

**GILLIAM COUNTY ZONING AND LAND  
DEVELOPMENT ORDINANCE**

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## PLANNING and ZONING

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**COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE  
GILLIAM COUNTY, OREGON**

**A COUNTY PLANNING DOCUMENT PROVIDING FOR AMENDMENTS TO THE GILLIAM COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE OF 1977 IN ACCORDANCE WITH PERIODIC REVIEW REQUIREMENTS SET FORTH BY ORS 197.640, AND ADOPTED BY REFERENCE BY COUNTY ORDINANCE NO. 87-2 ON THE 15<sup>TH</sup> DAY OF MAY, 1987, AND HAVING BEEN FURTHER UPDATED AND AMENDED BY ORDER OF THE GILLIAM COUNTY COURT ON:**

- OCTOBER 25, 2000 (Periodic Review);
- 2005 ?
- NOVEMBER 2, 2011 (Periodic Review; included revisions to 4.070 RP Intermodal-Industrial zone);
- MAY 3, 2017 (Addition of 'Marijuana Businesses' to 8.270 Marijuana Businesses) via Gilliam County Ordinance No. 2017-02;
- DECEMBER 18, 2019 (Addition of 'Community Gathering Place' to 4.050 M-L Limited Industrial Zone) via Gilliam County Ordinance No. 2019-03;
- MAY 5, 2021 (Addition of 'guest ranch' to 4.020 EFU zone) via Gilliam County Ordinance No. 2021-02;
- MAY 5, 2021 (Addition-new of 'RR-II zone' 4.130 RR-II Rural Residential zone) via Gilliam County Ordinance No. 2021-03;
- JUNE 16, 2021 (Addition-new of 'RR-III zone' 4.140 RR-III Rural Residential zone via Gilliam County Ordinance No. 2021-04);

**ARTICLE 1. INTRODUCTORY PROVISIONS AND DEFINITIONS**

**SECTION 1.010 TITLE**

This Planning Document shall be known as the Gilliam County Zoning and Land Development Ordinance.



## **SECTION 1.020 PURPOSE**

The Amendments set forth by this Document are those Amendments to the County's Zoning and Land Development Ordinance of 1977 identified by Gilliam County as being necessary to meet the requirements of ORS Chapter 197.640 as part of the County's Periodic Review conducted in 1986 and 1987. The Amendments set forth hereinafter are those Amendments deemed necessary to maintain compliance with Statewide Planning Goals and State Statutes, and to maintain coordination with applicable State Agency plans and programs.

**In 2008** Gilliam County undertook another Post Acknowledge Plan Amendment (PAPA) to update its comprehensive plan and development code to address changes to the Statewide Planning Goals and Administrative Rules.

**In 2011** Gilliam County adopted Ordinance No. 2011-04 to amend the Comprehensive Plan and Zoning and Land Development Ordinance, which also included a zone change from Exclusive Farm Use to Limited Industrial.

**In 2017** Gilliam County adopted Ordinance No. 2017-02, adopting legislative amendments to update the Gilliam County Zoning and Land Development Ordinance related to the time, place, and manner of the production, processing, wholesaling, and retailing of recreational and medical marijuana, pursuant to the Oregon House Bill 3400, and declaring an emergency.

**In 2019** Gilliam County Court adopted Ordinance No. 2019-03, adopting legislative amendments contained in Planning Department File No. L-2019-02 to amend the Gilliam County Zoning and Land Development Ordinance related to the limited industrial zone, definitions and conditional uses allowed and allowing 'Community Gathering Place' as a defined use.

**In 2021** Gilliam County Court adopted Ordinance No. 2021-02, adopting legislative amendments contained in Planning Department File No. L-2021-02 to amend the Gilliam County Zoning and Land Development Ordinance related to exclusive farm use zone, definitions and planning director review for allowing 'guest ranch' as a defined use and declaring an emergency.

**In 2021** Gilliam County Court adopted Ordinance No. 2021-03, adopting legislative amendments contained in Planning Department File No. L-2021-01 to adopt Comprehensive Plan Map and Zoning Map Amendments and a proposed Text Amendment to add a new zone to the Gilliam County Zoning and Land Development Ordinance, Article 4, Section 4.130 RR-II Rural Residential II Zone. This zone is to be applied to an area within the City of Condon Urban Growth Boundary. The properties impacted are Tax Lots 100, 300, 400, 500, 600, 700, 800 and a portion of 200 of Map 04S21E03DC as well as the portion of Tax Lot 400 of Map 04S21E that lies within the City of Condon Urban Growth Boundary.

**In 2021** Gilliam County Court adopted Ordinance No. 2021-04, adopting legislative amendments contained in Planning Department File No. L-2021-03 to adopt Comprehensive Plan Map and Zoning Map Amendments and a proposed Text Amendment to add a new zone to the Gilliam County Zoning and Land Development Ordinance, Article 4, Section 4.140 RR-III Rural Residential III Zone. This zone is to be applied to an area outside the City of Condon City Limits. The properties impacted are identified as Tax Lots 100, 200, 300, 400, 500, and 600 of Map 04S21E03CC as well as Tax Lots 100, 200, 400, 500, and 600 of Map 04S21E0CD (collectively known as the platted subdivision 'Dunn's Addition to The City of Condon'). The subject area is outside of City of Condon limits and is not in the urban growth boundary it was rezoned from exclusive farm use to rural residential.

## SECTION 1.030 DEFINITIONS

As used in this ordinance, the following words and phrases shall mean:

- A. **Accepted Farming Practice.** A mode of operation that is common to farms and ranches of a similar nature, necessary for the operation of such farms and ranches to obtain a profit in money and customarily utilized in conjunction with farm use.
- B. **Access.** A way or means of approach to provide pedestrian, bicycle, or motor vehicular entrance or exit to a property.
- C. **Access Classification.** A ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties, and existing level of access control.
- D. **Access Connection.** Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.
- E. **Access Management.** The process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed.
- F. **Accessway.** A walkway that provides pedestrian and bicycle passage either between roads or from a road to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.
- G. **Accessory Use or Accessory Structure.** A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.
- H. **Administrative Land Use Decision.** A land use decision made by the Planning Director using limited discretion based upon and limited to specific Ordinance criteria, and that does not require a scheduled public hearing before the Planning Commission or Board of Commissioners as required by this Ordinance, State Statutes or Oregon Administrative Rules.
- I. **Agricultural Land.** (A) Lands classified by the National Resource Conservation Service (NRCS) as predominately Class I-VI soils. (B) Lands in other soil classes which are suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility, suitability for grazing and cropping, climatic conditions, existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required, and accepted farming practices. Agricultural land also includes land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands. Land in other capability classes other than I-VI that is adjacent to or intermingled with lands in capability classes I-VI within a farm unit shall be identified as agricultural lands even though this land may not be cropped or grazed.

- J. Aggregate Resources.** Means naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials commonly used in construction and road building.
- K. Automobile Wrecking Yard.** Premises used for the storage or sale of used automobile or truck parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof.
- L. Apartment.** A building or portion thereof, designed for occupancy by three or more families living independently of each other.
- M. Base Flood Elevation.** The crest elevation, in relation to mean sea level or an assumed elevation tied to a benchmark, expected to be reached by a 100-year flood.
- N. Bed and Breakfast Inn.** An accessory use carried on within a building designed for and occupied as a single family dwelling in which no more than five sleeping rooms are provided on a daily or weekly period, not to exceed 30 consecutive days, for the use of travelers or transients for a fee. Provision of a morning meal is customary.
- O. Building.** A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
- P. Building Line.** A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.
- Q. Bicycle.** A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which any person or persons may ride, and with two tandem wheels at least 14 inches in diameter. An adult tricycle is considered a bicycle.
- R. Bicycle Facilities.** A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.
- S. Bikeway.** Any road, path, or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. (These are further defined in the Gilliam County Transportation System Plan.)
- T. Cannabinoid.** Refers to any of the chemical compounds that are the active constituents of marijuana.
- U. Conflicting Use.** Means a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by mining at a significant mineral or aggregate resource site, as specified in OAR 660-023-0180(4)(b) and OAR 660-023-0180(5).
- V. Church.** An institution that has nonprofit status as a church established with the Internal Revenue Service. A nonresidential building or buildings intended for religious worship and activities customarily associated with the practices of the religious activity, including worship services,

religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

- W. Clear-Vision Area.** A triangular area on a lot at the intersection of two roads, a road and a driveway, or a road and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in this Ordinance. The third side of the triangle is a line across the corner of a lot joining the ends of the other two sides. The vision clearance area contains no plantings, walls exceeding three and one-half (3 1/2) feet in height measured from the road surface, or sight-obscuring fences, in order to provide adequate visibility for vehicles entering the intersection.
- X. Commercial Activities in Conjunction with Farm Use.** The processing, packaging, treatment and wholesale distribution and storage of a product primarily derived from farm activities on the premises. Also, retail sales of agricultural products, supplies and services directly related to the production and harvesting of agricultural products. Such uses include the following:
1. Storage, distribution and sale of feed, fertilizer, seed chemicals, and other products used for commercial agriculture.
  2. Farm product receiving plants, including processing, packaging and reshipment facilities.
  3. Livestock feed or sales yards.
  4. Storage, repair, or sale of fencing, irrigation, pipe, pumps, and other commercial farm-related equipment and implements.
  5. Farm equipment storage and repair facilities.
  6. Bulk storage and distribution facilities for fuels, pesticides, and fertilizers.
  7. Veterinarian clinic.
  8. Horticultural specialties such as nurseries or greenhouses for retail sales of plants and products.
  9. Slaughtering of animals, including attendant retail and wholesale sales, which may be conducted outside an enclosed building.
  10. Wineries for production from fruits, a portion of which are grown on the property, including retail sales.
  11. Other such uses which may be construed as similar to the uses listed above.
  12. A commercial activity, as described in ORS 215.283(2)(a), carried on in conjunction with a marijuana crop is not a permitted use.
- XX. Cannabinoid: Refers to any of the chemical compounds that are the active constituents of marijuana.**

- Y. Commercial Agricultural Enterprise.** Farm operations that will contribute in a substantial way to the area's existing agricultural economy and help maintain agricultural processors and established farm products. When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. These are important factors because of the intent of Goal 3 to maintain the agricultural economy of the state.
- Z. Commercial Amusement Establishment.** An intensively developed or largely open space recreation facility that charges admission or participation fees.
- AA. Commercial Residential Use.** A building, portion of a building or group of buildings designed or used for human occupancy or lodging for which a fee is charge, such as a hotel, motel, tourist court or labor camp, but excluding quarters intended for permanent or semi-permanent occupancy such as a duplex or apartment. A trailer park is not included in this definition.
- AAA. Community Gathering Place.** A site or structure designed and dedicated as a place for community events, owned and operated by a non-profit or government entity. Community events include public meetings or events, weddings, reunions, club gatherings, dances, dinners and other similar group activities.
- AB. Comprehensive Plan.** A plan for the guidance of growth and improvements of the county including modifications or refinements which may be made from time to time.
- AC. Corner Clearance.** The distance from a public or private road intersection to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.
- AD. Cross Access.** A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.
- AE. Day Care Facility.** A facility that provides care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day. Day care includes the following subcategories:
- 1. Adult day care:** A community-based group program designed to meet the needs of functionally or cognitively impaired adults through an individual plan of care. A structured, comprehensive program that provides a variety of health, social and related support services in a protective setting during part of a day but for less than 24 hours.
  - 2. Child care center:** Any facility licensed by the state that provides child care outside the provider's home either as a for-profit or non-profit operation.
  - 3. Mini-Day Care Center:** Means a day care facility for the care of 12 or fewer children in a facility other than the family dwelling of the person(s) providing the care.
  - 4. Day Care Center:** Provides for care of 13 or more children. If located in a private family residence, the portion where the children have access must be separate from the family living quarters, or that portion where the children have access must be exclusively used for their

care during the hours that the child day care is operating.

- AF. Day Care Home.** A business involving the care of 10 or fewer children located in the family dwelling of the provider. The home shall meet Oregon State day care licensing requirements.
- AG. Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of commercial equipment or materials.
- AH. Development Permit (Zoning Permit).** Means a permit approved by the decision maker and issued by the Director granting authority to the permittee to initiate some or all aspects of mining of aggregate at the site specified in the permit. The term does not include a text amendment to the Comprehensive Plan whereby the Plan is amended to include the site in any category described Article. See Zoning Permit.
- AI. Duplex.** A detached building containing two dwelling units and designed for occupancy by two families.
- AJ. Easement.** A grant of one or more property rights by a property owner to or for use by the public, or another person or entity.
- AK. Existing Aggregate Use.** Means a significant aggregate site that is lawfully operating, or is included in the aggregate inventory in the Comprehensive Plan, on September 1, 1996
- AL. Expansion Area.** Means a geographic area containing aggregate resource contiguous to an existing site and in which geographic area mining approval is being sought under this Article.
- AM. Family.** An individual or two or more persons related by blood, marriage, legal adoption, or legal guardianship, living together as one housekeeping unit using one kitchen, and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five unrelated persons living together as one housekeeping unit using one kitchen.
- AN. Farm Use.** The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use.

"Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection.

“Farm use” does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees, as defined in subsection (3) of this section or land described in ORS 321.267(1)(e) or 321.415(5). Discretionary uses that include marijuana shall comply with the respective standards contained in this Ordinance.

**1. “Current employment” of land for farm use includes:**

- a. Farmland, the operation or use of which is subject to any farm-related government program;
- b. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- c. Land planted in orchards or other perennials, other than land specified in subparagraph (d) of this paragraph, prior to maturity;
- d. Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
- e. Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- f. Except for land under a single-family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213(1)(y) and 215.283(1)(v);
- g. Water impoundments lying in or adjacent to and in common ownership with farm use land;
- h. Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner or land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- i. Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
- j. Any land described under ORS 321.267(1)(e) or 321.415(5); and
- k. Land used for the primary purpose of obtaining a profit in money by breeding, training, kenneling or training of greyhounds for racing.

**AO. FIRM (Flood Insurance Rate Map).** An official map distributed by the Federal Emergency Management Agency (FEMA) that depicts areas that are subject to inundation from a 100-Year (Base) flood. Jefferson County's Flood Hazard Ordinance is based on this map.

**AP. Flag Lot.** A lot or parcel that has the bulk of its area set back some distance from a road, and that is connected to the road via a thin strip of land (the flagpole).

**AQ. Flood Hazard Area.** The relatively flat area or lowland adjoining the channel of a river, stream, or other watercourse, lake or reservoir which has been or may be covered by a base flood. Also referred to as the 100-year Flood plain. Such an area is subject to a one percent (1%) or greater chance of flooding in any given year.



- AR. Floodway.** 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.
- AS. Frontage.** All property fronting on one side of a road right-of way, waterway, railroad or other feature.
- AT. Frontage Road.** A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street. (See also Service Roads.)
- AU. Functional Classification.** A system used to group public roadways into classes according to their purpose in moving vehicles and providing access.
- AV. Grade (Ground Level), Finished.** The average elevation of the finished ground elevation at the centers of all walls of a building.
- AW. Grade (slope), Natural.** The grade or elevation of the ground surface that exists or existed prior to man-made alterations such as grading, grubbing, filling, or excavation.
- AX. Hazardous Waste Facility.** Any site for the treatment, storage, recycling or disposal of hazardous and other waste that has a permit issued under ORS Chapter 466 by the Oregon Department of Environmental Quality and/or the Oregon Environmental Quality Commission, together with all equipment, facilities, buildings and structures necessary for its operation.
- AY. Height of Building.** The vertical distance from the average grade to the highest point of the roof.
- AZ. Home Occupation.** A lawful occupation carried on by a resident of a dwelling as an accessory use within the same dwelling or an accessory building on the resident's property in compliance with ORS 215.448 and applicable County zoning provisions.
- BA. Joint Access (or Shared Access).** A driveway connecting two or more contiguous sites to the public street system.
- BB. Land Use Decision.** A final decision or determination that concerns the adoption, amendment or application of: (1) the statewide planning Goals; (2) a Comprehensive Plan provision; (3) an existing or new land use regulation; or (4) a decision of the Planning Commission made under ORS 433.763.
- BC. Legislative Decision.** Any action which involves the making of laws of general applicability, such as an amendment to the text of the Zoning Ordinance, or that affects a large area or multiple properties under different ownership, such as an amendment to the boundaries of an overlay zone.
- BD. Livestock Feeding Yard.** An enclosure designed or used for the purpose of the concentrated feeding or fattening of livestock for marketing.

