052(2);

(d) Does not exceed the acreage the electric ~~utility~~ reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and

(e) Does not qualify as high-value farmland under any other provision of law.

g. 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:

(1) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

(a) Nonarable soils are not available on the subject tract;

(b) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(c) 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;

(2) 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;

(3) 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:

(a) 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.

(b) 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

(4) The requirements of Subsections K.3.f(1), (2), (3), and (4) are satisfied.

h. For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 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:

(1) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

(a) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(b) 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;

(2) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

(3) 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;

(4) The requirements of Subsection K.3.f(4) are satisfied;

(5) 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

(6) 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.

(7) The provisions of Subsection K.3.h(6) are repealed on January 1, 2022.

i. 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).

j. 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.

#### L.M. Land Divisions

1. Minimum Parcel Size. The minimum size for creation of a new parcel shall be 160 acres.

2. A division of land to accommodate certain uses permitted by Section B and C, except a residential use, smaller than 160 acres, may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use as allowed in ORS 215.263.

3. A division of land to create up to two new parcels smaller than the minimum size established under Subsection 1, each to contain a dwelling not provided in conjunction with farm use, may be permitted if:

- a. The nonfarm dwellings have been approved under Subsection H;
- b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
- c. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection 1; and
- d. The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection 1.

4. 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:

- a. The nonfarm dwellings have been approved under Subsection H;
- b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
- c. 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;
- d. The parcels for the nonfarm dwellings are:

(1) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber; and

(2) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level; and

e. The parcels for the nonfarm dwellings do not have established water rights for irrigation.

5. 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.

6. 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.

7. This Section does not allow a division or a property line adjustment of a lot or parcel that separates a use described in B.29, C.3, or C.7 from the lot or parcel on which the primary residential use exists.

8. This Section does not allow a division or a property line adjustment of a lot or parcel that separates a processing facility from the farm operation specified in Section B.17.

9. A division of land may be permitted to create a parcel with an existing dwelling to be used:

a. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section H; and

b. For historic property that meets the requirements of Section B.33.

10. Notwithstanding the minimum lot or parcel size described in Subsection 1,

a. A division of land may be approved provided:

(1) 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

(2) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

b. A parcel created pursuant to this Subsection that does not contain a dwelling:

(1) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(2) May not be considered in approving or denying an application for siting any other dwelling;

(3) 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

(4) 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.

11. A division of land smaller than the minimum lot or parcel size in Subsection 1 may be approved provided:

a. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;

b. The church has been approved under Subsection B.26;

c. The newly created lot or parcel is not larger than five acres; and

d. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection 1 either by itself or after it is consolidated with another lot or parcel.

12. Notwithstanding the minimum lot or parcel size described Subsection 1, a division for the nonfarm uses set out in Subsection B.12 if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

13. The governing body of a county may not approve a division of land for nonfarm use under Subsection 2, 3, 4, 9, 10, 11, or 12 unless any additional tax imposed for the change in use has been paid.

14. 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. A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for agricultural uses and is smaller than the minimum parcel size, provided that:

a. If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use.

b. If the parcel does not contain a dwelling, it:

(1) Is not eligible for siting a dwelling, except as may be authorized in ORS 195.120;

(2) May not be considered in approving or denying an application for any other dwelling; and

(3) May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource use.

M.N. Yards. In an EFU Zone, the minimum yard setback requirements shall be as follows:

1. The front yard setback from the property line shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.

2. Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet.

3. Rear yards shall be a minimum of 25 feet.

4. Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

N.O. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

## SECTION 3.015 RESOURCE RELATED INDUSTRIAL ZONE, RRI.

- A. Purpose: It is the intent and purpose of the Resource Related Industrial – (RRI) Zone to be utilized in areas of Morrow County included in zones designated for farm use that have a strong potential for the extraction and processing of agricultural and other resource related commodities. It is further the intent and purpose of the RRI Zone to support commercial farm and forest activities while increasing family wage and above family wage employment opportunities in Morrow County. In an RRI Zone the following regulations shall apply:
- B. Uses Permitted Outright. In the RRI Zone, the following uses and their accessory buildings and uses are permitted subject to Zoning Permit Approval in accordance with MCZO Section 5.010~~outright. While some uses may prompt an inquiry to, and/or action by, the Planning Director, Unless otherwise mandated by MCZO 5.020,~~ authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10).
1. Farm Use.
  2. Operations for the exploration of geothermal resources as defined by ORS 522.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
  3. The propagation or harvesting of a forest product.
  4. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weight stations and rest areas within the 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.
  5. Fire service facilities providing rural fire protection services.
  6. Mining less than 1,000 cubic yards of aggregate material or excavation of less than one acre of land annually. (MC OR-1-2013)
  7. Excavations conducted by the landowner or tenant on the landowner or tenant's property for the purpose of operations reasonably necessary for construction, reconstruction or maintenance of access roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel being excavated reasonably necessary for farming. (MC OR-1-2013)
  8. Other uses required by ORS 215.283(1) as interpreted by OAR Chapter 660, Division 33.
- C. Uses Subject to Administrative Review. –In the RRI Zone, the following uses and their accessory uses may be permitted outright with a Zoning Permit through the Site Plan Review Process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. ~~Projects larger than 100 acres are subject to Site~~

~~Development Review (Article 4 Supplementary Provisions Section 4.170 Site Development Review). Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10).~~ Notice and an opportunity ~~for a hearing to file an appeal~~ must be provided in the manner described in ORS 215.416. –These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

1. A facility for the primary processing of forest products pursuant to OAR 660-033-0130(6).
  2. A facility for the processing of farm crops pursuant to ORS 215.283(1)(u).
  3. A commercial activity in conjunction with farm use, including but not limited to uses with an industrial emphasis such as processing hybrid poplar trees into lumber or secondary processing, fabrication or shipping of materials or goods produced at facilities located at the site or surrounding lands ~~and described in paragraph b. of this subsection.~~ Approval of this use is subject to the review criteria of Subsection D.
  4. Operations conducted for the mining and processing of geothermal resources as defined in ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources and oil and gas as defined by ORS 520.005 not otherwise permitted under subsection 1.b. of this section. Approval of this use is subject to the review criteria of Subsection D.
  5. Dwellings pursuant to OAR 660-033-0135(7).
  6. Other uses required by ORS 215.283(1) as interpreted by OAR Chapter 660, Division 33.
- D. Conditional Uses. In the RRI Zone, the following uses and their accessory uses may be permitted if determined by the Planning Commission during a public hearing to satisfy the applicable criteria and provisions of law. ~~Projects larger than 100 acres are subject to Site Development Review (Article 4 Supplementary Provisions Section 4.170 Site Development Review).~~ The appropriate review criteria are identified for each use.
1. Operations conducted for the mining, stockpiling, or processing of mineral, aggregate and other mineral and other subsurface resources not to exceed 500,000 tons subject to Article 6 Conditional Uses and provisions within the Comprehensive Plan which requires a significance determination. (MC OR-1-2013)
  2. A site for the disposal of solid waste approved by the governing body of a city or county or both and 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. – Approval of this use is subject to the ~~review standards and~~ criteria of MCZO Section 3.010 Subsection ED, and any other applicable criteria or provisions of law.

3. Commercial utility facilities for the purpose of generating power for public use by sale. Approval of this use is subject to the review standards and criteria of MCZO Section 3.010 Subsection ED, and any other applicable criteria or provisions of law.
  4. Operations for the extraction and bottling of water. Approval of this use is subject to the review standards and criteria of MCZO Section 3.010 Subsection ED, and any other applicable criteria or provisions of law.
  5. Utility facilities necessary for public service subject to the provisions of ORS 215.275 and OAR 660-033-0130(16). No local legislative criteria shall be applied for consideration of establishing a utility facility necessary for public service.
  6. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-096-0020. Approval of this use is subject to the review criteria of MCZO Section 3.010 Subsection ED, and any other applicable criteria or provisions of law.
  7. The land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the EFU Zone pursuant to the provisions of ORS 215.283(1)(Y) and ORS 215.246 to 215.251.
- E. Yards. In a RRI Zone, the minimum yard setback requirements shall be as follows:
1. The front yard setback from the property line shall be a minimum of 100 feet if the property line is adjacent to an intensive agricultural use except as approved by the Planning Director; otherwise, front yards shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.
  2. Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet, and for parcels or lots with side yards adjacent to an intensive agricultural use the adjacent side yard shall be a minimum of 100 feet, except as approved by the Planning Director.
  3. Rear yards shall be a minimum of 25 feet, except for parcels or lots with rear yards adjacent to an intensive agricultural use rear yards shall be a minimum of 100 feet, except as approved by the Planning Director.
  4. Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet,

measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

#### F. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

### SECTION 3.020. FOREST USE, FU ZONE

A. Purpose. The purpose of the Forest Use (FU) 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 FU 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.

The FU zone has been applied to lands designated as Forest in the Comprehensive Plan. The provisions of the FU zone reflect the forest land policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR Chapter 660 Division 006. The minimum parcel size and other standards established by this zone are intended to promote commercial forest operations.

B. Uses Permitted Outright. In the Forest zone, the following uses and activities and their accessory buildings and uses are permitted subject to Zoning Permit approval in accordance with MCZO Section 5.010. Unless otherwise mandated by MCZO 5.020, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10). ~~the general provisions set forth by this ordinance:~~

1. 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.
2. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation.
3. 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.
4. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
5. Farm use as defined in ORS 215.203.
6. Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.
7. Temporary portable facility for the primary processing of forest products.
8. Climbing and passing lanes within the right of way existing as of July 1, 1987.
9. 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.

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

11. 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.

12. Exploration for mineral and aggregate resources as defined in ORS chapter 517.

13. Private hunting and fishing operations without any lodging accommodations.

14. Towers and fire stations for forest fire protection.

15. Water intake facilities, canals and distribution lines for farm irrigation and ponds.

16. Uninhabitable structures accessory to fish and wildlife enhancement.

17. Temporary forest labor camps.

17.C. Uses Subject to Administrative Review. In the FU Zone, the following uses and activities and their accessory buildings and uses may be permitted outright through the Site Plan Review process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

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18.1. 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.

19.2. An outdoor mass gathering of more than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period, as provided in ORS 433.735.

20.3. An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building authorized by this section to another use.

21.4. Destination resorts, subject to ORS 197.435 to 197-467 and Goal 8.

22.5. Youth camps subject to OAR 660-006-0031.

23.6. Any outdoor gathering of more than 3,000 persons that is expected to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763.

24.7. Caretaker residences for public parks and public fish hatcheries subject to Subsection D.11.

25.8. A large tract forest dwelling subject to Subsection D.1 and D.11.

~~26-9~~. Lot of record dwelling subject to Subsections D.2 and D.11.