- BE. Livestock Sales Yard.** An enclosure or structure designed or used for the purposes of sale or transfer by auction, consignment, or other means.
- BF. Lot.** A parcel, tract, or area of land whose boundaries have been established by some legal instrument, which is recognized as a separate legal entity for purposes of transfer of title, has frontage upon a public or private street, and complies with the dimensional requirements of this code.
- BG. Lot, Corner.** Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.
- BH. Lot, Flag.** A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way line.
- BI. Lot, Reversed Corner.** A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.
- BJ. Lot, Through (or Double Frontage Lot).** A lot that fronts upon two parallel streets, or that fronts upon two streets that do not intersect at the boundaries of the lots.
- BK. Lot Area.** The total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads, and easements of access to other property.
- BL. Lot Depth.** The average distance measured from the front lot line to the rear lot line.
- BM. Lot Frontage.** That portion of a lot extending along a street right-of-way.
- BN. Map.** A final diagram, drawing or other writing concerning a minor land partition.
- BO. Manufactured Dwellings**
1. **“Residential trailer,”** a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy before January 1, 1962.
  2. **“Mobile home,”** a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of the Oregon Mobile Home Law in effect at the time of construction.
  3. **“Manufactured home”** means a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

- BP. Manufactured (Mobile) Home Park.** A parcel (or contiguous parcels) of land under the same ownership where two (2) or more manufactured homes are located within 500 feet of one another, the primary purpose of which is to rent space or keep charge or fee paid to or to be paid for the rental or use of facilities, or to offer space free in connection with securing the trade or patronage of such person.
- BQ. Marijuana.** The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.
- BR. Marijuana Business.** The term and its derivations means an enterprise authorized by state law involving medical or recreational marijuana production, medical or recreational marijuana processing, recreational marijuana wholesaling, medical marijuana dispensing, or retailing of recreational marijuana.
- BS. Mining.** Means the extraction and processing of aggregate resources, in the manner provided under paragraph (1) below.

The term includes all or part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method by which more than 5,000 cubic yards of materials are extracted or by which at least one acre of land is affected within a period of 12 consecutive calendar months, including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads.

**The term does not include:**

1. Excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel that is being excavated;
  2. Excavation or grading operations, reasonably necessary for farming;
  3. Non-surface effects of underground mining;
  4. Removal of rock, gravel, sand, silt or similar substances removed from the beds or banks of any waters of this state pursuant to a permit issued under ORS 196.800 to 196.900; or
  5. Excavations or reprocessing of aggregate material, or grading operations, within the highway right of way reasonably necessary for the construction, reconstruction or maintenance of a highway as defined in ORS 801.305.
- BT. Mining Area.** Means the geographic area containing an identified significant aggregate site within which some or all aspects of mining is permitted. The mining area may consist of one or more properties or portions of properties, and may include two or more contiguous properties under different ownership. The mining area does not include undisturbed buffer areas or areas on a property where mining is not authorized.

- BU. Natural Hazard Areas.** An area that is subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ground water, flash flooding, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to a local or regional area.
- BV. Neighborhood Activity Center.** An attractor or destination for residents of surrounding residential areas. Includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops, and employment areas.
- BW. New Construction.** Any structure for which the “start of construction” commenced on or after the effective date of this ordinance.
- BX. Nonconforming Access Features.** Features of the property access that existed prior to the date of ordinance adoption which do not conform with the requirements of this ordinance.
- BY. Nonconforming Structure or Use.** A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.
- BZ. Parcel.** Includes a unit of land created:
1. By partitioning land as defined in ORS 92.010;
  2. In compliance with all applicable planning, zoning or partitioning ordinances or regulations;
  3. By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.

**DOES NOT INCLUDE A UNIT OF LAND CREATED SOLELY TO ESTABLISH A SEPARATE TAX ACCOUNT.**

- CA. Private parks, playgrounds, hunting and fishing preserves and campgrounds.** Subject to the approval of the county governing body or its designee, 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. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). As used in this paragraph, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.
- CB. Partition Land.** To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. “Partition Land” does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and “Partition

Land” does not include an adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable Zoning Ordinance. “Partition Land” does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

- CC. Pedestrian Facilities (also Walkway).** A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths, and trails.
- CD. Pedestrian Way.** A right-of-way for pedestrian traffic.
- CE. Person.** A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.
- CF. Planning Commission.** The Planning Commission of the county.
- CG. Plat.** A final subdivision plat, replat or partition plat, including a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a partition or subdivision.
- CH. Primary or Principal Use.** The first use to which property is or may be devoted, and to which all other uses on the premises are derived as accessory or secondary uses. As used relative to dwelling units, the primary dwelling would be the first dwelling unit to be located on a specific parcel or lot.
- CI. Private Road.** A road under the jurisdiction of a public body that provides the principal means of access to an abutting property.
- CJ. Processing.** Includes, but is not limited to crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and Portland cement concrete located within the operating permit area.
- CL. Property Line Adjustment.** The relocation or elimination of a common property line between abutting properties, where no new lots or parcels are created. Also referred to as a lot line adjustment.
- CL. Public Road.** A road under the jurisdiction of a public body that provides the principal means of access to an abutting property.
- CM. Public or Semi-Public Use.** A use owned or operated by a public, governmental or nonprofit organization for the benefit of the public generally. This does not include landfill sites, garbage dumps or utility facilities.
- CN. Quasi-judicial Decision.** An action based on an individual land use application involving the administration of land use regulations to a single tract or a small number of contiguous parcels,

or a proposed change such as an amendment to the Zoning Map involving a single tract or a small number of contiguous parcels. A quasi-judicial decision: (1) applies pre-existing criteria to concrete facts; (2) is bound to result in a decision; and (3) is directed at a closely circumscribed factual situation or a relatively small number of persons.

- CO. Reasonable Access.** The minimum number of access connections, direct or indirect, necessary to provide safe access to and from the roadway, as consistent with the purpose and intent of this ordinance and any applicable plans and policies of Gilliam County.
- CP. Reasonably Direct.** A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.
- CQ. Recreational Vehicle.** A vacation trailer or other unit with or without motive power which is designed for human occupancy and is to be used temporarily for recreational, seasonal or emergency purposes, including camping trailers, motor homes, park trailers, travel trailers and truck campers, as defined in OAR 918-650-0005, and "Park Model" manufactured homes.
- CR. Recreational Vehicle Park.** A place where two or more recreational vehicles are located within 500 feet of one another on a lot, tract or parcel of land under common ownership and having as its primary purpose the renting of space and related facilities for a charge or fee, or the provision of space for free in connection with securing the patronage of a person. "Recreational Vehicle Park" does not mean an area designated only for picnicking or overnight camping, or a manufactured dwelling park or mobile home park.
- CS. Replat.** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision. A property line adjustment between two lots in a recorded plat and the partition of an existing lot are not replats.
- CT. Residential Facility.** A residential care, residential training, or residential treatment facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 or licensed under ORS 418.205 to 418.327, which provides residential care alone or in conjunction with treatment or training or a combination thereof for six (6) to fifteen (15) individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.
- CU. Residential Home.** As set forth by ORS 443.580(3) means a residence for five or fewer unrelated physically or mentally handicapped persons and for staff persons who need not be related to each other or to any other home resident.
- CV. Residential Use.** A structure or use designed or used for occupancy as a human dwelling or lodging place such as a single-family dwelling; duplex; apartment; boarding, lodging, or rooming house; trailer house or trailer home park; or labor camp.
- CW. Right-Of-Way.** Land reserved, used, or to be used for a highway, street, alley, walkway, drainage facility or other public purpose.

- CX. Roadway.** The portion of a street right-of-way developed for vehicular traffic.
- CY. Safe and Convenient.** Bicycle and pedestrian routes that:
1. Are reasonably free from hazards, and
  2. Provide a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile for pedestrians and three miles for bicyclists.
- CZ. School.** Public and private schools at the primary, elementary, junior high, or high school (K-12) level that provide state mandated basic education, and institutions of higher learning. Also secular commercial or business schools offering General Education Degree (GED) programs, or skills-specific post-secondary coursework leading to a certificate or degree.
- DA. Setback:** A distance, measured horizontally from, and running parallel to, a property line, rim, water body or other feature.
- DB. Sidewalk.** A pedestrian walkway with permanent surfacing.
- DC. Significant Change in Trip Generation.** A change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding:
1. **Local:** 10 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under local jurisdiction; or
  2. **State:** exceeding 25 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under state jurisdiction.
- DD. Surface Mine Permit.** For the purposes of Exclusive Farm Use and Range Land zones, a permit is required to mine more than 1,000 cubic yards of material or to excavate preparatory to surface mining a surface area of more than one acre. For all other zones, a permit is required to surface mine more than 5,000 cubic yards of mineral or more than one acre of land within a period of 12 consecutive calendar months.
- DE. Start of Construction.** Means the first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footing or any work beyond the preparation, such as clearing, grading and filling; does not include excavation for a basement footing, piers or foundations 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 as part of the main structure. For manufactured homes not within manufactured (mobile) home parks, “start of construction” means the affixing of the mobile home to its permanent site.
- DF. Street.** The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic and includes the terms road, highway, lane, place, avenue, alley or other similar designation. All curbing must conform to the right-of-way lanes.



1. **Alley**: A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.
  2. **Arterial**: A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.
  3. **Collector**: A street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; used to some extent for access to abutting properties.
  4. **Cul-De-Sac** (dead-end street): A short street having one end open to traffic and being terminated by a vehicle turnaround.
  5. **Half Street**: A portion of the width of a street, usually along the edge of a subdivision, where the remaining portions of the street could be provided in another subdivision.
  6. **Marginal Access Street**: A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
  7. **Minor Street**: Intended primarily for access to abutting properties.
  8. **Stub-Out** (Stub Street): A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.
- DG. Structure.** A building or other major improvement that is built, installed or constructed. Among other things, structures include buildings, retaining walls, decks, communication towers, and bridges, but do not include minor improvements such as fences, swimming pools, utility poles, flagpoles, irrigation system components and similar items that are not customarily regulated through zoning ordinances.
- DH. Subdivide Land.** To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
- DI. Subdivision.** Either an act of subdividing land or an area or tract of land subdivided as defined in this section.
- DJ. Trailer House.** Any vehicle or similar device originally designed or presently constructed to be used as a human dwelling or lodging place and to be movable from place to place over streets.
- DK. Trailer Park.** A plot of ground upon which one or more trailer houses occupied for dwelling or sleeping purposes is located, regardless of whether a charge is made for such accommodation.
- DL. Traveler's Accommodation.** Any establishment having rooms or apartments rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental or use of facilities.



- DM. Use.** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.
- DN. Utility Facility.** Any major structure owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution or processing of its products or by-products, including power transmission lines, pipelines, power substations, water towers, reservoirs and similar facilities.
- DO. Utility Facility Service Lines.** These are utility lines and accessory facilities or structures that end at the point where the utility serviced is received by the customer and that are located on one or more of the following:
1. A public right-of-way;
  2. Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or
  3. The property to be served by the utility.
- DP. Walkway.** A hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of access ways.
- DQ. Wetland.** Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstance do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and other similar areas.
- DR. Yard.** An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.
- DS. Yard, Front.** A yard between side lot lines and measured horizontally at right angles to the front line from the front lot line to the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley shall be considered a front yard.
- DT. Yard, Rear.** A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley shall be considered a rear yard.
- DU. Yard, Side.** A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.
- DV. Yard, Street Side.** A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building.
- DW. Zoning Permit.** See Development Permit.

***Any term not defined here – dictionary use qualified.***

## **ARTICLE 2. COMPLIANCE WITH ORDINANCE PROVISIONS**

### **SECTION 2.010 – COMPLIANCE WITH ORDINANCE PROVISIONS**

- A. A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this ordinance permits.
- B. No lot area, yard, or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance
- C. No lot area, yard, or other open space which is required by this ordinance for one use shall be used as the required lot area, yard, or open space for another use.

## **SECTION 2.020 – INTERPRETATION**

Where the conditions imposed by any provision of this ordinance are less restrictive than comparable conditions imposed by any other provisions of this ordinance or of any other ordinance, the provisions which are more restrictive shall govern.

## **SECTION 2.030 – SEVERABILITY**

The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

**ARTICLE 3. ESTABLISHMENT OF ZONES**

**SECTION 3.010 – CLASSIFICATION OF ZONES**

For the purpose of this ordinance, the following zones are hereby established in the County:

<b>Zone</b>	<b>Abbreviated Designation</b>
Airport Development Zone	A-D
Exclusive Farm Use Zone	EFU
Rural Unincorporated Community Zone	R-C
Recreation Residential Zone	R-R
Limited Industrial Zone	M-L
General Industrial zone	M-G
Intermodal Industrial Zone	I-M
Rural Residential Zone	R-10
Rural Residential Zone	RR-II
Rural Residential Zone	RR-III

## SECTION 3.020 – LOCATION OF ZONES

The boundaries for the zones set forth by the Gilliam County Zoning and Land Development Ordinance of 1977 (as amended herein) shall be as set forth on the Gilliam County Zoning Map, which is hereby adopted by reference.

**2021-Amendment**, RR-II zone (4.130) applied to area within City of Condon Urban Growth Boundary (Comp. Plan Map Amendment and Zoning Map Amendment) per Gilliam County Ordinance No. 2021-03 adopted May 5, 2021. This zone is to be applied to an area within the City of Condon Urban Growth Boundary. The properties impacted are Tax Lots 100, 300, 400, 500, 600, 700, 800 and a portion of 200 of Map 04S21E03DC as well as the portion of Tax Lot 400 of Map 04S21E that lies within the City of Condon Urban Growth Boundary. *(Maps attached)*

**2021-Amendment**, RR-III zone (4.140) applied to area known as Dunn’s Addition to City of Condon (Comp. Plan Map Amendment and Zoning Map Amendment) per Gilliam County Ordinance No. 2021-04 adopted June 16, 2021. This zone is to be applied to an area within the City of Condon Urban Growth Boundary. The properties impacted are Tax Lots 100, 300, 400, 500, 600, 700, 800 and a portion of 200 of Map 04S21E03DC as well as the portion of Tax Lot 400 of Map 04S21E that lies within the City of Condon Urban Growth Boundary. *(Maps attached)*

## SECTION 3.030 – ZONING MAPS

A zoning map or zoning map amendment adopted by Article 10 of this ordinance or by an amendment thereto shall be prepared or be a modification by the Gilliam County court of a map or map amendments so prepared. The map or map amendment shall be dated with the date of its approval by the Gilliam County Court or the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained without change in the office of the County Clerk as long as this ordinance remains in effect.

**2021-Amendment**, RR-II zone (4.130) applied to area within City of Condon Urban Growth Boundary (Comp. Plan Map Amendment and Zoning Map Amendment) per Gilliam County Ordinance No. 2021-03 adopted May 5, 2021. This zone is to be applied to an area within the City of Condon Urban Growth Boundary. The properties impacted are Tax Lots 100, 300, 400, 500, 600, 700, 800 and a portion of 200 of Map 04S21E03DC as well as the portion of Tax Lot 400 of Map 04S21E that lies within the City of Condon Urban Growth Boundary. *(Maps attached)*

**2021-Amendment**, RR-III zone (4.140) applied to area known as Dunn’s Addition to City of Condon (Comp. Plan Map Amendment and Zoning Map Amendment) per Gilliam County Ordinance No. 2021-04 adopted June 16, 2021. This zone is to be applied to an area within the City of Condon Urban Growth Boundary. The properties impacted are Tax Lots 100, 300, 400, 500, 600, 700, 800 and a portion of 200 of Map 04S21E03DC as well as the portion of Tax Lot 400 of Map 04S21E that lies within the City of Condon Urban Growth Boundary. *(Maps attached)*

### **SECTION 3.040 – ZONE BOUNDARIES**

Unless otherwise specified, Zone boundaries are section lines, subdivision lines, lot lines, centerlines of streets, highways, easements, boundary lines of city limits, 100-year floodplains, bluffs, ridges, or other readily recognizable or identifiable natural features or the extension of such lines. Whenever uncertainty exists as to the boundary of a Zone as shown on the Zoning Map or Amendment thereto, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Where a boundary line follows or approximately coincides with a section line or division thereof, lot or property ownership line, it shall be construed as following such lines.
- C. Boundaries indicated as approximately following city limits shall be construed to follow such city limits.
- D. Boundaries indicated as approximately following 100-year floodplain limits shall be construed to follow such floodplain limits.
- E. Boundaries indicated as following public utility easements shall be construed to be midway between the utility easements.
- F. Boundaries indicated as following the centerlines of streams, rivers, canals, or other bodies of water shall be construed to follow said centerline.
- G. Boundaries indicated as parallel to or extension of features indicated in Subsections A through E of this section shall be so construed.
- H. Where physical features existing on the ground are at variance with those shown on the official zoning maps, or in other circumstances not covered by Subsections A through F of this section, the Director shall interpret the Zone boundaries and, if necessary, may refer the matter to the Planning Commission for its interpretation.
- I. Where a public street or alley is officially vacated, the Zone requirements shall apply to the applicable property.



### **SECTION 3.050 – COMBINING ZONES**

Any portion of a use zone may be subject to additional consideration by the establishing of regulations that “combine” or overlay the basic use. These “Combining Zones” may be applied singularly, or in any combination thereof, and are designed to ensure that the various considerations contained in the text of such Combining Zone are employed in using and developing land subject to a Combining Zone.

Development in any area subject to a Combining Zone shall be undertaken only after Commission approval in accordance with the procedures and conditions set forth in this ordinance, and the regulations of both the Combining Zone and the Basic Use Zone.

If conflict in regulations or standards occurs between the Basic Use Zone and a Combining Zone, the provisions in the Combining Zone shall govern (except that the larger minimum lot size shall always apply). Combining Zones that may be as deemed necessary in this ordinance shall include the following:

<b>Section</b>	<b>Combining Zone Title</b>	<b>Abbreviated Title</b>
4.080	Flood Hazard	FH
4.090	Geological Hazard	GH
4.100	Significant Resource Combining	SR
4.110	Airport Overlay	AO

## ARTICLE 4. USE ZONES

### SECTION 4.010 A-D AIRPORT DEVELOPMENT ZONE

In an A-D Zone, the following regulations shall apply:

A. **USES PERMITTED** In an A-D Zone, the following uses and their accessory uses are permitted subject to site plan review:

1. **Airport;**
2. **Farm use**, excluding livestock feed or sales yard, and excepting those uses set forth in Subsection (C) of this section;
3. **Cemetery;**
4. **Normal operation, maintenance, repair, and preservation activities of existing transportation facilities;**
5. **Installation of culverts, pathways, medians, fencing, guardrails, lighting**, and similar types of improvements within the existing right-of-way;
6. **Projects specifically identified in the Transportation System Plan** as not requiring further land use regulation;
7. **Landscaping as part of a transportation facility;**
8. **Emergency measures necessary for the safety and protection of property;**
9. **Acquisition of right-of-way for public roads, highways**, and other transportation improvements designated in the Transportation System Plan except for those that are located in Exclusive Farm Use Zones.

B. **PERMITTED COMMERCIAL AND RECREATIONAL AIRPORT USES AT NON-TOWERED AIRPORTS SUBJECT TO SITE PLAN REVIEW.**

Within airport boundaries established pursuant to Land Conservation and Development Commission rules, the following uses and activities are permitted:

1. **Customary and usual aviation-related activities** including but not limited to takeoffs, landings, aircraft hangars, tie-downs, construction and maintenance of airport facilities, fixed-base operator facilities and other activities incidental to the normal operation of an airport;
2. **Emergency medical flight services;**
3. **Law enforcement and firefighting activities;**

4. **Flight instruction;**
  5. **Aircraft service, maintenance and training;**
  6. **Crop dusting and other agricultural activities;**
  7. **Air passenger and air freight services** at levels consistent with the classification and needs identified in the State Aviation System Plan;
  8. **Aircraft rental;**
  9. **Aircraft sales** and sale of aeronautic equipment and supplies;
  10. **Aeronautic recreational and sporting activities.**
- C. **CONDITIONAL USES.** In an A-D Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of this section and Article 7 of this ordinance:
1. **Farm accessory buildings and uses;**
  2. **Mining, quarrying or other extraction activity,** including the process or refining of ore or other raw materials, per Use Limitations;
  3. **Utility facility necessary for public service;**
  4. **Golf course;**
  5. **Park, playground, other public recreation site or facility,** or community service facility owned and operated by a governmental agency or nonprofit community organization;
  6. **Veterinary clinic, animal pound, or kennel;**
  7. **Private or public grounds, and buildings** for games, sports, riding arenas, race tracks, and similar activities;
  8. **Manufacturing and warehousing;**
  9. **Traveler's accommodations facilities;**
  10. **Retail and wholesale trade facilities;**
  11. **Restricted residential use** including mobile homes and development therefore;

**12. Construction, reconstruction, or widening of highways,** roads, bridges or other transportation projects that are: (a) Not improvements designated in the Transportation System Plan or (b) Not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review. Such transportation projects shall comply with the Transportation System Plan and applicable standards, and shall address the standards governing conditional uses specified in Section 7.020. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the standards governing conditional use;

**13. Construction of rest areas, weigh stations, temporary storage, and processing sites.**

**14. Marijuana production, approval also subject to Marijuana Business standards contained in Article 8.**

**D. USE LIMITATIONS.** In an A-D Zone, the following limitations and standards shall apply to all uses permitted:

- 1. All uses shall only be permitted if found to be in compliance with the Airport Master Plan and the standards, criteria and guidelines thereof.**
- 2. The height of any structure or part of a structure such as chimneys, towers, antennas, etc., shall be limited** according to requirements established by the County or any governmental agency relative to uses in the vicinity of an airport, but in no case shall any building or structure exceed 25 feet.
- 3. In airport approach zones beyond the clear zone areas, no meeting place for public use or private purposes,** which are designed to accommodate more than 25 persons at any one time, shall be permitted, nor shall any residential use be permitted.
- 4. All parking demand created by any use permitted by this section** shall be accommodated on the subject premises entirely off-street.
- 5. No use permitted by this section shall require the backing of traffic onto a public or private street** or road right-of-way to accommodate ingress or egress to any use on the premises thereof.
- 6. There shall not be more than one ingress and one egress from properties** accommodating uses permitted by this section per each 600 feet of frontage on an arterial or per each 600 feet of frontage on a collector. If necessary to meet this requirement, permitted uses shall provide for shared ingress and egress.
- 7. No use permitted under the provisions of this section that generates more than 30 auto-truck trips** during the busiest hour of the day to and from the premises shall be permitted unless served directly by an arterial or collector, or other improved street or road designed to serve such types of uses, and in no case shall such traffic be permitted to utilize a street or road which passes through a residential use area.

8. **Any use permitted under the provisions of this section that is determined to be incompatible** with an existing use adjacent thereto or across the street from shall be screened from such incompatible uses by densely planted shrubs or sight-obscuring fencing.
9. **Mining or quarry operation permitted by Subsection (C)(2) of this section may not be permitted** if such use will allow or cause ponding which is likely to attract birds.
10. **No use permitted by Subsection (C) of this section shall permit any power lines** to be located in clear zones and any power lines located within an approach slope ratio.
11. **No use permitted by this section shall be allowed if such use is likely to attract an unusual quantity of birds**, particularly birds which are normally considered high flight.
12. **No structure or object shall be erected, altered, allowed to grow or be maintained in such a manner** as to penetrate any of the imaginary surfaces identified for the applicable Airport.

**E. DIMENSIONAL STANDARDS.** In an A-D Zone, the following dimensional standards shall apply:

1. The minimum lot size shall be determined in accordance with the provisions of this section relative to setback requirements, off-street parking and loading requirements, lot coverage limitations, and as deemed necessary by the Planning Director to maintain air, land and water resource quality, to protect adjoining and area land uses, to insure resource carrying capacities are not exceeded and, more specifically, to protect the airport; except that residential lot size standards shall comply:
  - a. Front Yard setback 45 feet from street centerline, or minimum 15 feet from front property line.
  - b. Rear Yard setback minimum 5 feet from rear yard property line.
  - c. Side Yard setback minimum 5 feet from side yard property line.
  - d. Corner lots, structures must be 15 feet from side yard property line and 50 feet back from front property line, and then from 50 feet on back, may reduce to 5-foot minimum setback from side property line.
2. All dwellings and accessory structures must be detached a minimum of 5 feet or more.
3. Accessory structures cannot exceed one (1) story in height, nor 450 square feet in size.
4. No residential use permitted by this section shall exceed 35 percent of lot coverage by buildings and accessory structures.
5. No nonresidential use permitted by this section shall exceed more coverage than 64 percent of the land area designed for such use, including buildings, storage and loading areas:
  - a. Frontage setback for nonresidential use shall not be less than 50 feet.

- b. Side setback for nonresidential use shall not be less than 8 feet minimum from side property line.
  - c. Rear setback for nonresidential use shall not be less than 8 feet minimum from rear property line.
- F. **SIGN LIMITATIONS.** In addition to standards set forth by this ordinance, the following sign limitations shall apply:
- 1. For any use permitted by this section, the total area of all signs shall not exceed 200 square feet, no free-standing sign shall exceed 80 square feet and a height of 20 feet, no sign exceeding 50 square feet of area and 6 feet in height shall be located upon the roof of any building, no sign shall exceed 15 percent of the area of the wall it is attached to, no sign shall be closer than 20 feet to a principal highway or major County road, no sign shall flash or move or be illuminated between the hours of 11:00 p.m. and 7:00 a.m., nor located in such a manner as to face directly, shine or reflect glare onto a lot, except as approved by the Planning Commission.
- G. **OFF-STREET PARKING AND LOADING.** In an A-D Zone, off-street parking and loading shall be provided in accordance with the provisions of this Section 8.100 of this ordinance.
- H. **SITE DESIGN.** In an A-D Zone, the site design of any permitted use shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement, so as to preserve existing trees and natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring residential uses and to minimize intrusion into the character of existing developments and land uses in the immediate vicinity of the proposed use. The State of Oregon, Aeronautics Division and F.A.A. shall be included as reviewing “affected parties” for use applications in this Zone.
- I. **DESIGN AND CRITERIA.** In the consideration of an application for a proposed use in an A-D Zone, the Planning Director shall take into account the impact of the proposed use on nearby residential and commercial uses, on resource carrying capacities, on the capacity of transportation and other public facilities and services, and on the appearance of the proposal. In approving a proposed use, the Planning Director shall find that:
- 1. The proposal is in compliance with the applicable State and Federal Aviation Compatibility guidelines;
  - 2. The proposal is in compliance with the Comprehensive Land Use Plan and the Airport Master Plan;
  - 3. The proposal is in compliance with the intent and provisions of this ordinance and more particularly this section;
  - 4. The Planning Director may require establishment and maintenance of screenings, the use of glare-resistant materials in construction and landscaping, or may attach other similar conditions or limitations that will serve to reduce hazards to airport operations;

5. The proposal is in compliance with the noise contour considered satisfactory for land use compatibility. The present noise contour projected through year 2000 is 55 LDN and is considered satisfactory for land use compatibility, with no special noise insulation requirements for new construction;

## SECTION 4.020 EFU EXCLUSIVE FARM USE

In an EFU Zone, the following regulations shall apply:

- A. **HIGH VALUE FARMLAND.** Due to the limited amount of High Value Farmland in Gilliam County, the uses for High Value Farmland are not listed in this section. If a use permitted in Subsections B – G of this section is located on High Value Farmland, the requirements of this section and the requirements of OAR 660, Division 33, shall be used for the review.
- B. **USES PERMITTED.** In an EFU Zone, the following uses and their accessory uses are permitted subject to site plan review. These uses do not require land use approval. While some uses may prompt an inquiry to, and/or action by, the Planning Director, 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.** As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines, included but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees, as defined in ORS 215.203(3) or land described in ORS 321.267(1)(e) or 321.415(5). [ORS 215.203(2)(a)]
  2. **Operations for the exploration for and production of geothermal resources** as defined by ORS 522.005 and oil and gas as defined in ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
  3. **The propagation or harvesting of a forest product.**
  4. **Climbing and passing lanes** within the right-of-way existing as of July 1, 1987.
  5. **Temporary public roads or detours** that will be abandoned and restored to original condition or use at such time as no longer needed.
  6. **Operations for the exploration for minerals** as defined by ORS 517.750.



- 7. Minor betterment of existing public roads and highway-related facilities such as maintenance yards, weigh 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.**
- 8. An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period..**
- 9. Creation, restoration or enhancement of wetlands.**
- 10. Other buildings customarily provided in conjunction with farm use.**
- 11. A winery as described in ORS 215.452.**
- 12. Fire service facilities providing rural fire protection services.**
- 13. Irrigation canals, delivery lines and those structures and necessary operational facilities associated with a district as defined in ORS 540.505.**
- 14. 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.**
- 15. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory and the National Inventory of Historic Places as a historic property as defined in ORS 358.480.**
  - a. The County shall require as a condition of approval 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.**
- 16. Utility facility service lines.**
- 17. Land application of reclaimed water, agricultural or industrial water or biosolids.**
- 18. Onsite filming and activities accessory to onsite filming for 45 days or less as provided in ORS 215.306.**
- 19. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources approved through the process set forth in OAR 660-023-0180 (3), (7), (8) and (9), subject to ORS 215.298.**

**20. Processing as defined by ORS 517.750, of aggregate into asphalt** or Portland cement if the site has approved through OAR 660-023-0180 (3), (7), (8) and (9), subject to ORS 215.298.

**21. Wind measurement devices.**

**22. Marijuana Production and Processing,** approval also subject to Marijuana Business standards contained in Article 8.

**C. PLANNING DIRECTOR REVIEW.** In the EFU zone, the following uses and their accessory uses are subject to notice provided per Section 11.090. Planning Director may require Site Plan Review under Section 8.140 and may refer any of the below uses to a public hearing before the Planning Commission. (*updated May 5, 2021*)

**1. Dwellings provided in conjunction with farm use pursuant to Section 4.020(E).**

**2. Accessory dwellings in conjunction with farm use pursuant to Section 4.020(F).**

**3. Dwellings not provided in conjunction with farm use pursuant to Section 4.020(G).**

**4. Schools, as defined in section 1.030.**

a. Existing facilities may be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 4.020.H.

**5. Churches and cemeteries** in conjunction with churches consistent with ORS 215.441.

a. Existing facilities may be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 4.020.H.