~~27-10~~. A template dwelling subject to Subsection D.3 and D.11.

~~28-11~~. Alteration, restoration or replacement of a lawfully established dwelling subject to Subsections D.4 and D.11.

#### C.D. Conditional Uses

In the Forest zone, the following uses and their accessory buildings and uses are permitted subject to county review, any specific standards for the use set forth in Section D, Article 6, and the general standards for the zone:

1. Log scaling and weigh stations.
2. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
3. A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative subject to D.11 and Article 7.
4. Parking of up to seven dump trucks and seven trailers.
5. Home occupations subject to Article 6.
6. Permanent facility for the primary processing of forest products subject to D.12.
7. Permanent logging equipment repair and storage.
8. Private seasonal accommodations for fee hunting operations subject to Subsections D.5.
9. Private accommodations for fishing occupied on a temporary basis may be allowed subject to Subsections D.6.
10. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Section C (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
11. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
12. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.
13. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new parcels.
14. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new parcels.

15. 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.

16. Expansion of existing airports.

17. Television, microwave and radio communication facilities and transmission towers.

18. New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.

19. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

20. Reservoirs and water impoundments.

21. 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.

22. Commercial utility facilities for the purpose of generating power subject to Subsection D.7.

23. Aids to navigation and aviation.

24. Firearms training facility as provided in ORS 197.770(2).

25. Fire stations for rural fire protection.

26. Cemeteries.

27. Public parks subject to Subsection D.9.

28. Private parks and campgrounds subject to Subsection D.10.

#### D.E. Use Standards

1. A large tract forest dwelling authorized under ORS 215.740 may be allowed on land zoned for forest use if it is sited on a tract that does not include a dwelling and complies with other provisions of law, including the following:

a. The tract is at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to paragraph c. for all tracts that are used to meet the acreage requirements of this subsection.

b. A tract shall not be considered to consist of less than 240 acres because it is crossed by a public road or a waterway.

c. Where one or more lots or parcels are required to meet minimum acreage requirements:

(1) 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.

(2) 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.

2. Lot of record dwelling

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 d:

(1) Since prior to January 1, 1985; or

(2) 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. 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.

e. The dwelling must be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

(1) A United States Bureau of Land Management road; or

(2) 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.

f. 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

g. 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.

3. 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:

a. Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:

(1) 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

(2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

(1) 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

(2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

c. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

(1) 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

(2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

d. Lots or parcels within urban growth boundaries shall not be used to satisfy eligibility requirements.

e. A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.

f. Except as provided by paragraph g, if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

g. The following applies where a tract 60 acres or larger abuts a road or perennial stream.

(1) The measurement shall be made in accordance with paragraph f. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

(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.

(2) 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.

h. A proposed "template" dwelling under this ordinance is not allowed:

(1) 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;

(2) Unless it complies with the requirements of Sections E and F;

(3) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph D.1.c for the other lots or parcels that make up the tract are met; or

(4) If the tract on which the dwelling will be sited includes a dwelling.

i. Where other lots or parcels that make up a tract in Subsection h:

(1) 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.

(2) 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. Alteration, restoration or replacement of a lawfully established dwelling as described in ORS 215.291, where Subsections a or b apply:

a. Alteration or restoration of a lawfully established dwelling that has, or formerly had:

(1) Has intact exterior walls and roof structures;

(2) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) Has interior wiring for interior lights; and

(4) Has a heating system.

b. In the case of replacement, previous dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

5. Private seasonal accommodations for fee hunting operations are subject to the following requirements:

- a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - b. Only minor incidental and accessory retail sales are permitted; and
  - c. 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.
6. Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:
- a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - b. Only minor incidental and accessory retail sales are permitted;
  - c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
  - d. Accommodations must be located within one-quarter mile of fish-bearing Class I waters.
7. A Commercial Utility Facility for the purpose of generating power shall not preclude more than 10 acres from use as a commercial forest operation.
8. Solid waste disposal facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under ORS 459.245, shall meet the requirements of Article 6, and shall comply with the following requirements.
- a. The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Comprehensive Plan.
  - b. The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest and grazing dwellings(s) or a residential zone.
  - c. The facility shall be fenced when the site is located adjacent to dwelling(s) or a residential zone and landscaping, buffering and/or screening shall be provided.
  - d. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, including but not limited to requiring that the area surrounding the facility is kept free from litter and debris.
  - e. Access roads or easements for the facility shall be improved to the county's Transportation System Plan standards and comply with grades recommended by the Public Works Director.
  - f. The county may limit hours of operation for the facility to be compatible with adjacent uses.
  - g. Comply with other conditions deemed necessary.

9. Public parks may include:

a. All uses allowed under Statewide Planning Goal 4;

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

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

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

(3) Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

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

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

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

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

(8) 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.

c. 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:

(1) Meeting halls not exceeding 2000 square feet of floor area;

(2) Dining halls (not restaurants).

10. Private Campgrounds and Campsites.

a. Campgrounds in private parks may be permitted, subject to the following:

(1) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(2) A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(3) Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(4) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

b. Campsites within campgrounds meeting the requirement of D.10.a and permitted pursuant to Article 6 must comply with the following:

(1) Allowed uses include tent, travel trailer or recreational vehicle; yurts are also allowed uses, subject to D.10.b(3).

(2) Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts.

(3) No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

11. 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.

12. Permanent facility for the primary processing of forest products that is:

a. Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or

b. Located in an outdoor area that does not exceed one acre excluding laydown and storage yards, or

c. Located in a combination of indoor and outdoor areas described in Subsections a and b; and

d. Adequately separated from surrounding properties to reasonably mitigate noise, odor, and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body.

#### E-F. Siting Standards for Dwellings and Structures in Forest Zones

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

1. Dwellings and structures shall be sited on the parcel so that:
  - a. They have the least impact on nearby or adjoining forest or agricultural lands;
  - b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - c. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
  - d. The risks associated with wildfire are minimized.
2. Siting criteria satisfying Subsection 1 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.
3. 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:
  - a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  - b. A water use permit issued by the Water Resources Department for the use described in the application; or
  - c. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.
4. 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.

5. Approval of a dwelling shall be subject to the following requirements:

- a. 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;
- b. The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
- c. Stocking survey report:
  - (1) If the lot or parcel is more than 30 acres, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;
  - (2) 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
- d. 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.

F.G. 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:

- 1. 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:
  - a. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
  - b. 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;

c. 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

d. 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.

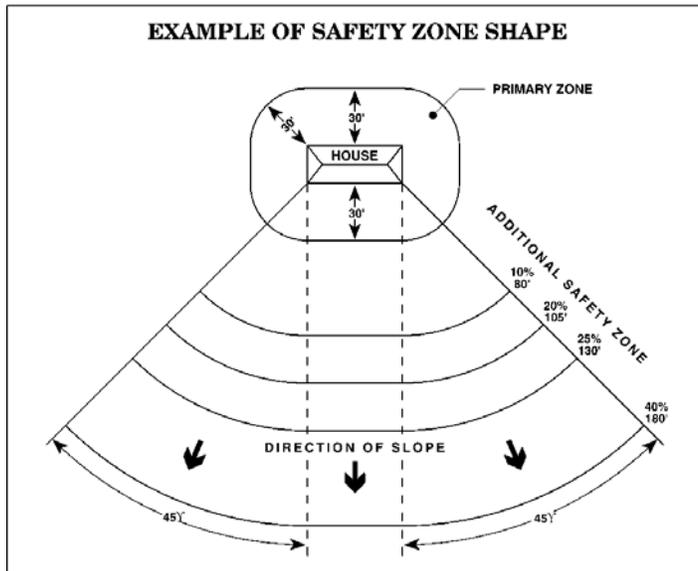
2. Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

3. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry and shall demonstrate compliance with Table 3.020-1.

TABLE 3.020-1 Minimum Primary Safety Zone

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

Figure 3.020-1



4. The dwelling shall have a fire retardant roof.
5. The dwelling shall not be sited on a slope of greater than 40 percent.
6. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

#### G.H. Land Divisions

1. The minimum parcel size for new forest parcels is 80 (eighty) acres.
2. New land divisions less than the parcel size in Subsection 1 may be approved for any of the following circumstances:
  - a. For the uses listed in the following subsections provided that such uses have been approved pursuant to Article 6 and the parcel created from the division is the minimum size necessary for the use.
    - (1) 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.
    - (2) Destination resorts, subject to ORS 197.435 to 197.467 and Goal 8.
    - (3) Log scaling and weigh stations

(4) Permanent facility for the primary processing of forest products subject to D.12.

(5) Permanent logging equipment repair and storage.

(6) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Subsection B.15 (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.

(7) Television, microwave and radio communication facilities and transmission towers.

(8) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

(9) Reservoirs and water impoundments.

(10) 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.

(11) Commercial utility facilities for the purpose of generating power subject to Subsection D.7.

(12) Aids to navigation and aviation.

(13) Firearms training facility as provided in ORS 197.770(2).

(14) Fire stations for rural fire protection.

(15) Cemeteries.

(16) Public parks subject to Subsection D.9.

(17) Private parks and campgrounds subject to Subsection D.10.

b. For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

(1) 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

(2) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

(a) Meets the minimum land division standards of the zone; or

(b) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.

c. 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 1. 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 1 in order to conduct the forest practice. Parcels created pursuant to this paragraph:

- (1) Are not eligible for siting of a new dwelling;
- (2) May not serve as the justification for the siting of a future dwelling on other lots or parcels;
- (3) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
- (4) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
  - (a) Facilitate an exchange of lands involving a governmental agency; or
  - (b) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.

d. To allow a division of a lot or parcel zoned for forest use if:

- (1) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
- (2) Each dwelling complies with the criteria for a replacement dwelling under paragraph D.4.a;
- (3) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;
- (4) At least one dwelling is located on each parcel created under this paragraph; and
- (5) 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.

e. To allow a proposed division of land to preserve open space or parks, as provided in ORS 215.783.

3. A lot or parcel may not be divided under paragraph G.2.d 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.

#### 4. Restrictions

a. An applicant for the creation of a parcel pursuant to paragraph 2.b 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 2.

b. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.

5. A landowner allowed a land division under Subsection 2 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.

6. The county governing body or its designate may not approve a property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists.

7. A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for forest use and is smaller than the minimum parcel size, provided that:

a. If the parcel contains a dwelling, it must be large enough to support continued residential use.

b. If the parcel does not contain a dwelling:

(1) It is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(2) It may not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use; and

(3) The owner of the parcel shall record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

#### H.I. Development Standards

All dwellings and structures approved pursuant to Section 3.020 shall be sited in accordance with this Section.