**6. A facility for the primary processing of forest products,** provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period that is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

**7. Farm stands, if:**

a. The structures are designed and used for the sale of farm crops and livestock 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 the 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. A farm stand, used in conjunction with a marijuana crop, is not permitted.

**8. A facility for the processing of farm crops.** The processing facility must be located on a farm that provides at least one-quarter of the crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designed for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting a farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. The County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.

**9. A site for the takeoff and landing of model aircraft,** including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use approved under this paragraph. As used in this paragraph, “model aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground

**10. Room and board arrangements for a maximum of five unrelated persons in an existing residence.**

a. Approval is subject to the review criteria of Section 4.020.H

b. The County shall require as a condition of approval 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.

**11. Alteration, restoration or replacement of a lawfully established dwelling that:**

a. Has intact exterior walls and roof structure;

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

c. Has interior wiring for interior lights;

d. Has a heating system; and

e. In the case of replacement is removed, demolished or converted to an allowable nonresidential use within three months of completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the

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

- f. The County shall require as a condition of approval 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.

**12. A wildlife habitat conservation and management plan** pursuant to *former* ORS 215.800 to 215.808.

**13. Temporary Workforce Housing;** Utility facilities necessary for public service and power generation facilities 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 OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to OAR 660-033-0130(5). 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.

**14. Golf Courses, as defined in Section 1.030.** Approval of this use is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law. New uses may not be established on high-value farmland. Existing facilities wholly within an exclusive farm use zone or zones and located on high-value farmland may be maintained, enhanced or expanded on the same tract, subject to other requirements of law but may not be expanded to include more than 36 total holes.

**15. A facility for the processing of farm crops or the production of biofuels** as defined in ORS 315.141.

**16. The propagation, cultivation, maintenance and harvesting of an aquatic or insect species.** Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The County shall provide notice of all applications under this section to the State Department of Agriculture. Notices shall be provided in accordance with the County's land use regulations but shall be mailed at least 20 calendar days prior to the initial evidentiary hearing on the application. Approval of a use

pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

- 17. 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.**
- 18. Home occupations and parking of vehicles.** Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons, as an accessory use within dwellings or other buildings referred to in ORS 15.203(2)(b)(F) or (G) as provided in ORS 215.448. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
- 19. Dog kennels.**
- 20. 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.
- 21. Construction of additional passing lanes** requiring the acquisition of right of way but not resulting in the creation of new land parcels.
- 22. 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.
- 23. Transportation improvements on rural lands allowed by OAR 660-012-0065.**
- 24. Utility facilities necessary for public service,** including 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.
- 25. Onsite filming and activities accessory to onsite filming for more than 45 days** as provided for in ORS 215.306.
- 26. A site for the takeoff and landing of model aircraft,** including such buildings or facilities as may reasonably be necessary.
- 27. Processing of other mineral resources and other subsurface resources.**

**D. CONDITIONAL USES PERMITTED.** In the EFU Zone, the following uses and their accessory uses may be permitted, either by a Type I or a Type II Conditional Use Permit to satisfy the applicable criteria and procedures set forth in Article 7 – Conditional Uses. The appropriate review criteria are identified for each use.

1. **Commercial activities in conjunction with farm use**, including the processing of farm crops into biofuel not permitted under 215.203(2)(b)(L) or 215.283(1)(r) but not including the processing of farm crops as described in section 4.020.B.1. Approval of this use is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
2. **Personal-use airports for airplanes and helicopter pads**, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation. Approval of this use is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
3. **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 B.2 of this section; approval of any use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
4. **Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources approved through the process set forth in OAR 660-023-0185(4), (6), (8) and (9), subject to ORS 215.298.** Approval of any use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
5. **Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement if the site has been approved through OAR 660-023-0185(4).** Approval of any use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
6. **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 criteria of Section 4.020.H, and any other applicable criteria or provisions of law. New uses may not be established on high-value farmland. Existing facilities wholly within an exclusive farm use zone or zones and located on high-value farmland may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.

- 7. Hunting and Fishing Preserves.** Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law. New uses may not be established on high-value farmland. Existing facilities wholly within an exclusive farm use zone or zones and located on high-value farmland may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.
- 8. Private Parks and Campgrounds.** 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. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not residential purposes, and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. 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. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hookups shall not be provided to individual campsites. Campgrounds authorized by this rule 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 6-month period. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law. New uses may not be established on high-value farmland. Existing facilities wholly within an exclusive farm use zone or zones and located on high-value farmland may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.
- 9. Public Parks and Playgrounds.** A public park may be established consistent with the provision of ORS 195.120 and including only those uses specified under OAR 660-034-0035. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
- 10. Community centers owned and operated by a government agency** or a nonprofit community organization and operated primarily by and for residents of the local rural community. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
- 11. Commercial utility facilities** for the purpose of generating power for public use by sale, not including wind power generating facilities. A power generation facility not located on high-value farmland shall not preclude more than 20 acres from use as a commercial agricultural enterprise. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.
- 12. One 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 of the resident as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional



dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. The governing body shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished, or in the case of an existing building, the building shall be removed, demolished or returned to an allowable nonresidential use. A temporary residence approved under this paragraph is not eligible for replacement under ORS 215.283(1)(p) or under Subsection C.10 of this Section. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

- a. The County shall require as a condition of approval of a single-family dwelling under 215.283 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.

**13. Transmission Towers Over 200 Feet in Height.** Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

**14. Residential homes as defined in ORS 197.660 in existing dwellings.** Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

- a. The County shall require as a condition of approval 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.

**15. Operations for the extraction and bottling of water.** Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

**16. 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.

- a. ORS 215.273 Applicability to thermal energy power plant siting determinations. Nothing in ORS 215.130, 215.203, 215.213, 215.243, 215.253, 215.263, 215.273, 215.283, 215.284, 308A.050 to 308A.128 and 316.844 is intended to affect the authority of the Energy Facility Siting Council in determining suitable sites for the issuance of site certificates for thermal power plants, as authorized under ORS 469.300 to 469.563, 469.590 to 469,619 and 469.930.



- b.** ORS 215.275 Utility facilities necessary for public service; criteria; mitigating impact of facility:
- (1)** A utility facility established under ORS 215.213(1)(d) or 215.2833(1)(d) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.
  - (2)** To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213(1)(d) or 215.283(1)(d) 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 locational dependent. A utility facility is locational 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 or Federal agencies.
  - (3)** Costs associated with any of the factors listed in Subsection (2) of this section 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. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.
  - (4)** The owner of a utility facility approved under ORS 215.213(1)(d) or 215.283(1)(d) 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 section 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.
  - (5)** The governing body of the County or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213(1)(d) or 215.283(1)(d) 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 the surrounding farmlands.

- (6) The provisions of Subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

**17. Composting facilities** for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-096-0020. Composting facilities allowed under this section shall be limited to the composting operations and facilities defined by the Environmental Quality Commission under OAR 340-096-0024(1), (2) or (3). Buildings and facilities used in conjunction with the composting operation shall be limited to those required for the operation of the subject facility. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. New uses may not be established on high-value farmland. Existing facilities wholly within an exclusive farm use zone or zones and located on high-value farmland may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

**18. Living History Museum.** As used in this section, “living history museum” means a facility designed to depict and interpret everyday life and culture of some specific period using authentic buildings, tools, equipment and people to simulate past activities and events. A living history museum shall be related to resource-based activities and shall be owned and operated by a government agency or 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 administrative building 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. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

**19. Expansion of existing County fairgrounds** and activities directly related to County fairgrounds governed by County fair boards established pursuant to ORS 565.210. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

**20. Wind Power Generation Facilities** as commercial utility facilities for the purpose of generating power for public use by sale.

**21. Telecommunication Towers.**

**22. Transmission Towers over 200 feet in height.**

**23. Guest ranch subject to Subsection 4.020(H) and the following standards (adopted June 2021):**

- a. Definitions. For purposes of this subsection, the following terms hold the following meanings:
  1. "Guest lodging unit" means a guest room in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence.
  2. "Guest ranch" means a facility for guest lodging units, passive recreational activities described in Subsection (f) and food services described in Subsection (g) that are incidental and accessory to an existing and continuing livestock operation that qualifies as a farm use.
  3. "Livestock" means cattle, sheep, horses and bison.
- b. Subject to ORS 215.296 (1) and (2), a guest ranch may be established unless the proposed site of the guest ranch is within the boundaries of or surrounded by:
  1. A federally designated wilderness area or a wilderness study area;
  2. A federally designated wildlife refuge;
  3. A federally designated area of critical environmental concern; or
  4. An area established by an Act of Congress for the protection of scenic or ecological resources.
- c. The guest ranch must be located on a lawfully established unit of land that:
  1. Is at least 160 acres;
  2. Contains the dwelling of the individual conducting the livestock operation; and
  3. Is not high-value farmland.
- d. Except as provided in Subsection (e), the guest lodging units of the guest ranch cumulatively must:
  1. Include not fewer than four nor more than 10 overnight guest lodging units; and
  2. Not exceed a total of 12,000 square feet in floor area, not counting the floor area of a lodge that is dedicated to kitchen area, rest rooms, storage or other shared or common indoor space.
- e. For every increment of 160 acres that the lawfully established unit of land on which the guest ranch is located exceeds the minimum 160-acre requirement described in Subsection (c), up to five additional overnight guest lodging units not exceeding a total of 6,000 square feet of floor area may be included in the guest ranch for a total of not more than 25 guest lodging units and 30,000 square feet of floor area.
- f. A guest ranch may provide passive recreational activities that can be provided in conjunction with the livestock operation's natural setting including, but not limited to, hunting, fishing, hiking, biking, horseback riding, camping and swimming. A guest ranch may not provide intensively developed recreational facilities, including golf courses as identified in ORS 215.283.
- g. A guest ranch may provide food services only for guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch. The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell individual meals to an individual who is not a guest of the guest ranch, an

individual accompanying a guest or an individual attending a special event at the guest ranch.

- h. The governing body of a county or its designee may not allow a guest ranch in conjunction with:
  - 1. A campground as described in ORS 215.283 (2)
  - 2. A golf course as described in ORS 215.283 (2)
- i. The governing body of a county or its designee may not approve a proposed division of land:
  - 1. for a guest ranch; or
  - 2. to separate the guest ranch from the dwelling of the individual conducting the livestock operation.

**\*Guest Ranch provisions Missing reporting requirements per ORS215.461 refer to ORS for exact language**

**E. DWELLINGS PROVIDED IN CONJUNCTION WITH FARM USE.** In the EFU Zone, a dwelling in conjunction with farm use may be approved as set forth in Article 8, Section 8.130. New dwelling used in conjunction with a marijuana crop are not permitted.

**F. ACCESSORY DWELLINGS PROVIDED IN CONJUNCTION WITH FARM USE.** In the EFU Zone, an accessory dwelling may be provided in conjunction with an existing farm dwelling which may be approved subject to the following.

**1. General Accessory Farm Dwelling.** An accessory farm dwelling, which includes all types of residential structures allowed by the applicable State building code, may be considered customarily provided in conjunction with farm use if it meets all of 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; and

**b.** The accessory farm dwelling will be located:

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

**(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; or

**(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 OAR 660-033-0130 and 4.020.E; and

- (4)** On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable State building codes or similar types of arm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; 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 of at least 160 acres and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4) , whichever is applicable and Section 4.020.F.1.d; 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 and that could reasonably be used as an accessory farm dwelling; and
- d.** The primary farm dwelling is located on a farm operation that is not high-value farmland and is currently employed for farm use, as defined in ORS 215.203 that has produced \$40,000 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, gross annual income of at least the midpoint of the income range of gross annual sales for farms in the county with a 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; or the subject tract is high-value farmland and is currently employed for farm use, as defined in ORS 215.203, that has produced \$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. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
- e.** It is located on a commercial dairy farm as defined by OAR 660-033-0135(8) and that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Section 4.020.F.1.d from the sale of fluid milk; 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; and
  - (2)** The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and

**(3)** A Producers License for the sale of dairy products under ORS 621.072.

- f. The County shall require as a condition of approval 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.

**2. Accessory Farm Dwelling for a Relative.** A dwelling on real property used for farm use if the dwelling is:

- a. Located on the same lot or parcel as those terms are defined in ORS 92.010, as the dwelling of the farm operator; and
- b. To qualify, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- c. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under ORS 215.780 and Section 4.020.I.1, if the owner of the dwelling described in OAR 660-033-0130(9) obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "home site," as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the home site to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect. For purposes of this paragraph, "foreclosure" means only those foreclosures that do not meet the definition of partition under ORS 92.010(9)(a).
- d. The County shall require as a condition of approval 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.

**G. DWELLINGS NOT PROVIDED IN CONJUNCTION WITH FARM USE.** In the EFU Zone, two types of dwellings not provided in conjunction with farm may be authorized.

**1. Lot of Record.** A dwelling not provided in conjunction with farm use may be approved on a preexisting lot or parcel if all of the following are satisfied:

- a. The lot or parcel on which the dwelling will be established was lawfully created and was acquired and owned continuously by the present owner:

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





- a. 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;
- b. The dwelling is situated upon a lot or parcel, or 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.
  - (1) A 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
  - (2) A lot or parcel is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm, it is not “generally unsuitable.” A lot or parcel, or portion of a lot or parcel, is presumed suitable for farm use if it is predominantly composed of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
  - (3) If the lot or parcel is under forest assessment, the dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is 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 tract. 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 can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not “generally unsuitable.” A lot or parcel, or portion of a lot or parcel, under forest assessment is presumed suitable for farm use if it is predominantly composed 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 surrounding lands.
- c. 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 overall land use pattern of the area, the County shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the County shall:
  - (1) 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 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, and 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.

(2) Identify within the study area the broad types of farm uses (irrigated or non-irrigated 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 potential number of nonfarm/lot-of-record dwellings that could be approved under this section, 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) and 4.020.I.2. 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 paragraph.

(3) 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.

- d. The dwelling complies with such other conditions as the County considers necessary.
- e. The County shall require as a condition of approval 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. The County shall not grant final approval of a nonfarm dwelling under this subsection on a lot or parcel that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for special assessment at a value for farm use under ORS 308.370 or other special assessment under ORS 308,765, 321.257 to 321.381, 321.730 or 312.815 and any additional tax imposed as the result of disqualification has been paid.

H. **SPECIFIC REVIEW CRITERIA.** In the EFU Zone, certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in Subsections 4.020.B, C and D.

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

2. The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
3. The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria:
  - a. The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;
  - b. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;
  - c. The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and
  - d. The use is or can be made compatible with existing uses and other allowable uses in the area.

I. **LAND DIVISIONS.** In the EFU Zone, the County may authorize farm-related land divisions and nonfarm-related land divisions.

**1. Farm-Related Land Divisions.** New parcels of 160 acres or larger may be created for farm-related purposes.

**2. Nonfarm-Related Land Divisions.** New parcels, not less than 5 acres in size, may be created for the following nonfarm uses subject to the following standards:

**a. Nonfarm Dwellings.** Parcels for nonfarm dwellings may be created under the following circumstances.

**(1)** Lots and parcels smaller than 40 acres are not eligible for nonfarm dwelling land divisions.

**(2)** For lots or parcels between 40 acres and 160 acres, the County may approve a division of land in an EFU Zone to divide the lot or parcel into two parcels, each to contain a nonfarm dwelling if:

**(a)** The nonfarm dwellings have been approved under Section 4.020.G.2; and

**(b)** The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001; and

**(c)** The parcels for the nonfarm dwellings are not capable of producing more than 20 cubic feet per acre per year of merchantable wood fiber and are 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; and

- (d) The parcels for the nonfarm dwellings do not have established water rights for irrigation; and
  - (e) The parcels for the nonfarm dwellings, in their entirety, are found to be generally unsuitable for the production of farm crops and livestock or merchantable tree species pursuant to the provisions of 4.020.G.2
- (3) For lots and parcels larger than 160 acres, the County may approve a division of land in the EFU Zone to create up to two new parcels smaller than 160 acres, each to contain a nonfarm dwelling if:
- (a) The nonfarm dwellings have been approved under Section 4.020.G.2; and
  - (b) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001; and
  - (c) The remainder of the original lot or parcel that does not include the nonfarm dwellings is 160 acres or larger; and
  - (d) The parcels for the nonfarm dwellings, in their entirety, are found to be generally unsuitable for the production of farm crops and livestock or merchantable tree species pursuant to the provisions of Section 4.020.G.2.
- b. **Historic property.** The County may approve a proposed division of land to create a parcel with an existing dwelling to be used for historic property that meets the requirements of Section 4.020.D.34. and ORS 215.283(1)(o).
- c. **Public parks.** The County may approve a proposed division of land 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.
  - (3) A parcel created pursuant to this subsection that does not contain a dwelling:
    - (a) Is not eligible for siting a dwelling except as may be authorized under ORS 195.120; and
    - (b) May not be considered in approving or denying an application for siting any other dwelling; and
    - (c) May not be considered in approving a re-designation or rezoning of forestlands except for a re-designation or rezoning to allow a public park, open space or other natural resource use; and

(d) May not be smaller than 25 acres unless the purpose of the land division is:

- i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection program; or
- ii. 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.

d. **Churches.** The County may approve a division of land for the purpose of establishing a church, including a cemetery, in conjunction with a church approved under Section 4.020.C.5 provided:

(1) The parcel created for the church is not larger than 5 acres; and

(2) The remaining parcel, not including the church, meets the minimum parcel size either by itself or after it is consolidated with another lot or parcel.

e. **Other nonfarm uses.**

(1) A land division for a nonfarm use other than those previously described in this section and that is listed in ORS 215.283(2) may result in the creation of a parcel less than the minimum parcel size. In order to approve a land division for a nonfarm use other than a dwelling, the County must find that the new nonfarm parcel is the minimum size needed to accommodate the use. Any remaining parcel continuing to qualify for farm use must be at least 160 acres.

J. **PROPERTY DEVELOPMENT STANDARDS.** In the EFU Zone, the following standards apply to residential and nonresidential development.

1. **Building Height.** No limitations.

2. **Setbacks**

a. The front and rear yard setbacks from the property line shall be 25 feet.

b. The side yard setbacks from the property line shall be 25 feet.

**SECTION 4.030 R-C RURAL UNINCORPORATED COMMUNITY ZONE.**

**(Mayville, Olex and Mikkalo)**

In an R-C Zone the following regulations shall apply:

- A. USES PERMITTED OUTRIGHT.** In the R-C zone the following uses and their accessory uses are permitted outright subject to site plan review.
- 1. Farm use**, excluding livestock feed yard or livestock sales yard.
  - 2. Normal operation**, maintenance, repair, and preservation activities of existing transportation facilities.
  - 3. Installation of culverts**, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
  - 4. Projects specifically identified in the Transportation System Plan** as not requiring further land use regulation.
  - 5. Landscaping as part of a transportation facility.**
  - 6. Measures necessary for emergency repair and preservation for the safety and protection of property.**
  - 7. Acquisition of right-of-way for public roads**, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in exclusive farm use zones.
  - 8. Construction of a street or road** as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.
- B. USES PERMITTED.** In an R-C Zone, the following uses and their accessory uses are permitted when authorized by a zoning/development permit.
- 1. Utility facility**
  - 2. Television or radio station**, transmitter or tower less than 200 feet in height.
  - 3. Single family residence**
- C. CONDITIONAL USES PERMITTED.** Land and buildings in the R-C zone may be considered for the following uses and their accessory uses, subject to the standards and conditions attached to such use as provided by Sections 7.010 through 7.040, inclusive and when approved pursuant to the Type II Conditional Use Process.
- 1. Residential homes.**

2. **Agriculturally oriented commercial or industrial use.**
3. **Kennel or animal hospital.**
4. **Mining or other extractive use.**
5. **Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are:** (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review. Such transportation projects shall comply with the Transportation System Plan and applicable standards, and shall address the standards governing conditional uses specified in Section 7.020. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:

The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning;

- a. The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;
  - b. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features, and;
  - c. The project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.
  - d. Construction of rest areas, weigh stations, temporary storage, and processing sites.
6. **Marijuana Production and Processing**, approval also subject to Marijuana Business standards contained in Article 8.

**D. DIMENSIONAL STANDARDS.** In the R-C Zone the following dimensional standards shall apply:

1. **The minimum lot area** for all residential uses shall be 5 acres. If at the date of this ordinance a lot or contiguous lots are less than five acres, then that lot or contiguous lots shall be treated the same as a 5 acre parcel.
2. **The minimum lot area for all commercial or industrial uses** shall be the maximum to accommodate the use.
3. **All parcels shall be large enough to comply with DEQ subsurface sewage regulations.**
4. **No buildings shall be located closer than 45 feet to a street centerline.**
5. **Commercial uses shall not exceed 4,000 square feet.**

**6. Industrial uses shall not exceed 20,000 square feet.**

**#end#**

**SECTION 4.040 R-R RECREATION RESIDENTIAL ZONE (Lonerock and John Day Site)**

*(Transportation-Related Amendments Adopted by County Ordinance 98-03 further amended with TSP adopted in 2015)*

In an R-R Zone, the following regulations shall apply:

- A. USES PERMITTED OUTRIGHT.** In the R-R Zone, the following uses and their accessory uses are permitted outright subject to site plan review:
- 1. Single-family residences,** including manufactured homes, meeting the requirements of Section 8.120 of this ordinance.
  - 2. Farm use,** subject to conditions and limitations provided herein; excepting marijuana production and processing which is not permitted.
  - 3. In the Original Townsite of Lonerock and Henshaw Addition** thereto, the following livestock limitations shall apply. The total number of livestock allowed on a property shall be limited to the open area, exclusive of buildings, divided by the total minimum area required for each animal listed below:
    - a.** One horse, cow, or swine per 10,000 square feet.
    - b.** One goat or sheep per 1,250 square feet.
    - c.** A minimum of 250 square feet of area shall be required for each chicken, other fowl or rabbit kept on the property.
    - d.** The number of bee colonies allowed on a property shall be limited to one colony for each 2,500 square feet of area and shall not be located closer than 25 feet from any property line.
    - e.** Animals and fowl shall be properly caged, fenced or housed and proper sanitation shall be maintained.
  - 4. All building construction in excess of 120 square feet in size shall require an Oregon State building permit** except for agricultural buildings exempted by the State of Oregon.
  - 5. In addition, all building construction in excess of 120 square feet in size shall require a zoning permit** issued by the Planning Director for Gilliam County on behalf of the City of Lonerock.
  - 4. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.**
  - 5. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.**



6. **Projects specifically identified in the Transportation System Plan** as not requiring further land use regulation.
7. **Landscaping as part of a transportation facility.**
8. **Emergency measures necessary for the safety and protection of property.**
9. **Acquisition of right-of-way for public roads, highways, and other transportation improvements** designated in the Transportation System Plan except for those that are located in Exclusive Farm Use Zone.
10. **Construction of a street or road as part of an approved subdivision or land partition** approved consistent with the applicable land division ordinance.

**B. CONDITIONAL USES PERMITTED.** Land and buildings may also be used as follows when approved pursuant to the Conditional Use Process.

1. **Utility facility necessary to serve the area.**
2. **Golf Course.**
3. **Church.**
4. **Park or playground.**
5. **Commercial residential use.**
6. **Public use buildings.**
7. **Community Center.**
8. **Accessory buildings closer than 10 feet to the property line.**
9. **Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are:**

a. Not improvements designated in the Transportation System Plan; or

b. Not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review.

Such transportation projects shall comply with the Transportation System Plan and applicable standards, and shall address the standards governing conditional uses specified in Section 7.020. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the standards governing conditional uses.

10. **Construction of rest areas, weigh stations, temporary storage, and processing sites.**

**C. LIMITATIONS ON CONDITIONAL USES.** In addition to the standards and conditions that may be attached to the approval of conditional uses as provided by Article 7, Sections 7.010 through 7.040, and Article 8, the following limitations shall apply to conditional uses in an R-R Zone:

1. The Planning Director may require establishment and maintenance of fire breaks, the use of fire-resistant materials in construction and landscaping or may attach other similar conditions or limitations that will serve to reduce fire hazards to and from the surrounding agricultural lands.
2. The Planning Director may limit changes in the natural grade of land, or the alteration, removal or destruction of natural vegetation in order to prevent erosion or pollution.
3. In approving a conditional use in an R-R Zone, the Planning Director shall be satisfied that the applicant is fully appraised of the County's policy relative to development or maintenance of access improvements to recreation residential areas, and may attach the following as a condition of approval: "The granting of this permit in no way obligates Gilliam county to the provision, development, or maintenance of access, required or otherwise, to the property for which this permit is issue."

**D. DIMENSIONAL STANDARDS.** In an R-R Zone, the following dimensional standards shall apply:

1. In the Original Townsite of Lonerock and the Henshaw Addition thereto, the minimum lot size shall be 5,000 square feet or as determined by the Oregon Department of Environmental Quality (DEQ) to be necessary for the protection of public sanitation.
2. In the unplatted areas of Lonerock, the minimum lot size shall be 10 acres.
3. In unplatted areas of the County in the RR Zone the minimum area shall be as determined by Oregon Department of Environmental Quality (DEQ) to be necessary for the protection of public sanitation.

**E. YARD SETBACK REQUIREMENTS.** In the R-R Zone, the minimum setback requirements for all buildings shall be as follows:

1. In the Original Townsite of Lonerock and the Henshaw Addition thereto, the front and rear yard setbacks from the property line shall be 15 feet. Each side yard setback from a property line shall be 10 feet.
2. In the unplatted areas of Lonerock and the County in the RR Zone, the minimum setback requirements shall be as follows:
  - a. The front, rear, and side yard setbacks from the property line shall be 25 feet.
  - b. Parcels or lots involving nonfarm residential use which are adjacent to farm use parcels shall observe the following minimum setback requirements:
    - (1) The front yard setback shall be 25 feet.
    - (2) The rear and side yard setbacks shall be 50 feet.

**SECTION 4.050 M-L LIMITED INDUSTRIAL ZONE** *(amended December 18, 2019)*

In an M-L Zone, the following regulations shall apply:

**A. USES PERMITTED OUTRIGHT SUBJECT TO SITE PLAN REVIEW** In an M-L Zone, the following uses and their accessory uses are permitted subject to the provisions of Article 8, Section 8.140 - Site Plan Review and all other applicable requirements of this and other County Ordinances:

1. **Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.**
2. **Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.**
3. **Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.**
4. **Landscaping as part of a transportation facility.**
5. **Emergency measures necessary for the safety and protection of property.**
6. **Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in Exclusive Farm Use Zone.**
7. **Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.**
8. **Agricultural sales and service including feed and seed stores, nurseries, greenhouses, landscape supplies and garden centers.**
9. **Animal sales and service including pet stores, pet grooming and boarding kennels.**
10. **Automobile and heavy/light equipment repair, sales and service, including rental agencies, detailing, service stations, body shops, auto painting, and machine shops, on-site only except during community events.**
11. **Contractor shops, offices and storage areas.**
12. **Engineering, research and development.**
13. **Light manufacture, assembly and packaging of goods or products which can be performed with minimal adverse impact on, and poses no special hazard to the environment and/or the county. All operations shall be indoors with outdoor storage to be concealed or buffered.**
14. **Printing and publishing.**
15. **Public and private transportation depots and terminals; passengers and freight.**

16. **Wireless Telecommunication tower facilities subject to the provisions of Section 7.020(v)**
  17. **Warehousing, storage and distribution of equipment, commodities and products in an enclosed area including ministorage facilities.**
  18. **Wholesale uses.**
  19. **Aggregate, sand and gravel cleaning, and processing**
  20. **Other uses determined by the Planning Director to be similar to the above uses.**
  21. **Marijuana production, subject to Marijuana Business standards contained in Article 8.**
- B. CONDITIONAL USES PERMITTED.** Land and buildings in an M-L Zone may be used by the following uses and their accessory uses, subject to the standards and conditions attached to such use as provided by Sections 7.010 through 7.060 inclusive:
1. **Conditional Uses**
    - a. **Utility facility.**
    - b. **Television or radio station, transmitter or tower.**
    - c. **Industrial storage and maintenance facility that may include outdoor storage/uses.**
    - d. **Residential dwelling for security and maintenance personnel; limit of 1 dwelling per site.**
    - e. **Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are:**
      - (1) Not improvements designated in the Transportation System Plan; or
      - (2) Not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review.

Such transportation projects shall comply with the Transportation System Plan and applicable standards, and shall address the standards governing conditional uses specified in Section 7.020. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the standards governing conditional uses.

    - f. **Marijuana production, processing and retailing, also subject to Marijuana Business standards contained in Article 8.**
    - g. **Community Gathering Place.**

C. **DIMENSIONAL STANDARDS.** In an M-L Zone, the following dimensional standards shall apply:

1. **Yard offsets:**

- a. Front: 15'
- b. Side yards: 10'
- c. Rear yards: 10'

2. A minimum lot size has not been determined for this zone although the lots 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 two acres. The determination of lot size will be driven by the carrying capacity of the land given the proposed use.

3. Uses adjacent to residential uses. A sight-obscuring fence shall be installed to buffer uses permitted in the limited industrial 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.

D. **MAXIMUM LOT COVERAGE.** In an M-L Zone, buildings shall not occupy more than 50 percent of the lot area.

##

**End of Section**

## **SECTION 4.060 M-G GENERAL INDUSTRIAL ZONE**

*(includes Radar Airbase & Vaden Heights subdivision and Waste Management Chem facility and portion at Blalock and area adjacent to City of Condon UGB between Brown Lane and Hwy 19)*

In an M-G Zone, the following regulations shall apply:

- A. USES PERMITTED SUBJECT TO SITE PLAN REVIEW** In an M-G Zone, the following uses and their accessory uses are permitted subject to the provisions of Article 8, Section 8.140–Site Plan Review and all other applicable requirements of this and other County Ordinances:
- 1. Fuel stores, excluding bulk storage of petroleum products or gasoline,** which shall be processed as a conditional use under 4.060
  - 2. Food Production and manufacturing.**
  - 3. Heavy equipment sales and service on-site only**
  - 4. Manufacturing, fabricating, processing, repair, engineering,** research and development, assembly, wholesale, transfer, distribution and storage uses, excluding the manufacture of explosives
  - 5. Printing and publishing facilities.**
  - 6. Public and private lots for parking.**
  - 7. Public and private vehicle servicing and fueling stations.**
  - 8. Railroad yards and spurs** shipyards and commercial docking facilities.
  - 9. Rock, sand and gravel cleaning, crushing, processing and assaying.**
  - 10. Storage and maintenance yards.**
  - 11. Transportation facilities.**
  - 12. Warehouses.**
  - 13. Normal operation, maintenance, repair, and** preservation activities of existing transportation facilities.
  - 14. Installation of culverts, pathways, medians, fencing, guardrails,** lighting, and similar types of improvements within the existing right-of-way.
  - 15. Projects specifically identified in the Transportation System Plan** as not requiring further land use regulation.
  - 16. Landscaping as part of a transportation facility.**

- 17. Emergency measures necessary for the safety and protection of property.**
  - 18. Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in Exclusive Farm Use Zone.**
  - 19. Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.**
  - 20. Marijuana production, also subject to Marijuana Business standards contained in Article 8.**
- B. CONDITIONAL USES PERMITTED.** Land and buildings in an M-G Zone may be used by the following uses and their accessory uses, subject to the standards and conditions attached to such use as provided by Sections 7.010 through 7.040, inclusive, and when approved pursuant to the Conditional Use process.
- 1. Agriculture and aquaculture, excluding livestock and poultry operations.**
  - 2. Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are:**
    - a. Not improvements designated in the Transportation System Plan; or
    - b. Not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review.  
Such transportation projects shall comply with the Transportation System Plan and applicable standards, and shall address the standards governing conditional uses specified in Section 7.020. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the standards governing conditional uses.
  - 3. Construction of rest areas, weigh stations, temporary storage, and processing sites.**
  - 4. Bulk fuel stores such as petroleum, methane, propane, gasoline and diesel.**
  - 5. Collection, packaging, storage and reprocessing of recyclable materials.**
  - 6. Junkyards and automotive wrecking yards enclosed within a permanent view obscuring fence or wall.**
  - 7. Chemical Manufacturing facilities**
  - 8. The slaughtering of animals and the rendering of fats.**
  - 9. Hazardous Waste Facility provided that:**

- a. The minimum lot size is 200 acres, except that two or more continuous lots may satisfy this requirement; and
- b. An agreement is in effect with Gilliam County, reviewable every 5 years, that requires:
  - (1) Payment of roadway improvement and maintenance fees to the County for use of the County road leading to the facility; and
  - (2) Payment of a host fee to the County for all waste received and managed at the facility regardless of whether the waste is disposed of on site.  
**Exception:** If waste for which a host fee has been paid to the County is subsequently managed or disposed of at another facility that is also a party to a host fee agreement with the County, no additional host fee will be due to the County.
- c. The facility is operated pursuant to a hazardous waste facility management plan as described in Subsection D of this section.