1. Lot Size Standards. Lot size shall be consistent with the requirements of Section G.

2. Setbacks.

a. The front yard setback from the property line shall be 20 feet for property on a local street and 40 feet on a minor collector, 60 feet from a property line fronting on a major collector ROW, and 100 feet from a property line fronting on an arterial.

b. Each side yard setback shall be a minimum of 25 feet.

c. Rear yards shall be a minimum of 25 feet.

d. Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

e. Big Game Range Restrictions. Standards found in Article 3 Section 3.200 Significant Resource Overlay Zone apply.

3. Height.

a. Dwellings shall not exceed a height of 35 feet.

b. Non-residential structures shall not exceed a height of 35 feet.

#### 4.J. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

**SECTION 3.050. SUBURBAN RESIDENTIAL ZONE, SR.**

**SECTION 3.050. SUBURBAN RESIDENTIAL ZONE, SR.** The SR Zone accommodates small lot development and transition to urban type densities and uses, typically within an urban growth boundary. In an SR Zone, the following regulations shall apply:

**Commented [DG1]:** Not all of our SR-zoned lots are within UGBs

A. Uses Permitted Outright. In an SR Zone, the following uses and their accessory structures and uses are permitted subject to Zoning Permit approval in accordance with MCZO Section 5.010. Unless otherwise mandated by MCZO 5.020, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10), outright:

1. Single-family dwellings, including a mobile home on an individual lot subject to the requirements set forth in Section 4.110 of this ordinance.
2. Two-family dwellings.
3. Multi-family dwelling complexes of 20 or less units.

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4. Family child care homes

**Commented [DG2]:** Allowed under ORS 329A.440.

B-B. Uses Subject to Administrative Review. In the SR Zone, the following uses and activities and their accessory buildings and uses may be permitted outright through the Site Plan Review process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

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1. Planned Unit Development, subdivision and land partitioning, including mobile home subdivision and PUD's.
2. Utility facility necessary for public service.
3. Church.
4. Childcare Center, provided the residential character of the building is maintained.
5. Governmental structure, or use including park, playground, recreation building, fire station, library or museum and limited hereto.
6. Multi-family dwelling complex of more than 20 units.

**Commented [DG3]:** These are separate land use actions addressed in the subdivision ordinance, not "uses" allowed in the zone.

**Commented [DG4]:** Administrative Review?

**Commented [DG5]:** Administrative review?

B-C. Conditional Uses Permitted. In an SR Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements set forth in Article 6.

1. Church.

~~2.1.~~ Golf course and other open land recreational use, but excluding intensive commercial amusement uses such as "pitch & putt" golf course, driving range, automobile or motorcycle race track, or amusement park.

~~3.1.~~ ~~Governmental structure, or use including park, playground, recreation building, fire station, library or museum and limited hereto.~~

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~~4.2.~~ Hospital, sanitorium, rest home, home for the aged, nursing home or convalescent home, and medical or dental clinic.

~~5.3.~~ School or college.

~~6.~~ ~~Utility facility necessary for public service.~~

Commented [DG7]: Administrative Review

~~7.4.~~ Mobile home park.

~~8.5.~~ Home occupations conducted in a structure accessory to the dwelling, provided that all other limitations of home occupations are observed.

~~9.6.~~ Water supply and sewage treatment facility.

~~10.~~ ~~Multi family dwelling complex of more than 20 units.~~

Commented [DG8]: Administrative review

~~11.~~ ~~Privately operated kindergarten or day nursery; provided the residential character of the building is maintained.~~

~~12.7.~~ Crop Cultivation or farm and truck gardens, including plant nurseries.

#### ~~C-D.~~ Limitations on Uses.

1. In Suburban Residential one acre (SR-1) zone, the number of livestock and/or animals including cattle, horses, goats, sheep, swine, poultry, or fur bearing animals is subject to the density limitations listed in this section:
  - a. The primary intended use for properties zoned SR-1 is residential. The raising of livestock and/or animals in these zones shall be incidental to the primary use.
  - b. Livestock and or Animal densities are as follows:
    - (1) Cattle – two per acre, or
    - (2) Horses, mules, donkeys, llamas – two animals per acre, or
    - (3) Sheep or goats – six animal per acre, or
    - (4) Emu – eight ratite per acre, or
    - (5) Ostrich – four ratite per acre, or

- (6) Miniature cows, horses, mules and donkeys – four per acre
- (7) Swine – (permitted only for 4-H and/or FFA projects and limited to two per acre.)
- c. Cattle, horses, mules, donkeys, llamas, sheep, goats, emu and ostriches can not be kept on a site having an area of less than one-half acre.
- d. The number of colonies of bees allowed on a lot shall be limited to one (1) colony for each 1,000 square feet of lot area.
- e. Livestock, animals, ratite, and/or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times. Animal feed shall be appropriately stored in rodent-proof receptacles.
- f. No other livestock except for domestic dogs and cats are permitted.
- g. Animal density listed above for livestock, including cattle, horses, mules, donkeys, llamas, sheep, goats, emu and ostrich, also allows two offspring up to six months of age, per animal.
- h. Density for Poultry – twenty fowl per acre, and for Fur-bearing animals (rabbits, mink, chinchillas, etc.) – twenty animals per acre. (MC-C-5-98)
- 2. In Suburban Residential one acre (SR-1) zone, commercial trucks and trucking businesses are not an allowed use.
  - a. A landowner may be allowed to use a truck or tractor unit as personal transportation to the resident parcel. No more than one (1) truck or tractor unit is allowed per parcel.
- 3. Within an SR-1 zoning district located outside an urban growth boundary, a manufactured home placed outside of a manufactured home subdivision or a “mobile home park” shall:
  - a. Be multi-sectional (double-wide or wider) and enclose a floor area of not less than 1,000 square feet;
  - b. Be placed on an excavated and back-filled foundation, enclosed at the perimeter with no more than sixteen (16) inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than sixteen (16) inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the sixteen (16) inch limitation will not apply.
  - c. Have a roof with a nominal pitch of three (3) feet in height for each twelve (12) feet in width;
  - d. Have a garage or carport with exterior materials matching the manufactured home;

- e. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the state building code as defined in ORS 455.010; (Evidence demonstrating that the manufactured home meets "Super Good Cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement; additional manufacturers [sic] certification shall be required);
- f. Not have bare metal siding or roofing.
- g. Single-side mobile homes that existed on or before April 24, 1996 shall not be subject to this section, (i.e., single-wide mobile homes will be "grand-fathered" for the purposes of this section; single-wide mobile homes must meet all other requirements of Section 4.110 Minimum Standards for a Mobile Home. (MC-C-4-96)

D-E. Lot Size. In an SR Zone, the following lot sizes shall apply; ~~or if located within the Urban Growth Boundary of a city, the lot size standards set forth hereby shall apply:~~

1. For a single-family dwelling served by both an approved community or municipal water system and an approved community or municipal sewerage system, the minimum lot area shall be 7,000 square feet.
2. For a two-family dwelling served by both an approved community or municipal water system, and an approved community or municipal sewerage system, the minimum lot area shall be 10,000 square feet.
3. For a single-family dwelling not served by either an approved community or municipal water system or an approved community or municipal sewerage system, and for any single-family dwelling located outside of an Urban Growth Boundary, the minimum lot area shall be 1.0 acre (43,560 square feet).
4. For a single-family dwelling served by an approved community or municipal water system, but not served by an approved community or municipal sewerage system, or a single-family dwelling served by an approved community or municipal sewerage system but not served by an approved community or municipal water system, the minimum lot area shall be 20,000 square feet.
5. For a two-family dwelling served by an approved community or municipal sewerage system but not by an approved community or municipal water system, or a two-family dwelling served by an approved community or municipal water system but not by an approved community or municipal sewerage system, the minimum lot area shall be 30,000 square feet.
6. For a two-family dwelling not served by either an approved community or municipal water system or an approved community or municipal sewerage

system, and for any two-family dwelling located outside of an Urban Growth Boundary, the minimum lot area shall be 1.5 acre (65,340 square feet).

7. For a multi-family dwelling having one-story and not served by either an approved community or municipal water system or an approved community or municipal sewerage system, and for any single-story multi-family dwelling located outside of an Urban Growth Boundary, the minimum lot area shall be 1.5 acres (65,340 square feet) plus 7,500 square feet for each dwelling unit over two (2).
8. For a multi-family dwelling unit having more than one story and not served by either an approved community or municipal water system or an approved community or municipal sewerage system, and for any multi-story multi-family dwelling located outside of an Urban Growth Boundary, the minimum lot size shall be 1.5 acres (65,340 square feet) plus 6,000 square feet for each dwelling unit over two (2).
9. For a multi-family dwelling unit having one story and served by either an approved community or municipal water system or an approved community or municipal sewerage system, but not by both, the minimum lot area shall be 30,000 square feet plus 5,000 square feet for each dwelling unit over two (2).
10. For a multi-family dwelling unit having more than one story and served by either an approved community or municipal water system or an approved community or municipal sewerage system but not by both, the minimum lot area shall be 30,000 square feet plus 3,500 square feet for each dwelling unit over two (2).
11. For a multi-family dwelling unit having one story and served by both an approved community or municipal water system and an approved community or municipal sewerage system, the minimum lot area shall be 10,000 square feet plus 2,500 square feet for each dwelling unit over two (2).
12. For a multi-family dwelling unit having more than one story and served by both an approved community or municipal water system and an approved community or municipal sewerage system, the minimum lot area shall be 10,000 square feet plus 1,500 square feet for each dwelling unit over two (2).

E-F. Dimensional Standards and Setback Requirements. In an SR Zone, the following requirements shall apply:

1. Percent of Coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of thirty (30) percent of the lot area.
2. Front Yard. Front yards shall not be less than twenty (20) feet deep.
3. Side Yards. There shall be a minimum side yard of 10 feet for all uses, except in the case of a non-residential use adjacent to a residential use the minimum side yard shall be 20 feet.

4. Building Height. No building or structure nor the enlargement of any building or structure shall be hereafter erected to exceed two and one-half stories or more than thirty-five (35) feet in height, except hospitals, public schools or churches, which may be increased in height to three stories or forty-five (45) feet.
5. Vision Clearance. On corner lots there shall be a minimum of twenty (20) feet, except as otherwise set forth in Section 4.030.
6. Vision clearance on alley-street intersections shall be a minimum of seven and one-half feet.
7. A rear yard shall be a minimum of 10 feet, except as set forth in Section 4.090.A.
8. The minimum lot frontage on a public street or private roadway shall be 50 feet, except that a flag lot frontage may be reduced to the width of a required driveway but no less than 20 feet and except for a cul-de-sac, where the frontage may be reduced to 30 feet.

F.G. Off-Street Parking and Loading. In an SR Zone, off-street parking and loading shall be provided in accordance with the provisions of Article 4.