**10. Other uses determined by the Planning Director to be similar to the above uses.**

**11. Marijuana production, processing and retailing, also subject to Marijuana Business standards contained in Article 8.**

**C. DIMENSIONAL STANDARDS.** In an M-G Zone, the following dimensional standards shall apply:

**1. Yard offsets:**

- a. Front: 15'
- b. Side yards: 10'
- c. Rear yards: 10'

**2. The minimum lot area shall be as determined by the Department of Environmental Quality to be necessary for the protection of public health.**

**D. HAZARDOUS WASTE FACILITY MANAGEMENT PLAN.** For the purpose of Subsection B.9 of this section, a "hazardous waste facility management plan" shall consist of all permits issued under ORS Chapter 466 by the Oregon Environmental Quality Commission ("EQC") and/or Oregon Department of Environmental Quality ("DEQ"), plus any agreements between the County and the operator and any conditions imposed by the County pursuant to this subsection. The County shall review the management plan at the time of any DEQ/EQC permit issuance, renewal, or modification that requires a land use compatibility statement from the County. The land use compatibility statement shall be reviewed as a zoning permit pursuant to Section 11.130.B, except that the County Court, Planning Director, or other designated county representative may refer the review to a public hearing if the appropriate official deems a public hearing necessary or beneficial. The County shall issue a land use compatibility statement upon the following findings:



1. The operation or modification complies with the requirements of OAR 340-120-0015 and/or other applicable State statutory or rule requirements; and
2. Any significant adverse impacts of the facility subject to the DEQ/EQC permitting process on public facilities, public services, property values near the site, or similar public interests have been or will be adequately mitigated or resolved through the DEQ/EQC permitting process, imposition of conditions by the County, or by agreement between the County and the operator.

**##**

**End of Section**

## **SECTION 4.070 I-M INTERMODAL-INDUSTRIAL**

*(Amended by the Gilliam County Court on November 02, 2011; previously known as rail park zone)  
(Includes Gilliam County owned, Shutler Station Industrial Park +/-86 acres (Assessor Acct. #4741) and Holtz & Rietmann +/-195.10 acres across Cedar Springs Lane from Shutler Station to the south (Assessor Acct. #4773 Rietmann))*

- A. PURPOSE AND INTENT:** The Intermodal–Industrial Zone is designed to provide areas for industrial uses that are appropriate for rural locations, less intensive than heavy industrial uses, are less offensive to adjacent land uses and are compatible with certain commercial uses. It is designed to assist the County to expand and diversify its economic base. The intent of the Intermodal Zone is to permit the continuation and rural employment opportunities for new uses that are generally rural scale and low impact. This zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads and waterways. This zone is applied to lands zoned Intermodal Industrial outside incorporated communities and Urban Growth Boundaries. This zone will take advantage of unique economic opportunities available from use of the Intermodal opportunities including rail, highway and barge facilities serving this area and its proximity to the Columbia Ridge Landfill and the Chemical Waste Management facility
- B. USES PERMITTED:** These uses are subject to the provisions of Article 8, Section 8.140–Site Plan Review and all other applicable requirements of this and other County Ordinances. In the Intermodal-Industrial, the following uses and their accessory uses are permitted
- 1. The loading, unloading, storage and shipping of agricultural products or agricultural-related products.**
  - 2. Commercial activities in conjunction with farm use.**
  - 3. Primary processing of raw materials**
  - 4. Manufacturing, compounding, assembling, primary processing or treatment of products**
  - 5. Truck service, storage and maintenance; construction and transportation related uses and accessory uses.**
  - 6. Industrial uses in conjunction with farm, forest, aggregate or renewable energy uses and those accessory uses**
  - 9. Railroad yards and spurs, shipyards and commercial docking facilities**
  - 10. Industrial storage and maintenance facility**
  - 11. Other buildings and uses similar to the list above and consistent with the purpose of this zone which shall not have any different or 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 industrial uses.**

**12. Marijuana production, subject to Marijuana Business Standards contained in Article 8.**

**C. CONDITIONAL USES PERMITTED:** In the Intermodal-Industrial Zone, the following uses and their accessory uses are permitted subject to the conditional use criteria in Section 7.010.A.

**1. Major manufacturing, repairing, compounding, fabricating, assembling, processing or storage of products related to agriculture or forestry industries having one of the following characteristics:**

- a) Peak employment of more than 100 persons
- b) Requiring a total energy input which exceeds 6,826,000 British Thermal Units (BTU) for all energy sources combined (i.e. natural; gas, propane, oil, and electricity)

**2. Petroleum products and sales and storage limited to card lock and not general retail**

**3. Public use**

**4. Residence for a caretaker or night watchman on property with an existing legal use**

**5. Marijuana production and processing, also subject to Marijuana Business standards contained in Article 8.**

**D. DIMENSIONAL STANDARDS.** In the Intermodal-Industrial Zone the following dimensional standards apply:

**1.** No minimum lot area is required. However, if subsurface sewer is needed to support the proposed use, the minimum lot area shall be determined by the Oregon Department of Environmental Quality in a manner consistent with the protection of public health.

**2.** Other dimensional standards, including yard requirements, shall be established by the Planning Director or Planning Commission as provided by Section 7.010 and 7.020.

**3. Yard offsets:**

- a. Front: 15'
- b. Side yards: 10'
- c. Rear yards: 10'

**E. ADDITIONAL REQUIREMENTS FOR CONDITIONAL USES IN SECTION C.** The following general criteria shall be used to review all conditional uses listed in the Intermodal-Industrial Zone;

**1.** Evidence shows that there is an economic advantage obtained from locating near the Columbia Ridge Landfill, the Chemical Waste Management plant, or another business located within the business park; or

**2.** Evidence shows that the proposed use is at least partially dependent on Intermodal service (rail, barge, highway) and that Intermodal service will be used; or

3. Evidence shows that the proposed use is reasonable to locate in the Intermodal-Industrial Zoning District because of the inherent benefit(s) available to a prospective tenant and that siting the proposed use will neither displace jobs that should go into nearby urban growth boundaries to the detriment of local cities, nor take up space that would be better occupied by a use fitting the description of either 1. or 2. listed above; and;
  4. The use will be compatible with other uses allowed in the Intermodal-Industrial Zone
  5. The use will not have an adverse impact on existing industrial uses and that it would not be incompatible with the noise, dust, vibrations and odor that may emanate from of or be caused by the existing adjacent industrial uses.
  6. The use will be in compliance with and conform to the policies listed in the text of the Comprehensive Plan
  7. The project is designed to be compatible with existing land uses and social patterns including noise generation, safety and zoning.
  9. The uses will not have an adverse impact on the adjacent farm dwellings.
- F. **SPECIFIC STANDARDS FOR PERMITTED USES IN SECTION B AND C.** Uses authorized under Section B and C will abide by the following standards. Failure to honor these standards could result in revocation of the original authorization, issuance of a cease and desist order to be in place until the infraction is corrected and potential financial penalties as deemed appropriate by the County Court.
1. All loads must be covered and secured.
  2. Outdoor lighting will not be directed at adjacent properties or interfere with traffic.
  3. Solid waste shall be disposed of at a regulated and licensed landfill.
  4. The county may request that work hours be limited to day light hours.
- G. **DEFINITIONS.** For purposes of this zone, the term “rural” is used to describe a location outside of an acknowledged urban growth boundary

**# END OF SECTION #**

## SECTION 4.080 FH FLOOD HAZARD COMBINING ZONE

In any zone that is a Combined FH 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.

- A. **DEFINITIONS.** Unless specifically defined herein, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.
1. **“Area of Special Flood Hazard”** 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 flood hazard maps always includes the letters A to V.
  2. **“Base Flood”** means the flood having a one percent chance of being equaled or exceeded in any given year; also referred to as the “100-year flood.” Designation on maps always includes the letters A or V.
  3. **“Development”** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
  4. **“Flood Insurance Rate Map (Firm)”** means the official map on which the Federal Insurance Administration had delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
  5. **“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.
  6. **“Floodway”** means the channel of a river or other water course 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.
  7. **“Lowest Floor”** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for 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 section.
  8. **“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. For flood plain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

9. **“Manufactured Home Park or Subdivision”** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
10. **“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 footing, the installation of piles, the construction of columns, or any work beyond the stage 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 walkway; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
11. **“Structure”** means a walled and roofed building including a gas or liquid storage tank that is principally above ground.
12. **“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 whether:
  - a. Before the improvement or repair is started, or
  - b. 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:**

- a. 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
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

- B. LANDS TO WHICH THIS SECTION APPLIES.** This ordinance shall apply to all unincorporated areas of special flood hazards within the jurisdiction of Gilliam County.

C. **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 Gilliam County dated Sept. 1984," with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Gilliam County Planning Department, Courthouse, Condon, Oregon.

D. **ESTABLISHMENT OF DEVELOPMENT PERMIT**

1. **Development Permit Required.** A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Subsection C of this section. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions" of this section and for all development including fill and other activities, also as set forth in the "Definitions."
2. **Application for Development Permit.** Application for a Development Permit shall be made on forms furnished by the County Planning Director and may include, but not be limited to, plans is 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:
  - a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
  - b. Elevation in relation to mean sea level to which any structure has been flood-proofed;
  - c. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in this section; and
  - d. Description of the extent to which a water course will be altered or relocated as a result of proposed development.

E. **DESIGNATION OF THE COUNTY PLANNING DIRECTOR.** The County Planning Director is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.

F. **DUTIES AND RESPONSIBILITIES OF THE COUNTY PLANNING DIRECTOR.** Duties of the County Planning Director shall include, but not be limited to:

1. Permit Review
  - a. Review all development permits to determine that the permit requirements of this section have been satisfied.
  - b. 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.

- c. 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 this section are followed.
2. **Use of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Subsection C, Basis for Establishing the Areas of Special Flood Hazard, the County 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 this section.
3. **Information to Be Obtained and Maintained**
- a. Where base flood elevation data is provided through the Flood Insurance Study or required as in Subsection F.2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  - b. For all new or substantially improved flood-proofed structures:
    - (1) Verify and record the actual elevation (in relation to mean sea level), and
    - (2) Maintain the flood-proofing certifications required.
    - (3) Maintain for public inspection all records pertaining to the provisions of this section.
    - (4) Alteration of water courses.
      - (a) Notify adjacent communities and the LCDC prior to any alteration or relocation of a water course, and submit evidence of such notification to the Federal Insurance Administration.
      - (b) Require that maintenance is provided within the altered or relocated portion of said water course so that the flood-carrying capacity is not diminished.

**G. VARIANCE AND APPEAL PROCEDURE**

- 1. **The County Planning Commission shall hear and decide appeals and requests for variances** from the requirements of this section which shall be processed and considered in accordance with the General Appeal and/or Variances procedures set forth by this ordinance.
- 2. **In passing upon such applications, the Commission shall consider all technical evaluations,** all relevant factors, standards specified in other sections of this ordinance and:
  - a. The danger that materials may be swept onto other lands to the injury of others;



- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed uses which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. 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
- k. 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, water systems, and streets and bridges.

### **3. Conditions for Variances**

- a. 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.
- b. Variance shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford release.
- d. Variances shall only be issued upon:
  - (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - (3) 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, or conflict with existing laws or ordinances.

## **H. PROVISIONS FOR FLOOD HAZARD REDUCTION**

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

### **a. 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 FEA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

### **b. 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.

### **c. 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 systems 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.

**d. 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).

**e. Review of Building Permits.** Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, 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 grade in these zones may result in higher insurance rates.

**2. Specific Standards.** In all areas of special flood hazards where base flood elevation data has been provided as set forth in Subsection C, Basis for Establishing the Areas of Special Flood Hazard, and Subsection F.2, Use of Other Base Flood Data, the following provisions are required.

**a. Residential Construction**

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above 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 flood waters. 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:
  - (a) 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.
  - (b) The bottom of all openings shall be no higher than one foot above grade.
  - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

**b. Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial or other nonresidential 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 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 Subsection F.2.
- (4) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Subsection 8(b)(A)(2).
- (5) Applicants flood-proofing nonresidential 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 to the base flood level will be rated as one foot below that level).

**c. Manufactured Homes.** As applicable, all manufactured homes to be placed or substantially improved within Zones A1-30, A-H, and EFU shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection 8(a)(A)(2).

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

- a. 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.
- b. If Paragraph 'a' above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Subsection H, Provisions for Flood Hazard Reduction.

**I. MARIJUANA PRODUCTION, subject to Article 7.**

## SECTION 4.090 GH GEOLOGICAL HAZARD COMBINING ZONE

In any zone which is a Combined GH Zone, the requirements and standards for 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.

- A. APPLICATION OF PROVISIONS.** The provisions of this section shall apply to all areas of special geological hazards within the jurisdiction of the County as may now or in the future be identified. Until such time as specific such hazards are accurately identified by the County or agencies such as the Oregon Department of Geology and Mineral Industries, each development proposal shall be reviewed pursuant to general information available (SCS Soils Survey Data). Until specific hazards are identified, this section shall apply only to structures or improvements located on slopes greater than 30 percent or on significantly unstable soils.
- B. USES PERMITTED OUTRIGHT.** In a zone with which the GH Zone is combined, the following uses are the only uses permitted outright, and these uses are permitted only if such uses are permitted in the zone regulations for the primary zone:
- 1. Agricultural use conducted without locating a structure in the zone,** except for a boundary fence, and shall be restricted to prevent destruction of vegetation sufficient to cause erosion.
  - 2. Industrial or commercial use that does not require a structure** other than surfacing at ground level such as for a loading area, parking area, or that requires only temporary structures that will not necessitate ground excavation for placement.
  - 3. Recreation use that requires no structures, alteration of the natural geology or vegetation removal without immediate replacement.**
  - 4. Portions of a residential use that do not contain buildings** such as a lawn, garden, parking area or play area, or a related use thereof that does not require alteration of the natural geology or excavation thereof.
- C. CONDITIONAL USE PERMITTED IN A GH ZONE.** In a zone with which the GH Zone is combined, those uses permitted by the primary zone shall be permitted subject to this section and the provisions of the primary zone. Marijuana production, subject to this section and Article 7.
- D. PERMIT FOR USE OR DEVELOPMENT IN A GH ZONE.** No person shall construct, reconstruct, or install a development, install a mobile home, or divide land in a GH Zone unless a permit has been received for the work, except for those uses permitted by Subsection B of this section. Except for improvement of an existing structure which is less than substantial as determined by the Certified Building Official or the County upon appeal, no permit shall be issued unless the work will be reasonably safe from geological hazard and otherwise comply with this section and this ordinance, in the same manner as a Conditional Use Permit under this ordinance as set forth in Article 6.

- E. APPLICATION REQUIREMENTS FOR A USE IN A GH ZONE.** An application for a use or development in a zone with which the GH Zone is combined shall be accompanied by the following:
- 1. Site Investigation Report.** An application for a use or development in a GH Zone requires a site investigation report for the subject area. The site investigation report shall provide information on the site of the development and adjacent land that is likely to be affected by a proposed development. Unless the County determines specific items are not required, the report shall include the information described in this subsection together with appropriate identification of information sources and the date of the information. Before a development permit can be issued, the site investigation report must be approved as a part of the development permit approval process. The approval site investigation report shall be referred to in the deed and other documents of sale and shall be a record of deeds.
  - 2. Background Data in Report.** The site investigation report shall contain the following background information:
    - a. A general analysis of the local and regional topography and geology including the faults, folds, geologic and engineering geologic units and any soil, rock and structural details important to engineering or geological interpretations and their relative activity.
    - b. A history of problems on land adjacent to the site, which may be derived from discussions with local residents and officials and the study of old photographs, reports and newspaper files.
    - c. The extent of the surface soil formation and its relationship to the vegetation of the site, the activity of the land form and the location on the site.
    - d. The following ground photographs of the site with information showing the scale and date of the photographs and their relationship to the topographic map and profiles:
      - (1) A view of the general area.
      - (2) The site of the proposed development.
      - (3) Any features which are important to the interpretation of the hazard potential of the site, including all sites of erosion or accretion.
  - 3. Topography Map.** A topography base map of (1 to 100) scale and with a contour interval of (two feet) shall be accompanied by references to the source and date of information used.
  - 4. Subsurface Analysis.** If upon initial investigation it appears there are critical areas where the establishment of geologic conditions at depth is required, a subsurface analysis obtained by drill holes, well logs and other geophysical techniques shall be conducted by the person responsible for the site investigation report to include the following data as appropriate:
    - a. The lithology and compaction of all subsurface horizons to bedrock.

- b. The depth, width, slope and bearing of all horizons containing significant amounts of silt and clay and any other subsurface layers which could reduce the infiltration of surface water.

**5. Development Proposal.** The site investigation report shall include the following information on the proposed development as applicable:

- a. Plans and profiles showing the position and height of each structure, paved area and areas where cut and fill is required for the construction.
- b. The percent and location of the surface of the site which will be covered by impermeable surfaces.
- c. A stabilization program for the development describing:
  - (1) How much of the site will be exposed during construction and what measures will be taken to reduce wind erosion and soil movement during construction.
  - (2) A revegetation program designed to return open soil areas, both pre-existing and newly created, to a stable condition as soon as possible following construction and the period of time during revegetation maintenance.
  - (3) Areas to be protected from vegetation loss or ground water pollution shall be identified and means for protection described.

**6. Conclusions in the Site Investigation**

- a. The site investigation report shall contain conclusions stating the following:
  - (1) How the intended use of the land is compatible with the conditions;
  - (2) Any existing or potential hazards noted during the investigation.
- b. Mitigating recommendations for specific areas of concern shall be included.
- c. Conclusions shall be based on data included in the report, and the sources of information and facts shall be specifically referenced.

**F. STANDARDS FOR BUILDING CONSTRUCTION IN A GH ZONE**

- 1. Building construction shall only be approved under conditions that do not adversely affect geological stability or vegetation. The grading of land and the orientation and design of a building shall avoid creating conditions that will cause erosion or accretion of soil. Where there is some risk of these conditions occurring, a “qualified geological expert” shall certify that the design and control measures will comply with this standard.

2. Construction work shall be scheduled and conducted to avoid erosion and temporary stabilization measures may be needed until permanent installations are accomplished.

**G. STANDARDS FOR AN ACCESS ROUTE IN A GH ZONE.** An access route within a GH Zone shall comply with the following:

1. A road or street shall be stabilized by planking, gravel or pavement as deemed necessary.
2. A roadway shall be built without installation of excessive fill, diversion of water or excessive cuts unless the site investigation determined that such conditions will not be detrimental to the area or create unwarranted maintenance problems or additional hazards.

**H. REGULATIONS NOT A GUARANTEE.** The degree of geological hazard protection afforded by the provisions of this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Greater hazards than those anticipated by these provisions may occur on occasion or the natural hazard may be increased by human or natural causes. The identification of areas subject to geological hazards pursuant to the provisions of this ordinance does not imply that lands outside such areas will be free from such hazards. This ordinance shall not create liability on the part of the County or any officer or employee thereof for any damages that result from reliance on the provisions or designation of this ordinance or any administrative decisions lawfully made thereunder.



## SECTION 4.100 SR SIGNIFICANT RESOURCE COMBINING ZONE

- A. PURPOSE.** The purpose of the Significant Resource (SR) Zone is to protect significant aggregate resources, scenic areas, natural areas, and fish and wildlife habitat in the County, and to permit development which is compatible with such protection.
- B. APPLICATION.** The Significant Resource Combining (SR) Zone shall be applied to those sites designated as significant resource sites via the process set forth in OAR 660-023-0180(3) on the County Comprehensive Plan Goal 5 resource map, and determined to be worthy of full protection or limited protection against conflicting uses. For those sites deemed significant thru the process set forth in OAR 660-023-0180(3) only Site Plan Review is required. Sites deemed significant via the process set forth in OAR 660-023-0180(4) shall be added to the significant resource sites, but are not eligible for protection.” For those sites deemed significant thru the process set forth in OAR 660-023-0180(4) a Conditional Use Permit is required.
1. All activities related to the mining operation, including but not limited to stripping vegetation, removal of soil, drilling, blasting, excavation, processing, stockpiling, and accessory uses such as the installation of scales necessary and consistent with the mining operations (ORS 517.750(11)) are allowed on sites deemed significant aggregate sites.
- C. PERMISSIBLE USES.** Regardless of the use type classification of a specific use in a primary or underlying zone, a use listed in Subsection E of this section as a Conflicting Use shall be processed and approved in compliance with the provisions of this section.
1. **When a decision to fully protect the resource has been made for the significant resource site as indicated in the Comprehensive Plan, no conflicting uses shall be allowed and the site will be fully protected.**
  2. **When a decision for partial resource protection has been made for the significant resource site as indicated in the Comprehensive Plan, any application for a conflicting use or activity listed in Section 4.100.E shall be reviewed according to the requirements below:**
    - a. The applicant shall submit a map(s) of the location of the resource site(s), and a written description(s) of the resource type(s).
    - b. The applicant shall consult with the responsible resource agency listed in Section 4.100.F for the purpose of identifying any limitations on the siting, construction or operation of the proposed use or activity which would reduce or eliminate any negative impacts to the resource site.
    - c. In addition to other applicable requirements of this and other County ordinances, the County shall approve the application only if it can be clearly demonstrated that the proposed use or activity will have no significant negative impact on the resource site, or that the reduced preservation review criteria of Section 4.100.D are met.

3. In a zone with which the SR Zone is combined, marijuana production is permitted only is allowed in the zone regulations for the primary zone, and subject to this section and Article 7.

D. **REDUCED PRESERVATION REVIEW CRITERIA.** The environmental, social, economic and energy consequences (i.e., benefits and costs) of allowing the proposed conflicting use or activity shall be described in sufficient detail to provide a clear demonstration that the applicable criteria below are met.

#### 1. All Significant Resource Sites

- a. The resource site shall not be altered or impacted to the point where it no longer has significant resource value. Such a point would be reached when the altered or impacted site would no longer meet the significant resource requirements used to designate the site in the Comprehensive Plan.
- b. The amount of alteration or impact to the significant resource shall be the minimum necessary to accomplish the purpose of the proposed use or activity.
- c. There shall be no significant loss of habitat for threatened or endangered species of animals or plants as listed by the U.S. Fish and Wildlife Service or the Oregon Department of Fish and Wildlife.
- d. An alternative site for the proposed use or activity, which would have less impact to the resource value of the site, does not exist on the applicant's lot or parcel or on contiguous lots or parcels. For purposes of this section, contiguous means lots or parcels with a common boundary, not separated by a public road, and in which greater than possessory interests are held by the same person, spouse or single partnership or business entity, separately or in tenancy in common.

#### 2. Riparian Vegetation

- a. The criteria of this subsection shall apply within an area of 100 feet measured horizontally from the ordinary high water line of Class I and II Streams inventoried in the County Comprehensive Plan.
- b. Roadways and structures shall not be located within the riparian area defined in 'a' above, unless:
  - (1) For a bridge crossing; or
  - (2) Direct water access is required in conjunction with a water-dependent use; or
  - (3) Because of natural features such as topography, a narrower riparian area protects equivalent habitat values; or

- (4) No amount of riparian vegetation is present; or
  - (5) Roadway access is required for an otherwise approved use.
- c. All trees and at least 50 percent of the understory vegetation shall be retained within areas listed in 'a' above, with the following exceptions:
- (1) Removal of dead, diseased or dying trees or leaning trees which pose an erosion or safety hazard;
  - (2) The mowing, planting or maintenance of existing lawn and pasture, including the control of noxious weeds;
  - (3) Vegetation removal necessary to provide direct access for a water-dependent use, or an otherwise approved use;
  - (4) Structural shoreland stabilization; and
  - (5) Vegetation removal necessary in conjunction with an approved in-water project, such as a bridge.

**3. Mineral and Aggregate Resource Sites.** A conflicting use listed under Subsection E.1 within 1500 feet from a significant mineral or aggregate resource site (active or potential) may be required to establish setbacks in excess of those required in the underlying zone. The required setback shall be determined by the Planning Director after meeting with the applicant and the owner of the mineral resource land to ensure visual and sound screening between present and future resource uses and the proposed conflicting use. Such setback shall be no less than those of the underlying primary zone.

**4. Big Game Range Restrictions**

- a. New structures shall be located as close as possible to adjacent compatible structures (a compatible structure shall be any structure which does not adversely affect the intended use of another structure).
- b. Structures shall share a common access road wherever possible.
- c. Where it is impractical to share a common access road, the dwelling shall be located as close as possible to the nearest existing public road in order to minimize the length of access from the nearest existing public road.
- d. In areas identified as Big Game Winter Range, no dwelling will be authorized where the overall density exceeds one dwelling per 160 acres applicable to each separate contiguous ownership existing on the effective date of this ordinance.
- e. Residential subdivisions shall have clustered dwellings, or be a planned development subject to the provisions of Article 5, Land Development Regulations and Standards.

- f. In no instance shall the minimum lot size or dwelling density provisions of this section allow a smaller lot or parcel size or a greater dwelling density than allowed by the underlying primary zone.
- 5. Sensitive Eagle and Heron Habitat.** Although there are not currently any such identified resource sites within the County outside the boundaries of the Scenic Waterway designation of the John Day River, at such time as such sites are identified and duly designated as such by the County as an amendment to the Goal 5 element of the Plan, the following provisions shall apply.
- a. The proposed use shall not destroy or cause abandonment of the nesting or roosting trees or sites.
  - b. Within 600 feet of an eagle nest site or 300 feet of a heron rookery site, no tree removal, except where authorized by the Forest Practice Act and subsequent adopted Administrative Rules, or other conflicting use shall be allowed unless the Planning Director, after consultation with the Oregon Department of Fish and Wildlife, and in consideration of critical nesting periods, buffer areas and necessary trees for nesting the roosting, finds that the conflicting use will not destroy or reasonably cause the abandonment of the site.

**E. LIST OF CONFLICTING USES AND ACTIVITIES**

**1. Mineral and Aggregate Resources**

- a. Dwellings, except those in conjunction with mining operations.
- b. Parks, playgrounds, campgrounds, hunting and fishing preserves.
- c. Community and neighborhood centers and recreation facilities and establishments.
- d. Schools and day care or nurseries.
- e. Dude Ranch or resort facility.
- f. Commercial residential use.
- g. Tourist or travelers accommodations.
- h. Mobile home park or travel trailer parks.
- i. Vineyards
- j. Wineries
- k. Wind Turbines

2. **Natural Areas** (for natural areas identified as having only wildlife resource elements refer to that resource category)
3. **Big Game Habitat**
  - a. Residential dwellings to include those customarily provided in conjunction with farm or forest uses.
  - b. Campgrounds.
  - c. Highways and roads other than access roads.
  - d. Community centers.
  - e. Golf courses.
  - f. Schools.
4. **Wetlands.** Although there are not currently any such identified resource sites within the County outside the boundaries of the Scenic Waterway designation of the John Day River, at such time as such sites are identified and duly designated as such by the County as an amendment to the Goal 5 element of the Plan, the following shall apply in the initial identification of Conflicting Uses.
  - a. Ditching, draining or diking, usually but not necessarily in conjunction with farm use.
  - b. Fill for any purpose, usually but not necessarily in conjunction with building siting and roadway construction.
  - c. Water withdrawals or impoundments.
5. **Riparian Vegetation**
  - a. Forest products harvesting and associated activities such as road building and log storage.
  - b. Vegetative removal or land cleaning for any use.
6. **Sensitive Bird Habitat**
  - a. Tree removal for any purpose.
  - b. Residential dwellings, to include those customarily provided in conjunction with farm or forest use.
  - c. Solid waste disposal.
  - d. Commercial use in conjunction with farm or forest uses.

**F. RESPONSIBLE RESOURCE AGENCY LIST**

- 1. Energy resources:**
  - a. State Department of Energy.
- 2. Mineral and aggregate resources:**
  - a. County Road Department
  - b. State Highway Department
  - c. Department of Transportation
  - d. Department of Geology and Mineral Industries
- 3. Archaeological resources:**
  - a. County Historical Society
  - b. State Historic Preservation Office
- 4. Historic buildings and sites:**
  - a. County Historical Society
  - b. State Historic Preservation Office
- 5. Parks and recreation scenic waterways:**
  - a. State Parks & Recreation
  - b. State Department of Transportation
- 6. Geothermal resources:**
  - a. Department of Geology and Mineral Industries

**G. HISTORIC BUILDINGS AND SITES**

- 1. Alteration/Demolition Permits.** A permit is required for alteration or demolition of any structure listed in the County Comprehensive Plan inventory of significant historic resources.
  - a. Alteration as governed by this section means any addition to, removal of, or change in the exterior part of a structure and shall include modification of the surface texture,

material, or architectural detail of the exterior part of the structure but shall not include paint color.

- b. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature on any property covered by this section that does not involve a change in design, material, or external appearance thereof. Nor does this section prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the Building Official determines that such emergency action is required for the public safety due to an unsafe or dangerous condition.

## 2. Review Procedure

a. **Application.** A property owner or his authorized agent may initiate a request for a permit for alteration or demolition of an historic structure by filing an application with both the Building Official and the County Planning Department using forms prescribed for the purpose.

b. **Public Review Process.** The Planning Director shall initiate a Type I Conditional Use Permit process on the permit request within 21 days of receipt of such application.

c. **In addition to other notice requirements,** the Planning Director shall send notice to the Gilliam County Historical Society.

### d. Notice

(1) Notice of the permit request and the review thereof shall be given not less than 10 or more than 20 days prior to the date of the response deadline for comments by one publication in a newspaper of general circulation in the area of the specific request.

(2) Written notice of the review shall be mailed to the applicant, the owners of the affected property, the State Historic Preservation Office, and any person requesting notice of demolition or alteration of an historic structure and the Gilliam County Historical Society. Such notice shall be in accordance with the Type I Conditional Use Permit process.