G.H. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

## SECTION 3.051 SUBURBAN RESIDENTIAL 2A ZONE, SR-2A

SECTION 3.051. Suburban Residential 2A Zone, SR-2A. In a SR-2A Zone, the following regulations shall apply:

- A. Procedures: All uses in a SR-2A Zone require Zoning Permit approval in accordance with MCZO 5.010.-submittal of a precise plot plan, zoning sign-off, building, siting and state permits as they apply.
- B. Uses Permitted Outright. In an SR-2A Zone, the following uses and their accessory uses are permitted outright:
1. One single-family dwelling or manufactured home on an individual lot not less than two acres in size. Single-family stick-built homes shall have a carport or garage, attached or detached, sited on the same lot or parcel and be at least 180 square feet in size, constructed before occupancy. A manufactured home placed outside of a manufactured home subdivision or a mobile home park shall meet the manufactured home siting standards for residential zones in Section 4.110 of this ordinance.
  - ~~1-2. Family child care homes~~
  - ~~2. Planned Unit Developments~~
- C. Uses Subject to Administrative Review. In the SR Zone, the following uses and activities and their accessory buildings and uses may be permitted outright through the Site Plan Review process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.
1. Utility facility necessary for public service.
  2. Church
  3. Governmental structure, public park, playground, recreation building, fire station/emergency facilities
  4. Childcare center, provided the residential character of the building is maintained.
- ~~C.D.~~ Conditional Uses Permitted. In an SR-2A Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements set forth in Article 6 (Conditional Uses).
1. ~~Church,~~ Schools or Colleges
  2. Golf Course
  - ~~3. Governmental structure, public park, playground, recreation building, fire station/emergency facilities~~
  - ~~4. Utility facility, power lines, irrigation pipe lines and ditches, pump stations and sewer and water treatment facilities~~
  - ~~5-3.~~ Home Occupations

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~~6.4.~~ Hospital, sanatorium, rest home for the aged, nursing home, and medical and dental clinics, subject to State and Federal regulations

~~7.5.~~ Crop cultivation or farm and truck gardens, including plant nurseries

~~D.E.~~ Limitations on Uses.

1. In Suburban Residential 2A Two Acre (SR-2A) Zone, the number of livestock and/or animals including cattle, horses, goats, sheep, swine, poultry, or fur bearing animals is subject to the density limitations listed in this section.
  - a. The primary intended use for properties zoned SR-2A is residential. The raising of livestock and/or animals in these zones shall be incidental to the primary use.
  - b. The number of chickens, fowl, and/or rabbits over the age of six months shall not exceed one (1) for each 500 square feet of property. The number of young chickens, fowl, and/or rabbits (under the age of six months) allowed on the property at any time shall not exceed three (3) times the allowable number of chickens, fowl, and/or rabbits over the age of six months. Livestock and/or Animals densities are as follows:
    - (1) Cattle – two per acre, or
    - (2) Horses, mules, donkeys, llamas – two animals per acre, or
    - (3) Sheep or goats – six animals per acre, or
    - (4) Emu – eight ratite per acre, or
    - (5) Ostrich – four ratite per acre, or
    - (6) Miniature cows, horses, mules and donkeys – four per acre
    - (7) Swine – (permitted only for 4-H and/or FFA projects and limited to two per Acre)
  - c. Cattle, horses, mules, donkeys, llamas, sheep, goats, emu and ostriches can not be kept on a site having an area of less than one-half acre.
  - d. The number of colonies of bees allowed on a property shall be limited to one (1) colony for each 1,000 square feet of lot area.
  - e. Livestock, animals, ratite, and/or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times. Animal feed shall be stored in rodent-proof receptacles.
  - f. No other livestock and/or animals except for domestic dogs or cats are permitted in this zone.
  - g. Animal density listed above for livestock, including cattle, horses, mules, donkeys, llamas, sheep, goats, emu and ostrich, also allows two offspring up to six months of age, per animal.

h. Density for Poultry – twenty fowl per acre, and for fur-bearing animals (rabbits, mink, chinchillas, etc.) – twenty per acre. (MC-C-5-98)

2. In Suburban Residential 2A Two Acre (SR-2A) Zone, commercial trucks and trucking businesses are not an allowed use.

a. A landowner may be allowed to use a truck or tractor unit as personal transportation to the resident parcel. No more than one (1) truck or tractor unit is allowed per parcel.

~~E.F.~~ Lot Size. In an SR-2A Zone all lots shall be at least two acres in size.

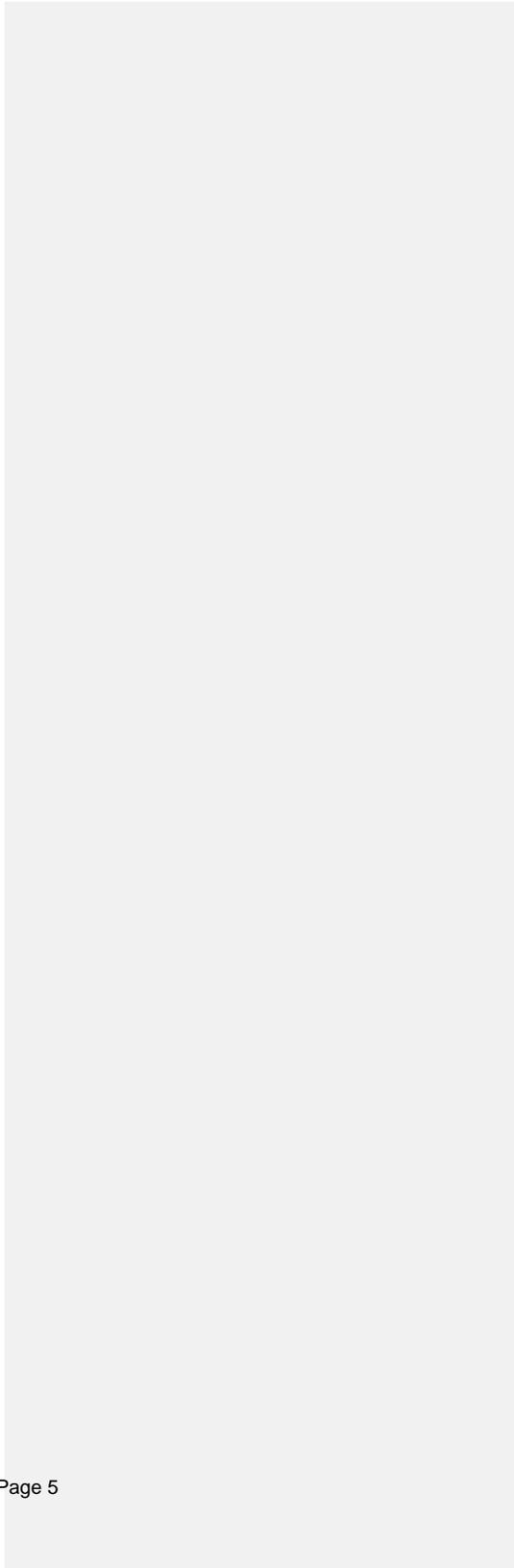
~~F.G.~~ Dimensional Standards and Setback Requirements. In an SR-2A Zone the following requirements shall apply:

1. Percent of Coverage. The dwelling unit and accessory buildings on any building site or lot shall not cover more than thirty percent (30%) of the lot area.
2. Front Yards. Front yards shall not be less than twenty (20) feet deep.
3. Side Yards. There shall be a minimum side yard of ten (10) feet for all uses, except in the case of a non-residential use adjacent to a residential use, the minimum side yard shall be twenty (20) feet.
4. Rear Yards. A rear yard shall be a minimum of ten (10) feet.
5. Building Height. No building or structure, nor the enlargement or any building or structure, shall be hereafter erected to exceed two and one-half stories or more than thirty-five (35) feet in height, except hospitals, public schools or churches, which may be increased in height to three stories or forty-five (45) feet.
6. Lot Width. The width of any lot shall be a minimum of 150 feet.
7. Vision Clearance. On corner lots there shall be a minimum of twenty (20) feet, except as otherwise set forth in Section 4.020 Sight Distance.
8. The minimum lot frontage on a public street or private roadway shall be 50 feet, except that a flag lot frontage may be reduced to the width of a required driveway but no less than 20 feet and except for a cul-de-sac, where the frontage may be reduced to 30 feet.

~~G.H.~~ Off-Street Parking, Loading and Bicycle Parking. In an SR-2A Zone off-street parking and loading shall be in accordance with the provisions of Section 4.040 through 4.060 of the Zoning Ordinance. (MC-C-4-92)

~~H.I.~~ Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98).



**SECTION 3.070. GENERAL INDUSTRIAL ZONE, MG.**

The General Industrial Zone is intended to provide, protect and recognize areas well suited for medium and heavy industrial development and uses free from conflict with commercial, residential and other incompatible land uses. This district is intended to be applied generally only to those areas which have available excellent highway, rail or other transportation. In an M-G Zone the following regulations shall apply:

A. Uses Permitted Outright. In an M-G Zone, the following uses and their accessory uses are permitted subject to Zoning Permit approval in accordance with MCZO Section 5.010. Authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10) outright; except as required by MCZO Section 5.020, and as limited by subsection DC of this section. ~~A Zoning Permit is required and projects larger than 100 acres are subject to Site Development Review (Article 4 Supplementary Provisions Section 4.170 Site Development Review).~~

1. Retail, wholesale or service business establishments except ~~the~~ uses set forth in subsections B and CB and subject to the limitations set forth in subsection DC of this section.
2. Farming.
3. Residence including a mobile home for caretaker or night watchman on property with an existing industrial use, or for the owner of said industrial use.
4. Freight depot.
5. Contractor's or building materials business, and other construction related businesses including plumbing, electrical, roofing, siding, etc., provided such is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight obscuring fencing.
6. Ice or cold storage plant.
7. Wholesale distribution outlet, including warehousing, but excluding open outside storage.
8. Welding, sheet metal, or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight obscuring fencing.
9. Veterinary clinic or kennel.
10. Laboratory for experiment, research or testing.
11. Compounding, packaging and storage of cosmetics, drugs, perfumes, pharmaceuticals, soap or toiletries, excluding all processes involving refining or rendering of fats and oils.
12. Government buildings including armories, maintenance, repair or storage facilities provided all outside storage is enclosed by sight obscuring fencing.

13. Manufacture, repair or storage of ceramic products, musical instruments, novelties, rubber or metal stamps, toys, optical goods, scientific or electronic supplies and equipment, business machines, pleasure boats, furniture, signs and similar operations provided no outside storage is involved.

14. Processing, packaging and storage of foods and beverages excluding those involving distillation, fermentation, rendering of fats or oils, and slaughtering.

15. Utility facilities necessary for public service, except for utility, transmission and communications towers greaterless than 200 feet in height.

16. ~~Data center.~~

B. Uses Subject to Administrative Review. In the MG Zone, the following uses and activities and their accessory buildings and uses may be permitted outright through the Site Plan Review process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

1. Data center.

2. ~~Utility, transmission and communications towers 200 feet in height and taller.~~

3. ~~The resumption of a residential use including a mobile home where the subject use has previously been conducted and has not been discontinued for a period exceeding six months.~~

4. ~~Manufacturing, repair, servicing and storage of machinery, implements, equipment, trailers, recreational vehicles or manufactured homes. Retail sales and rentals shall only be associated with these primary uses.~~

5. ~~Any use permitted by subsection A of this section where open outside storage is involved.~~

6. ~~Concrete or ready-mix plant.~~

7. ~~Automobile and other automotive wrecking yard.~~

8. ~~Quarry, gravel pit, subsurface or surface mining, including crushing, screening, or washing of extracted materials.~~

9. ~~Commercial feed lot, stock yard, sales yard, slaughter house, and rendering plant.~~

10. ~~Railroad trackage and related facilities.~~

11. ~~Lumber and other wood products manufacturing.~~

12. ~~Agricultural products storage and processing plants.~~

13. ~~Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semi-precious stone or metal, wax, wire, wood, rubber, yarn and similar materials provided such uses do not create a nuisance because of odor, noise, dust, smoke, gas, traffic, or other factors.~~

14. ~~Rail loop and spur dependent uses.~~

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C. Conditional Uses. In an M-G Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and Article 6 of this ordinance:

~~1. Any use permitted when authorized by subsection (1) of this section on a lot within a duly platted subdivision or residential zone.~~

~~2. Utility, transmission and communications towers 200 feet in height and taller.~~

~~3. The resumption of a residential use including a mobile home where the subject use has previously been conducted and has not been discontinued for a period exceeding six months.~~

~~4. Manufacturing, repair, servicing and storage of machinery, implements, equipment, trailers, recreational vehicles or manufactured homes. Retail sales and rentals shall only be associated with these primary uses.~~

~~5. Any use permitted by subsection A of this section where open outside storage is involved.~~

~~6. Concrete or ready mix plant.~~

~~7. Automobile and other automotive wrecking yard.~~

~~8. Quarry, gravel pit, sub-surface or surface mining, including crushing, screening, or washing of extracted materials.~~

~~9. Commercial feed lot, stock yard, sales yard, slaughter house, and rendering plant.~~

~~10. Railroad trackage and related facilities.~~

~~11. Lumber and other wood products manufacturing.~~

~~12. Agricultural products storage and processing plants.~~

13. Any use permitted by subsection (A) or (B4) of this section which is proposed to exceed or expected to exceed the following standards:

a. Occupy more than 70% of the land area designed or designated for said use.

b. Generates any odor, fumes, glare, flashing lights or noise which is perceptible from a residential parcel located within 500 feet from of the property line of the subject use without instruments.

~~14. Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semi-precious stone or metal, wax, wire, wood, rubber, yarn and similar materials provided such uses do not create a nuisance because of odor, noise, dust, smoke, gas, traffic, or other factors.~~

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**Commented [DG1]:** 70% of the land area within the county? 70% of the lot?

15. Solid waste facilities and sites as governed by the Morrow County Solid Waste Plan and Ordinance.

~~16. Rail loop and spur dependent uses.~~

17. A recreational vehicle park meeting the requirements of Article 6 Conditional Uses. This use is only allowed in the General Industrial use zone also known as the old mill site just north of Hoppner.

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18. Other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining areas or districts than the buildings and uses specifically listed. Such uses shall only be incidental and directly related to the operation of permitted General Industrial uses.

C. Use Limitations. In an M-G Zone, the following limitations and standards shall apply to all permitted uses:

1. No use permitted under the provisions of this section that requires a lot area exceeding two (2) acres shall be permitted to locate adjacent to an existing residential lot in a duly platted subdivision, or a lot in a residential zone, except as approved by the Planning Commission.

2. No use permitted under the provisions of this section that is expected to generate more than 20 auto-truck trips during the busiest hour of the day to and from the subject property shall be permitted to locate on a lot adjacent to or across the street from a residential lot in a duly platted subdivision, or a lot in a residential zone.

D. Dimension Requirements. The following Dimensional requirements apply to all buildings and structures constructed, placed or otherwise established in the MG zone.

~~1. Lot size and frontage: The minimum lot size in the MG zone has not been determined for this zone although the lot must be of a size necessary to accommodate the proposed use, however, it is anticipated that most, if not all uses will be sited on lots of at least shall be two acres. The determination of lot size will be driven by the carrying capacity of the land given the proposed use.~~

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2. The minimum lot frontage shall be 300 feet on an arterial or collector; 200 feet on a local street.

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23. Setbacks: No specific side or rear yard setbacks are identified within this zone, but may be dictated by provisions of the Building Code or other siting requirements. The minimum setback between a structure and the right-of-way of an arterial shall be 50 feet. The minimum setback of a structure from the right-of-way of a collector shall be 30 feet, and from all lower-class streets the minimum setback shall be 20 feet. There shall be no setback requirement where a property abuts a railroad siding or spur if the siding or spur will be utilized by the permitted use.

3. Stream Setback: All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 10 feet measured at right angles to the high-water line or mark.

4. Uses adjacent to residential uses. A sight-obscuring fence shall be installed to buffer uses permitted in the General Commercial Zone from residential uses. Additional landscaping or buffering such as diking, screening, landscaping or an evergreen hedge may be required as deemed necessary to preserve the values of nearby properties or to protect the aesthetic character of the neighborhood or vicinity.

E. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles B trucks, recreational vehicles and buses B will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

## SECTION 3.072. SPACE AGE INDUSTRIAL ZONE, SAI

- A. PURPOSE. The SAI Zone is intended to recognize those areas devoted to, or most suitable for, space age technology research and development.
- B. PROCEDURES. ~~Lands shown to be zoned SAI are, prior to development, subject to submittal of a detailed plot plan and with reasonable particularity the intended use, activities, structures and facilities to be built.~~ As in the case of all zones, a zZoning Permit sign-off is required prior to the issuance of building permits. Facilities proposed adjacent to or near an airport may be subject to Article 3 Sections 3.090 Airport Approach Zone and 3.091 Airport Hazard Zone as found in this Zoning Ordinance. Additionally structures constructed 100 feet or taller are subject to notice to the Department of Defense and the Oregon Military Department relative to impacts to the restricted airspace.
- C. Uses Permitted Outright. In an SAI Zone, the following uses and their accessory uses are permitted subject to Zoning Permit approval in accordance with MCZO Section 5.010. Authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10); except when required by MCZO Section 5.020. The following uses are allowed without a Zoning Permit.
1. Farm use as defined in Article 1 Section 1.030 Definitions of this Zoning Ordinance. (MC-C-6-96)
  2. Utility facility service lines, including 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: a public right-of-way; land immediately adjacent to a public right-of way, provided the written consent of all adjacent property owners has been obtained; or the property to be served by the utility.
  3. Mining less than 5,000 cubic yards of aggregate material or excavation of less than one acre of land conducted annually. (MC OR-1-2013)
  4. Excavations by the landowner or tenant on the landowner or tenant's property for the purpose of operations reasonably necessary for construction, reconstruction or maintenance of access roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel being excavated reasonably necessary for farming. (MC OR-1-2013)
- D. Uses Subject to Administrative Review. In the SAI Zone, the following uses and activities and their accessory buildings and uses may be permitted outright through the Site Plan Review process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director. The following uses are allowed, but require ministerial review and a Zoning Permit. If a use occupies 100 or more acres Site Development Review shall be required as outlined in Article 4 Supplementary

~~Provisions Section 4.170 Site Development Review. Other provisions of Article 4 Supplementary Provisions may apply at the time the Zoning Permit is issued.~~

1. Buildings and structures (above and below ground) used for space age technology research and development.
  2. Aerospace Aircraft and space vehicle testing and related research products.
  3. Propulsion testing which includes commercial engines, transatmospheric space plane, remote piloted vehicle, missiles or other space age related vehicles.
  4. Electronic, laser and microwave research activities.
  5. Contained shock testing.
  6. Fire fighting equipment and facilities.
  7. Support facilities for on-site staff.
  8. Mining operation on existing sites.
  9. Utility facilities necessary for public service, but not commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.
    - a. Utility facilities necessary for public service proposed in the Space Age Industrial Use Zone will need to meet the criteria found in Oregon Revised Statute 215.275.
    - b. ~~The acreage included in the analysis to require Site Development Review would be disturbed, constructed surfaces and parking areas.~~  
be. A reclamation plan is required for non-agricultural lands affected by a utility facility necessary for public service.
- E. Uses permitted with a Conditional Use Permit. The following uses are allowed with a Conditional Use Permit ~~and other reviews as identified below. If a project is over 100 acres of disturbed and constructed surfaces Site Development Review may also be required.~~
1. A commercial utility facility for the purpose of generating power for public use by sale, not including wind power generation facilities, subject to Article 4 Supplementary Provisions, Article 6 Conditional Uses, other portions of this code as appropriate and pertinent sections of Oregon Revised Statutes and Oregon Administrative Rules.
  2. A wind generation facility subject to the requirements found in Oregon Administrative Rule Chapter 660 Division 33 Agricultural Land, Article 4 Supplementary Provisions, Article 6 Conditional Uses, and other portions of this Zoning Ordinance.
  3. Transmission towers over 200 feet in height subject to Article 4 Supplementary Provisions and Article 6 Conditional Uses, and other portions of this Zoning Ordinance.

4. Operations conducted for the mining, stockpiling or processing of mineral, aggregate and other mineral resources or other subsurface resources not to exceed 500,000 tons subject to Article 6 of this Ordinance. (MC OR-1-2013)

F. Limitations on use in a SAI Zone

1. A use which has been declared a nuisance by a state statute, by action of the Morrow County ~~Court~~Board of Commissioners, or by a court of competent jurisdiction is prohibited.
2. Material shall be stored and grounds shall be maintained in a manner which will not create a health hazard.
3. All related Oregon Revised Statutes shall be complied with, specifically those dealing with radioactive material and hazardous substances.

G. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles - trucks, recreational vehicles and buses - will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

### SECTION 3.073. PORT INDUSTRIAL ZONE, PI

Purpose. The PI zone is intended to regulate development at portions of the Port of Morrow Industrial Park and other appropriate locations. The zone is intended to provide for port-related industrial uses and be an industrial sanctuary, limiting commercial uses to those appropriate and necessary to serve the needs of the workers employed within the zone. (MC OR-2014-1)

In the PI zone the following regulations shall apply:

A. Uses Permitted with a Zoning Permit and subject to the provisions of this Section. ~~Accessory uses and structures-Outside activities-~~ are permitted where subordinate to the within the scope of allowed uses outlined below. ~~Port industrial projects utilizing more than 100 acres are subject to Site Development Review (Article 4 Supplementary Provisions Section 4.170 Site Development Review).~~ (MC OR-2014-1)

1. Water-dependent and related industrial uses.
2. Aerospace-related industrial uses.
3. Chemical and primary metal industrial uses which are port-related.
4. Port-related industrial uses ~~which are land intensive.~~
5. Lumber and wood-products manufacturing and other related industrial uses which are port-related.
6. Effluent disposal of industrial wastes and agricultural activities in conjunction therewith.
7. Manufacturing, refining, processing or assembling of any agricultural, mining or industrial product.
8. Manufacturing, repair, servicing and storage of machinery, implements, equipment, trailers, recreational vehicles or manufactured homes with retail sales and rentals only associated with the primary use.
9. ~~Power generating and u~~Utility facilities necessary for public service, except for utility, transmission and communications towers greater than 200 feet in height.
10. Oil module production and shipping and related industrial uses which are port-related.
11. Ship building and repair.
12. Any other industrial use authorized by ORS 777.250(1) through (3) unless Site ~~Development Plan~~ Review is otherwise required by MCZO 5.020#triggered.
13. Buildings, structures, offices and other uses customarily accessory to and in conjunction with permitted uses in the PI zone.

14. Rail facilities, including but not limited to rail lines, spurs, turnouts, switches, signals, rail car storage and related facilities. (MC OR-2014-1)

15. Rail loop and spur dependent uses.

16. Concrete or ready-mix manufacturing plant.

~~17. Data Center.~~

18. Uses allowed outright in the General Industrial Zone, not including residential caretaker use.

19. Facility for security personnel and activities involved in the policing, control, regulation and management of property which may include sleeping facilities, but which is not a dwelling.

20. Intermodal transportation facilities not requiring an Oregon Department of Environmental Quality Solid Waste Disposal Site Permit, such as a truck intermodal facility or rail to truck.

21. Outdoor Advertising Sign or Billboard.

B. Uses Subject to Administrative Review. In the PI Zone, the following uses and activities and their accessory buildings and uses may be permitted outright through the Site Plan Review process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

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1. Data Center.

2. Commercial uses appropriate and necessary to serve the needs of workers employed within the zone. Total cumulative square footage of retail floor space shall not exceed 10,000 square feet within areas zoned PI or 10% of the area of any building or complex of buildings, unless the applicant provides information justifying a larger area.

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3. 3. Quarry, gravel pit, subsurface or surface mining, including crushing, screening or washing of extracted materials.

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4. Asphalt plant.

5. Intermodal transportation facilities that have been designated a transfer station by the Department of Environmental Quality and must acquire a Solid Waste Disposal Site Permit. These facilities must meet the requirements of the Morrow County Solid Waste Ordinance.

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C. Conditional Uses.

~~1. Commercial uses appropriate and necessary to serve the needs of workers employed~~

~~within the zone. Total cumulative square footage of retail floor space shall not exceed 10,000 square feet within areas zoned PI or 10% of the area of any building or complex of buildings, unless the applicant provides information justifying a larger area.~~

2. Other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining areas or districts than the buildings and uses specifically listed, shall only be incidental and directly related to the operation of permitted Port Industrial uses.

~~3. Quarry, gravel pit, subsurface or surface mining, including crushing, screening or washing of extracted materials.~~

~~4. Asphalt plant.~~

~~5. Intermodal transportation facilities that have been designated a transfer station by the Department of Environmental Quality and must acquire a Solid Waste Disposal Site Permit. These facilities must meet the requirements of the Morrow County Solid Waste Ordinance.~~

CD. Limitations on Uses.

1. Material shall be stored and grounds shall be maintained in a manner which will not create a health hazard.

2. All related provisions of the Oregon Revised Statutes shall be complied with, particularly those dealing with hazardous substances and radioactive materials.

DE. Dimension Requirements. The following dimensional requirements apply to all buildings and structures constructed, placed or otherwise established in the PI zone. (MC OR-2014-1)

1. Minimum front yard setback: Thirty (30) feet. No structure shall be erected closer than ninety (90) feet from the center line of any public, county or state road. Structures on corner or through lots shall observe the minimum front yard setback on both streets.

2. Minimum side and rear yard setback: ten (10) feet.

3. Minimum lot coverage: No limitation.

4. Maximum building height: No limitation.

5. Exceptions to the setback regulations are as follows:

a. There shall be no setback requirement where a property abuts a railroad spur if the spur will be utilized by the permitted use.

b. Side and rear lot requirements may be waived on common lot lines when adjoining lot owners enter into a joint development agreement for coordinating vehicular access and parking development. Party wall or adjoining building walls must meet fire separation requirements of the State of Oregon Structural

Specialty Code and Fire and Life Safety Code. The joint development agreement must be approved by the Port of Morrow as to form and content, recorded in the Morrow County Clerk's office and a copy must be provided to the Planning Department.

**EE.** Interpretation.

1. In the event that it is unclear that a proposed use is a permitted use within the PI zone, the Planning Director shall initially make such a determination. Notice of the Planning Director's decision shall be mailed to all owners of real property located within 250 feet of the subject property. Any person entitled to such notice or who is adversely affected or aggrieved by the decision may request a public hearing pursuant to Section 9.030 of this Ordinance within 15 days following the mailing of the Planning Director's decision.

2. When an intermodal transportation facility handles solid waste in a situation that is considered temporary and when solid waste is transferred in a non-containerized or non-typical manner the Planning Director shall make a notice of decision concerning this action. This notice shall be mailed to all owners of real property located within 250 feet of the subject property. Based on the temporary nature of these activities this decision is final and is not subject to appeal or hearing. (MC OR-2014-1)

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**FG.** Transportation Impacts. Transportation Impacts will be evaluated using provisions within Article 4 Supplementary Provisions Section 4.010(F) Access within the Influence Area of an Interchange. If that provision is not applicable a Traffic Impact Analysis as outlined in the Morrow County Transportation System Plan will be required if the necessary applicable thresholds are triggered. (MC OR-2014-1)

### SECTION 3.076 AIRPORT LIGHT INDUSTRIAL ZONE, ALI

Purpose. The ALI zone is intended to permit airport-compatible light industrial uses and other airport-compatible uses on existing industrial land near the Boardman airport. Light industrial uses are manufacturing, assembly, processing, packaging and other industrial uses that do not generate noise, odor, dust, glare, or vibration in amounts that might otherwise be objectionable to nearby land uses. Airport-compatible uses are uses that do not create glare, light, smoke, dust, steam, bird attractants or electrical interference in amounts that could interfere with airport operations and airport safety.

- A. Airport Safety and Compatibility. Uses permitted within the ALI zone that are also located within the Airport Safety and Compatibility Overlay Zone shall comply with applicable standards in the Airport Safety and Compatibility Overlay Zone.
- B. Notice: Timely notice of applications for permits in the ALI zone shall be provided to the Oregon Department of Transportation, the Oregon Department of Aviation, and the United States Department of Navy.

C. Uses Permitted Outright. In the ALI zone, the following uses ~~with their accessory uses, will be permitted through the Zoning Permit process found in Article 5 Section 5.010, unless Site Plan Review is required as outlined in Article 5 Section 5.020. Uses shall also meet the applicable development standards listed in Article 4~~ are permitted outright:

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- 1. All uses permitted outright in the Air/Industrial Park Zone, AI.
- ~~2. Data Center.~~
- ~~32. Storage buildings and warehouses.~~
- ~~43. Utility facilities necessary for public service, except for utility, transmission, and communications towers greater than 200 feet in height-structures.~~

D. ~~Uses- Subject to Administrative Review. Permitted under Prescribed Conditions.~~ In the ALI zone, the following uses and activities and their accessory buildings and uses are permitted upon demonstration of compliance with the standards in this section ~~through the Site Plan Review process provided in MCZO 5.020, if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.~~

- 1. Data Center.
- 2. Solar energy projects. Where the United States Department of Navy indicates that the location of solar panels would impact Navy flight operations, consideration shall be given to any design recommendations offered by the Navy.
- ~~23.~~ Light industrial uses, where the Department of Aviation does not provide evidence demonstrating that such activity would create a safety hazard or limit approved airport uses.

34. Agricultural processing, where the Department of Aviation does not provide evidence demonstrating that such activity would create a safety hazard or limit approved airport uses.

45. Speedway uses, subject to compliance with the standards in the Speedway Limited Use Overlay Zone.

E. Dimensional Requirements. In the ALI zone, the following dimensional standards shall apply:

1. Minimum lot size. No limitation.
2. Minimum lot coverage. No limitation.
3. Minimum lot frontage. Minimum lot frontage shall be 300 feet on an arterial or collector street and 200 feet on a local street.
4. Minimum setbacks.
  - a. Front yard setbacks. The minimum front yard setback between a structure and a street right-of-way shall be 50 feet for an arterial street, 30 feet for a collector street, and 20 feet for a local street. Structures on corner lots shall observe the minimum front yard setback for both streets.
  - b. Side and rear yard setbacks. There is no side or rear yard setback except as may be required by the Building Code or other siting requirements. Where so required, the requirements may be waived on common lot lines when adjoining lot owners enter into a joint agreement for coordinating vehicular access and parking. Party wall or adjoining building walls must meet fire separation requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Code. The joint development agreement must be approved by the Port of Morrow as to form and content and recorded in the Morrow County Clerk's office, and a copy must be provided to the Planning Department.
  - c. Railroad spur. There is no structure setback from a railroad spur where the spur will be utilized by the permitted use. Otherwise the setback shall be 20 feet.
5. Maximum building height: No maximum height. However, no structure shall be allowed to penetrate an airport imaginary surface.

F. Transportation Impacts. Upon request by ODOT or Morrow County, a Traffic Impact Analysis (TIA) shall be required when projects on lands zoned ALI, cumulatively, have generated more than 400 passenger car equivalent trips per day on the local street network. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. The TIA shall include: daily vehicle trips generated by existing projects and projects that are reasonably likely to occur within the ALI zone during the planning period, peak hour trip distribution at affected intersections, analysis of compliance with applicable roadway performance standards, recommended mitigation measures necessary to achieve or retain compliance with applicable roadway performance standards, and identification of triggers addressing the timing of future mitigation.

## **SECTION 3.091. AIRPORT HAZARD ZONE, AH**

**SECTION 3.091. PURPOSE.** A zone regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property, in the vicinity of the Lexington public use airport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the land use plan and approach clear zone plan (zoning maps) which are incorporated in and made a part of this ordinance; providing for enforcement; and imposing penalties.

This zone is adopted pursuant to the authority conferred by Morrow County. It is hereby found that an airport hazard endangers the lives and property of users of the Lexington public use airport in Morrow County, and property or occupants of land in the vicinity thereof, and also if the obstruction type, in effect reduces the size of the area available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of these airports and the public investment therein. Accordingly, it is declared:

That the creation of establishment of an airport hazard within the zone is a public nuisance and an injury to the region served by public use airports in the county;

That it is necessary in the interest of the public health, public safety, and general welfare and prosperity that the creation or establishment of airport hazards be prevented; and

That the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

A. Definitions. As used in this section, unless the context otherwise requires:

1. AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from mean sea level (205 feet MSL).
2. AIRPORT HAZARD - Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.
3. STRUCTURE - An object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formation, and overhead transmission lines.

4. TREE - Any object of natural growth.
5. NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Section or an amendment thereto.
6. HEIGHT - For the purpose of determining the height limits in all zones set forth in this Section and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
7. PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them.
8. RUNWAY - A defined area on public use airport prepared for landing and takeoff of aircraft along its length including both existing and proposed as shown on approved Airport Layout Plans for each airport.
9. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined in Federal Aviation Regulations (FAR) Part 77, and shown on the approved Approach and Clear Zone Plan for each airport.
10. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on the FAA approved Airport Layout Plan.
11. 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 (Runway 8-26 and 9-27 at the Morrow County Airport).
12. NON-PRECISION 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 non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on the Airport Layout Plan.
13. PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on the approved Airport Layout Plan.
14. PRIMARY SURFACE - A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation

of any point on the primary surface is the same as the elevation of the nearest point onto the runway centerline.

15. PUBLIC USE AIRPORT - Any airport, publicly or privately owned, which is open to public use and meets all appropriate state and federal operational criteria.

B. Airport Zones. In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a public use airport. Such zones are shown on both the "Land Use Plan" (Drawing 3) and "Approach and Clear Zone Plan" (Drawing 2) of the Morrow County Airport Layout Plan, which are attached to this Section and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive limitations. At the Lexington Airport, the AH Zone applies to the areas identified on the March 2001 ALP Map as the Approach Surface, Horizontal Surface and Conical Surface. The various zones are hereby established and defined as follows:

1. APPROACH AND CLEAR ZONES - Those areas depicted on the approved Approach and Clear Zone Plan including the horizontal conical, approach and primary surfaces which pertain to federal aviation Regulation (FAR) Part 77. Within this zone are the following defined sub-zones:

a. Utility Runway Visual Approach Sub-Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. 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 being the continuation of the centerline of the runway.

b. Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Non-Precision Instrument Approach Sub-Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. 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 being the continuation of the centerline of the runway.

c. Precision Instrument Runway Approach Sub-Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.

d. Transitional Sub Zones - These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend

outward and upward at 90-degree angles to the runway centerline and the runway.

e. Horizontal Sub-Zone - The horizontal zone is hereby 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 the approach and transitional zones.

f. Conical Sub-Zone - The conical zone is hereby established in the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zones and the transitional zones.

C. Airport Zone Height Limitations. Except as otherwise provided in this Section, no structure or tree shall be erected, altered, allowed to grow, or be maintained 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 and sub-zones in question as follows:

1. Utility Runway Visual Approach Sub-Zone - Slopes upward twenty (20) feet horizontally for each foot vertically, 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.

2. Runway Larger Than Utility with a Visibility Minimum Greater Than 3/4 Mile Non-Precision Instrument Approach Sub-Zone - Slopes upward thirty-four (34) feet horizontally for each foot vertically 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.

3. Precision Instrument Runway Approach Sub-Zone - Slopes upward fifty (50) feet horizontally for each foot vertically 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; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

4. Transitional Sub-Zones - Slopes upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation which is the highest elevation of each public use airport. In addition to the foregoing, there are established height limits sloping upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface. Where the precision instrument runway

approach zone projects beyond the conical zone, height limits sloping upward and outward seven (7) feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface, and extending to a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

5. Horizontal Sub-Zone - One hundred and fifty (150) feet above the airport elevation.

6. Conical Sub-Zone - Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

7. Excepted Height Limitations - Nothing in this Zone shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to thirty five (35) feet above the surface of the land. When an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail. These surfaces are shown on the approved Approach and Clear Zone Plan for each public use airport.

D. Use Restrictions. Notwithstanding any other provisions of this Section, no use may be made of land or water within airport zones established by this Section in such a manner as to create electrical interference with navigational signals or radio communications 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 or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the public use airport. Included in this restriction is any land or water use which would tend to foster or increase bird population and thereby increase the likelihood of a bird strike problem.

Notwithstanding any other provisions of this Section, no use may be made of land or water within the approved Approach and Clear Zones established by this Section in such a manner which would promote or provide for large congregations of people and/or above-ground storage of flammable substance.

E. Nonconforming Uses.

1. Regulations not Retroactive - The regulations prescribed by this Zone shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of a nonconforming 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 Zone and is diligently prosecuted.

2. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Morrow County ~~Board of Commissioners Court~~, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the owner of the public use airport.

F. Permits.

1. Future Uses - No material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone or sub-zone hereby created unless a permit therefore shall have been applied for and granted.

a. However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.

b. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure, or tree would conform to the regulation herein prescribed. If such determination is in the affirmative, the permit shall be granted.

2. Existing Uses - No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Zone or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Nonconforming Uses Abandoned or Destroyed - Whenever the county 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 zoning regulations.

4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Section may apply to the County Planning Commission for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical

difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this Zone.

5. Hazard Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Zone and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the county or airport owner, at its own expense, to install, operate, and maintain thereon, such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

~~G. Enforcement. It shall be the duty of Morrow County Court to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the respective jurisdictions upon a form furnished by them. Applications required by this Section to be submitted to the agency of Morrow County Court shall be promptly considered and granted or denied by them. Application for action by the County Planning Commission shall be forthwith transmitted by the respective jurisdictions.~~

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**HG.** Appeals. Any person aggrieved, or any taxpayer affected by any decision of the county administering office made in his administration of this Zone may appeal as provided in Article 9 of this Ordinance.

## SECTION 3.092 AIRPORT SAFETY AND COMPATIBILITY OVERLAY ZONE, ASC

- A. Purpose. The purpose of this overlay zone is to protect and support the continued operation of the Boardman public use airport by establishing compatibility and safety standards and to reduce potential safety hazards for persons living, working or recreating near that airport.
- B. Definitions. Definitions in this section apply specifically to this overlay zone and are intended to supplement the definitions in Article 1.
1. Aircraft. Includes airplanes and helicopters, but not hot air balloons or ultralights.
  2. Airport Direct Impact Area. The area located within 5,000 feet of an airport runway, excluding lands within the runway protection zone and approach surface.
  3. Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.
  4. Airport Imaginary Surface. Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transition surface.
  5. Airport Secondary Impact Area. The area located between 5,000 and 10,000 feet from an airport runway.
  6. Airport sponsor. The owner, manager, person or entity designated to represent the interests of an airport [OAR 660-013-0020]
  7. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.
    - a. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
      - i. 1,250 feet for a utility runway; or
      - ii. 1,500 feet for a runway other than a utility runway.
    - b. The approach surface extends for a horizontal distance of 5,000 feet at a

- slope of 20 feet outward for each foot upward.
- c. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
8. Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a distance of 4,000 feet.
  9. Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.
  10. Federal Aviation Administration's (FAA) Technical Representative. As used in this ordinance, the federal agency providing the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to the United States Fish and Wildlife Service and the Oregon Department of Fish and Wildlife.
  11. Height. Height of Building as defined in MCZO Section 1, including the highest point of a tree, plant or other object of natural growth, measured from mean sea level.
  12. Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet.
  13. Obstruction. Any structure or tree, plant, or other object of natural growth that penetrates an imaginary surface.
  14. Other than Utility Runway. A runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.
  15. Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:
    - a. 250 feet for utility runways.
    - b. 500 feet for other than utility runways.

16. **Public Assembly Facility or Location** A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.
17. **Runway.** A defined area on an airport prepared for landing and takeoff of aircraft along its length.
18. **Runway Protection Zone (RPZ).** An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of: 1,000 to 2,500 feet.
19. **Significant.** As it relates to bird strike hazards, “significant” means a level of increased flight activity by birds across an approach surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.
20. **Transitional Surface.** Those surfaces that extend upward and 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 side of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline.
21. **Utility Runway.** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.
22. **Visual Runway.** A runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or instrument designations have been approved or planned, or are indicated on an

FAA-approved airport layout plan or any other FAA planning document.

- C. **Imaginary Surface Delineation.** The airport elevation and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface shall be delineated for each airport subject to this overlay zone and shall be made part of the Official Zoning Map. All lands, waters, and airspace or portions thereof, that are located within these surfaces shall be subject to the requirements of this overlay zone.
- D. **Notice of Land Use and Permit Applications within Overlay Zone Area.** Except as otherwise provided, written notice of applications for land use or limited land use decisions in the area within this overlay zone, including comprehensive plan or zoning amendments, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications.
1. Notice shall be provided to the airport sponsor and the Department of Aviation when the property or a portion thereof that is subject to the land use or limited land use application is within 5,000 feet of the sides or ends of the runway.
  2. Notices required by this section need not be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application:
    - a. would only allow structures less than 35 feet in height, measured from grade;
    - b. involves property located entirely outside the approach surface;
    - c. does not involve uses that emit smoke dust, or steam; sanitary landfills or water impoundments; or radiotelephone, television or similar transmission facilities or electrical transmission lines; and
    - d. does not involve wetland mitigation, creation, enhancement or restoration.
- E. **Height Limitations on Allowed Used in Underlying Zone.** All uses permitted by the underlying zone shall comply with the height limitations in the Section unless standards of the underlying zone are more restrictive.
1. Except as provided in paragraph 2, no structure or tree or other object of natural growth shall be allowed to penetrate an airport imaginary surface.
  2. For areas within airport imaginary surfaces but outside of the approach and transition surfaces, where terrain is at higher elevations than the airport runway surfaces where existing structures and permitted development penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.
- F. **Procedures.** An application for a land use or limited land use approval on property within this overlay zone shall provide the following information in addition to any other

required information:

1. A map or drawing showing the location of the property in relation to the airport imaginary surfaces.
  2. Elevation profiles and a site plan, drawn to scale, including the location and height of all existing and proposed structures, measured from existing grade.
- G. Land Use Compatibility Requirements. Any land use allowed in the underlying zone may be permitted in the overlay zone, subject to the following standards:
1. The user shall comply with the height standards in Section (E) of this Chapter.
  2. The use shall not include a place of public assembly.
  3. The uses shall not create a bird attractant. If the airport sponsor determines that there is a potential for attracting birds, the application shall include a study demonstrating that any hazard to use of the airport is mitigated.
  4. The use shall not cause light or glare that projects lighting directly onto a runway or taxiway, or imitates airport lighting.
  5. The use shall not be a source of smoke, dust or steam.
  6. The use shall not cause electrical interference with the airport operations, or in the case of proposed or expanded communications or transmission facilities, the Department of Aviation and the FAA shall approve the facility.
  7. The use shall not create a new or expanded water impoundment within 5,000 feet of the edge or end of a runway larger than one-quarter acre in size unless necessary for airport operations or approved in writing by the airport sponsor, the Department of Aviation, and the FAA.
- H. Prohibited Uses. Notwithstanding the underlying zoning, the following uses are prohibited in the Airport Safety and Compatibility Overlay Zone:
1. New residential Development.
  2. New Public Assembly Facilities.
- I. Nonconforming Uses.
1. The regulations prescribed by this Zone shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of this Section, or otherwise

interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure that was approved under the requirements of the previous Airport Approach or Airport Hazard zones, including those approvals that expired or that became void. Such approvals are hereby validated as consistent with this Airport Safety and Compatibility Overlay and no further approval is required under the terms of the zoning ordinance.

2. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Morrow County- Board of Commissioners Court, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the owner of the public use airport.

### **SECTION 3.100. FLOOD HAZARD OVERLAY ZONE, FP**

In any zone which is a FH Overlay Zone, the requirements and standards of this section shall apply in addition to those herein specified for such zone previously, provided that if a conflict in regulations or standards occurs, the provisions of this section shall govern.

#### **(1) APPLICATION OF PROVISIONS**

The provisions of this section shall apply to all areas of special flood hazards within the jurisdiction of the County. The areas of special flood hazard identified by the Federal Insurance Administration on the "Flood Study" with accompanying "Flood Insurance Rate Maps" is hereby adopted by reference and declared to be a part of this Ordinance, and, thereof, the provisions of this section shall apply to all flood hazard areas identified by said Maps.

#### **(2) DEFINITIONS**

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

“APPEAL” means a request for a review of the Planning Director's interpretation of any provision of this ordinance or a request for a variance.

“AREA OF SHALLOW FLOODING” means a designated AO 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. AO is characterized as sheet flow and AH indicates ponding.

“AREA OF SPECIAL FLOOD HAZARD” or “SPECIAL FLOOD HAZARD AREA (SFHA)” means the land in the flood plain within a community subject to a one-percent or greater chance of flooding in any given year. Designation on maps always includes the letter A.

“BASE FLOOD” means the flood have 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 letter A.

“BASEMENT” means any area of the building having its floor subgrade (below ground level) on all sides. Not to be confused with “below-grade crawlspace” which differs in function and size. (see below-grade crawlspace definition)

“BEFORE REGULATORY FLOODWAY” means a floodway without an actual “floodway” designation on the FEMA maps. Until FEMA makes an official designation concerning these areas and when the area has been designated within Zones A1 – 30 and AE on the FIRMs, development is limited as outlined in Section 5.3.

“BELOW-GRADE CRAWLSPACE” for this Ordinance means that area of a building which is bounded by foundation walls and is located between the bottom of the lowest floor and the ground. The interior grade of a crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade. Below-grade crawl spaces are generally less than four feet in height and provide a means of ventilation, visual inspection and access to pipes, ducts, and electrical wiring.

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

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

“ELEVATION CERTIFICATE” means the official document, FEMA Form 81-31, in which lowest floor and flood-proofing elevations are recorded. It provides information necessary to ensure compliance with Morrow County’s floodplain management ordinance, to determine flood insurance rates, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

“FLOOD” or “FLOODING” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of rivers or streams or

(2) The unusual and rapid accumulation of or runoff of surface waters from any source.

“FLOOD INSURANCE RATE MAP (FIRM)” means the official map on which the Federal Insurance Administration 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.

“FLOODPLAIN” (OR “FLOOD-PRONE AREA”) means any land area susceptible to being inundated by water from any source.

“FLOOD-PROOFING” means protection measures made to a non-residential building that is not elevated above the Base Flood level. It includes ensuring that the walls and floor are water-tight and capable of withstanding hydrostatic pressures and hydrodynamic forces (dry flood-proofing).

“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. Once established, nothing can be placed in the floodway that would cause any rise in Base Flood Elevation (i.e., 0.0 ft.)

“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the

applicable non-elevation design requirements of this ordinance found at Section 5.2-1(2).

“MANUFACTURED HOME” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include park trailers, or Recreational Vehicles.

“MEAN SEA LEVEL” means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988, which is the horizontal or base line of reference for the FIRM elevations.

“NEW CONSTRUCTION” means structures for which the “start of construction commenced on or after the effective date of this ordinance”.

“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 was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, 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.

“RECREATIONAL VEHICLE” for floodplain management purposes, means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“STRUCTURE” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“SUBSTANTIAL DAMAGE” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” 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” is considered to 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. The term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“VARIANCE” means a grant of relief from the requirements of this ordinance which permits constructing in a manner that would otherwise be prohibited by this ordinance.

### (3) GENERAL PROVISIONS

#### 3.1 LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Morrow County.

#### 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Morrow County", dated December 18, 2007, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this ordinance.

#### 3.3 PENALTIES FOR NONCOMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall, upon conviction, be punishable by imposition of a fine not to exceed:

(1) \$500 in the case of a non-continuing offense; or

(2) \$1000 in the case of a continuing offense.

#### 3.4 ABROGATION AND GREATER RESTRICTIONS.

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

#### 3.5 INTERPRETATION.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State Statutes.

### 3.6 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 hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Morrow County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

## (4) ADMINISTRATION

### 4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

#### 4.1-1 Development Permit Required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS", and for all development including fill and other activities, also as set forth in the "DEFINITIONS".

#### 4.1-2 Application for Development Permit.

Application for a development permit shall be made on forms furnished by the Morrow County Planning Director and may include but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations

of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (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 structure has been flood proofed;
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Section 5.2-2; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

#### 4.2 DESIGNATION OF THE MORROW COUNTY PLANNING DIRECTOR.

The Morrow County Planning Director is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

#### 4.3 DUTIES AND RESPONSIBILITIES OF THE PLANNING DIRECTOR.

Duties of the Morrow County Planning Director shall include, but not be limited to:

##### 4.3-1 Permit Review

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied;
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required;
- (3) Review all development permits to determine if the proposed

development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.3(1) are met.

#### 4.3-2 Use of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source, in order to administer Sections 5.2, SPECIFIC STANDARDS, and 5.3 FLOODWAYS.

#### 4.3-3 Information to be Obtained and Maintained

(1) Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 4.3-2, obtain and record on FEMA Form 81-31 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.

(2) For all new or substantially improved flood proofed structures:

(i) Verify and record on FEMA Form 81-31 the actual elevation (in relation to mean sea level), and

(ii) Maintain the flood proofing certifications required in Section 4.1(3).

(3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### 4.3-4 Alteration of Watercourses

(1) Notify adjacent communities, the Department of State Lands, 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.

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.4.

#### 4.4 VARIANCE PROCEDURE

##### 4.4-1 Appeal Board

(1) The Morrow County Planning Commission as established by Morrow County shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) The Morrow County Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Planning Director in the enforcement or administration of this ordinance.

(3) Those aggrieved by the decision of the Planning Commission, or any taxpayer, may appeal such decision to the Morrow County Board of Commissioners~~Court~~, as provided in the Morrow County Zoning Ordinance.

(4) In passing upon such applications, the Planning Commission and the Morrow County Board of Commissioners~~Court~~ shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

(i) The danger that materials may be swept onto other lands to the injury of others;

(ii) The danger to life and property due to flooding or erosion damage;

(iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) The importance of the services provided by the proposed facility to the community;

(v) The necessity to the facility of a waterfront location, where applicable;

(vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) The compatibility of the proposed use with existing and anticipated development;

(viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(ix) The safety of access to the property in times of flood or for ordinary and emergency vehicles;

(x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) Upon consideration of the factors of Section 4.4-1(4) and the purposes of this ordinance, the Planning Commission or the Morrow County Board of Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(6) The Planning Director shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

#### 4.4-2 Conditions for Variances

(1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

(3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.1-4(4), or conflict with existing local laws or ordinances.

(6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(7) Variances may be issued for non-residential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 4.1-2(1), and otherwise complies with Sections 5.1-1 and 5.1-2 of the GENERAL STANDARDS.

(8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## (5) PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 General Standards. In all areas of special flood hazards, the following standards are required:

### 5.1-1 Anchoring

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All manufactured homes 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 (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas: guidebook for additional techniques).

### 5.1-2 Construction Materials and Methods

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

### 5.1-3 Utilities

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### 5.1-4 Subdivision Proposals

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

#### 5.1-5 Review of Building Permits.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 4.3-2), applications for building 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 flooding, etc. where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

#### 5.2 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, Use of Other Base Flood Data, the following provisions are required:

#### 5.2-1 Residential Construction

(1) New Construction and substantial improvement of any **residential structure** shall have the lowest flood, including basement, elevated one-foot (1.0 ft.) or more above the base flood elevation.

(2) 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 architect or must meet or exceed the following minimum criteria:

(i) 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;

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### 5.2-2 Non-residential Construction.

New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or together with attendant utility and sanitary facilities, shall:

(1) Be flood proofed so that below the base flood level the structure 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 accordance 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 official as set forth in Section 4.3-3(2).

(4) Non-residential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2).

(5) Applicants flood proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g., a building constructed for the base flood level will be rated as one foot below that level).

#### 5.2-3 Below-Grade Crawl Spaces.

Morrow County will allow below-grade crawlspace construction provided that the interior grade of the crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade and the height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point. Additionally there must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. (Reference: Crawlspace

Construction for Buildings Located in Special Flood Hazard Areas, Federal Insurance Administration Technical Bulletin 11-01).

Below grade-crawlspace construction. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:

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

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

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

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

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

(6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

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

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

For more detailed information refer to FEMA Technical Bulletin 11-01.

#### 5.2-4 Manufactured Homes.

All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of one foot (1.0 ft.) above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 5.1-1(2).

#### 5.2-5 Recreational Vehicles.

Recreational vehicles placed on sites are required to either:

- (i) Be on the site for fewer than 180 consecutive days,
- (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (iii) Meet the requirements of 5.2-4 (Manufactured Homes) above and the elevation and anchoring requirements for manufactured homes.

#### 5.3 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the county's FIRMs, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the Base Flood more than one foot (1.0 ft.) at any point within the county.

#### 5.4 FLOODWAYS

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

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments **shall not result in any increase** in flood levels during the occurrence of the base flood discharge.

(2) If Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.