### e. Decision

(1) The Planning Director shall render a decision on an application within 10 days of closure of the review process.

(2) A copy of the decision shall be mailed to the applicant, the owners of the affected property, and other persons specifically requesting such notification within seven (7) days following the decision.

### 3. Planning Director Action

**a. Alteration.** In the case of an application for alteration of an historic structure, the Planning Director shall:

- (1) Approve the request submitted;
- (2) Approve the request with modifications or conditions; or
- (3) Deny the request.

The Director may also refer the application to the Gilliam County Historical Society for review and written recommendations prior to taking such action set forth therein before.

**b. Demolition.** In the case of an application for demolition of an historic structure, the Planning Director shall authorize either:

- (1) Immediate issuance of the permit; or
- (2) Delay of issuance of the permit for up to 120 days.

During this period, the Planning Director and the County Court shall attempt to determine if public or private acquisition and preservation is feasible or if other alternatives are possible which could be carried out to prevent demolition of the site or structure. The Director or the Court may request advice from the County Historical Society.

### 4. Criteria

**a. Exterior Alteration.** The Planning Director shall approve an application if the proposed alteration is determined to be harmonious and compatible with the appearance and character of the historical building and shall disapprove any application if found detrimental as unsightly, grotesque, or adversely affecting the architectural significance, the integrity or historical appearance, or the educational or historical value of the building. The following guidelines apply to exterior alterations to historical buildings:

- (1) **Retention of original construction.** So far as practicable. All original exterior materials and details shall be preserved.
- (2) **Height.** Additional stories may be added to historic buildings provided that:
  - (a) The added height complies with requirements of the Uniform Building Code and the Zoning Ordinance.
  - (b) The added height does not exceed that which was traditional for the style of the building.



- (c) The added height does not alter the traditional scale and proportions of the building style.
  - (d) The added height is visually compatible with adjacent historic buildings.
- (3) **Bulk.** Horizontal additions may be added to historic buildings provided that:
- (i) The bulk of the addition does not exceed that which was traditional for the building style.
  - (ii) The addition maintains the traditional scale and proportion of the building style.
  - (iii) The addition is visually compatible with adjacent historic buildings.
- (4) **Visual Integrity of Structure.** The lines of columns, piers, spandrels, and other primary structural elements shall be maintained so far as is practicable.
- (5) **Scale and Proportion.** The scale and proportion of altered or added building elements, the relationship of voids to solids (windows to wall) shall be visually compatible with the traditional architectural character of the historic building.
- (6) **Materials, Color, and Texture.** The materials, colors, and textures used in the alteration or addition shall be visually compatible with the traditional architectural character of the historic building.
- (7) **Signs, Lighting, and Other Appurtenances.** Signs, exterior lighting, and other appurtenances such as walls, fences, awnings, and landscaping shall be visually compatible with the traditional architectural character of the historic building.
- b. **Demolition.** The Planning Director shall authorize immediate issuance of a demolition permit if all of the following are found:
- (1) The structure cannot be economically rehabilitated;
  - (2) A program or project does not exist which may reasonably result in preservation of the structure;
  - (3) Delay of the permit would result in unnecessary and substantial hardship to the applicant;
  - (4) Issuance of the permit will not act to the substantial detriment of the public welfare considering the significance of the structure and the economic, cultural and energy consequences of demolishing the structure; and
  - (5) Appeals. An appeal of a decision by the Planning Director pursuant to this subsection shall be to the County Planning Commission.

## SECTION 4.110 A-O AIRPORT OVERLAY ZONE

*(Amended April 14, 1999)*

In an Airport Overlay Zone, the requirements and standards for 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.

- A. **PURPOSE.** This overlay zone, delineated by Airport Imaginary Surfaces, applies to properties which lie within the airspace surrounding the Arlington Municipal Airport and the Condon State Airport.

Further, this overlay zone is intended to prevent the establishment of air space obstructions in air approaches through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of Gilliam County.

- B. **COMPLIANCE.** In addition to complying with the provisions of the primary zoning district, uses and activities shall comply with the provisions of this overlay zone. In the event of any conflict between any provisions of this overlay zone and the primary zoning district, the more restrictive provision shall apply.

C. **SPECIAL DEFINITIONS**

1. **Airport Imaginary Surfaces** means those imaginary areas in space which are defined by the Airport Approach Safety Zone, Transitional Zones, Horizontal Zone, Clear Zone and Conical Zone and in which any object extending above these imaginary surfaces is an obstruction.
2. **Airport Approach Safety Zone** means fan-shaped area 20 feet outward for each foot upward (20:1), 250 feet wide beginning 200 feet beyond the end of and at the same elevation as the runway and extending to horizontal distance of 5,000 feet along the extended runway centerline to a width of 1,250 feet.
3. **Airport Hazard** means any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
4. **Approach Surface.** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of 1,500 feet for a runway other than a utility runway having only visual approaches. The Approach Surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward (20:1) for all utility and visual runways.
5. **Conical Surface.** Extends one foot upward for each 20 feet outward (20:1) for the 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the end of the runway at 150 feet above the airport elevation) and upward, extending to a height of 350 feet above the airport elevation.

6. **Horizontal Zone.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each of the primary surfaces of each runway and connecting the adjacent arcs by lines tangent to those arcs.
7. **Noise-Sensitive Area.** Within 1,500 feet of an airport or within established noise contour boundaries exceeding 55 LDN.
8. **Non-towered Airport.** An airport without an existing or approved control tower on June 5, 1995.
9. **Place of Public Assembly** means a structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.
10. **Primary Surface.** A surface longitudinally centered on a runway. For runways with a specially prepared hard surface, the Primary Surface extends 200 feet beyond each end of that runway. The width of the Primary Surface is 250 feet for utility runways having only visual approaches and 500 feet for other than utility runways having only visual approaches with visibility minimums greater than three-fourths of a mile.
11. **Runway Protection Zone (RPZ).** An area off the runway end (formerly the Clear Zone) 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. It begins 200 feet (60 m) beyond the end of the area usable for takeoff or landing. The RPZ dimensions are functions of the type of airport and operations to be conducted on the runway.
12. **Sponsor.** The owner, manager or other person designated to represent the interests of an airport.
13. **Transitional Surface.** Extends seven feet outward for each one foot upward (7:1), beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and from the sides of the Approach Surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).
14. **Transitional Zones.** Extended one foot upward for each seven feet outward (7:1), beginning 125 feet on each side of the runway centerline (Primary Surface) which point is the same elevation as the runway surface, and from the sides of the Approach Surfaces thus extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).
15. **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.
16. **Visual Runway.** A runway that is intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation that has been approved, or planned, or indicated, on an F.A.A. or State planning document or military service airport planning document.

D. **PERMITTED USES WITHIN THE RUNWAY APPROACH ZONE (RPZ)**. While it is desirable to clear all objects from the RPZ, some uses are permitted, provided they do not attract wildlife, are below the Approach Surface, and do not interfere with navigational aids.

1. **Agricultural operations** (other than forestry or livestock farms, (i.e. feed lots).
2. **Golf courses** (but not clubhouses).
3. **Automobile parking facilities.**

E. **PERMITTED USES WITHIN THE AIRPORT APPROACH SAFETY ZONE**

1. **Farm use**, excluding the raising and feeding of animals, which would be adversely affected by aircraft passing overhead.
2. **Landscape nursery, cemetery or recreation areas** which do not include buildings or structures.
3. **Roadways, parking areas and storage yards** located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights or result in glare, or in any way impair visibility in the vicinity of the landing approach. Approach surfaces must clear these areas by a minimum of 15 feet.
4. **Pipeline.**
5. **Underground utility wire.**
6. **In noise-sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 LDN and above for identified airports)** where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land division appeal, deed and mortgage records. In areas where the noise level is anticipated to be 55 LDN and above, **prior to issuance of a building permit for construction of noise-sensitive land use (real property normally used for sleeping or normally used as school, churches, hospitals, or public libraries), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 LDN.** The Planning and Building Department will review building permits or noise-sensitive developments.
7. **No development that attracts or sustains hazardous bird movements from feeding, watering,** or roosting across the runways and/or approach and departure patterns of aircraft. Planning authority shall notify Oregon Aeronautics of such development (e.g., waste disposal sites and wetland enhancements) within the Airport Overlay Zone so as to provide Oregon Aeronautics Division an opportunity to review and comment on the site in accordance with F.A.A. AC 150/5200-33.

**F. CONDITIONAL USES WITHIN THE AIRPORT APPROACH SAFETY ZONE**

- 1. A structure or building accessory to a permitted use.**
- 2. A single-family dwelling, when authorized in the primary zoning district,** provided the landowner signs and records in the deed and mortgage records of Gilliam County a Hold Harmless Agreement and Aviation and Hazard Easement and submits them to the airport sponsor and County Planning Department.
- 3. Commercial and industrial uses,** when authorized in the primary zoning district, provided the use does not result in the following:
  - a.** Creating electrical interference with navigational signals or radio communication between the airport and aircraft.
  - b.** Making it difficult for pilots to distinguish between airport lights or others.
  - c.** Impairing visibility.
  - d.** Creating bird strike hazards.
  - e.** Endangering or interfering with the landing, taking off or maneuvering of aircraft intending to use the airport.
  - f.** Attracting large numbers of people.
- 4. Buildings** and uses of a public works, public service or public utility nature.
- 5. Marijuana production, subject to Marijuana Business standards contained in Article 8.**

**G. PROCEDURES.** An applicant seeking a conditional use under Section F above, shall follow procedures set forth in the Conditional Use section of the Gilliam County Zoning Ordinance. Information accompanying the application shall also include the following:

- 1. Property boundary lines** as they relate to the Airport Imaginary Surfaces;
- 2. Location and height of all existing and proposed buildings,** structures, utility lines and roads; and a
- 3. Statement from the Oregon Aeronautics Division** indicating that the proposed use will not interfere with operation of the landing facility.

## H. LIMITATIONS

1. To meet the standards established in F.A.A. Regulations, Part 77, and LCDC 660-013-0070, Exhibit 1, **no structure shall penetrate into the Airport Imaginary Surfaces as defined above.**
2. **No place of public assembly shall be permitted in the Airport Approach Safety Zone or RPZ.**
3. **No structure or building shall be allowed within the RPZ.**
4. **Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.**
5. **No glare-producing materials shall be used** on the exterior of any structure located within the Airport Approach Safety Zone.
6. **In noise-sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 LDN and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land division appeal, deed and mortgage records. In areas where the noise level is anticipated to be 55 LDN and above, prior to issuance of a building permit for construction of noise-sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals, or public libraries), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 LDN.** The Planning and Building Department will review building permits on noise-sensitive developments.
7. **No development that attracts or sustains hazardous bird movements** from feeding, watering, or roosting across the runways and/or approach and departure patterns of aircraft. Planning authority shall notify Oregon Aeronautics of such development (e.g., waste disposal sites, open water impoundments, and wetland enhancements) within the Airport Overlay Zone so as to provide Oregon Aeronautics Division an opportunity to review and comment on the site in accordance with F.A.A. AC 150/5200-33.
8. **Siting of new industrial uses and the expansion of existing industrial uses is prohibited** where either, as part of regular operations, would cause emissions of smoke, dust or steam that would obscure visibility within airport approach corridors.
9. **Outdoor lighting for new industrial, commercial or recreational uses or the expansion of such uses is limited to prevent light from projecting directly onto an existing runway or taxiway or into existing airport approach corridors except where necessary for safe and convenient air travel.**

10. **The establishment of new water impoundments larger than one-quarter acre in size within the airport boundary and RPZ is prohibited.** Wetland mitigation required for projects located within the airport boundary or RPZ may be authorized within the airport boundary where it is impractical to provide mitigation off-site. Seaplane landing areas are exempt from this prohibition.
11. **The establishment of new landfills near airports, consistent with Department of Environmental Quality (DEQ) rules is prohibited.**
12. **Land use regulations and standards for land use decisions** regarding land use compatibility and other requirements of this code shall consider the effects of mitigation measures or conditions which could reduce the potential for safety risk or incompatibility.

**# end of section #**

## **SECTION 4.120 R-10 RURAL RESIDENTIAL ZONE**

*(added to GCZLDO in 2011, currently there is no land in Gilliam County with this designation)*

In an R-10 Zone the minimum lot size of 10 acres and set forth on the zoning map, and the following regulations shall apply:

- A. APPLICATION:** This zone shall be applied as either a legislative or a quasi-judicial action. When applied as a quasi-judicial action all of the property owners in the area requesting RR designation must sign the application. All necessary material to comply with an exception set forth in OAR 660 Division 4, and the plan amendment procedures set forth in Article 10 of this ordinance shall be submitted with the zone change application.
- B. USES PERMITTED OUTRIGHT.** In an R-10 Zone, the following uses and their accessory uses are permitted outright:
- 1. Single-Family Residential Dwelling, including Modular, Prefabricated and Manufactured Homes.**
  - 2. Utility lines and service facilities necessary for local or community public service**
  - 3. Acquisition of right-of-way for public roads, highways, and other transportation improvements** designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones
  - 4. Construction of a street or road as part of an approved subdivision or land partition** approved consistent with the applicable land division ordinance
- C. CONDITIONAL USES PERMITTED.** In an R-10 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this Section and Article 7 of this Ordinance:
- 1. Family Day Care Center as defined in ORS 418.**
  - 2. Home Occupation or Cottage Industry**
  - 3. Bed and Breakfast Facility**
  - 4. Guest House**
  - 5. Temporary residential dwellings as permitted in Article 4 of this Ordinance**
  - 6. Planned Unit Development**
  - 7. If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.**



D. **DIMENSIONAL STANDARDS**. In an R-10 Zone, the following Dimensional Standards shall apply:

1. The minimum lot size shall be 10 acres
2. Front yard setback shall be a minimum of 30 feet; side yard setback shall be a minimum
3. No building shall exceed a height of 25 feet measured from grade.

**# end of section#**

## **SECTION 4.130 RR-II RURAL RESIDENTIAL II**

*(added/adopted May 5, 2021 via County Ordinance No. 2021-03 ~ applied to area within City of Condon Urban Growth Boundary (UGB) north of Cottonwood Lane, west of highway 19 and east of Brown Lane)*

In an RR-II Zone the following regulations shall apply:

### **A. USES PERMITTED OUTRIGHT**

In a RR-II Zone, the following uses and their accessory uses are permitted when authorized by a zoning/development permit.

1. Single-family dwelling (one per lot/parcel/tract) and attached garage.
  - a. Maximum height of dwelling: 35 feet.
  - b. Manufactured homes are subject to the requirements of Section 8.120 of the Zoning Ordinance.
2. Accessory structures. In addition to a County permit being required for all accessory structures (e.g. barns, sheds, detached garages etc.) all structures in excess of 200 square feet in size also require an Oregon State building permit.
  - a. Height not to exceed 25 feet in height.
  - b. Accessory structure shall be located on same lot as primary residence.
  - c. Accessory means customarily incidental to primary structure.
3. Farm use, subject to conditions and limitations provided herein. No marijuana production, processing, and/or retail. Livestock must be properly caged, fenced or housed and proper sanitation shall be maintained. The total number of livestock allowed on a property is limited by the amount of open area (i.e., area of property excluding all structures and driveways) on the property. The same open area may not be used for two different size animals (e.g., if 10,000 square feet of open area, can only have one horse, not one horse, 8 goats, 40 chickens, and 4 bee colonies). The following are the minimum amounts of open area for various type of animals:
  - a. One horse, cow, llama, or similar large size animal per 10,000 square feet.
  - b. One goat, sheep, or similar medium sized animal per 1,250 square feet.
  - c. One chicken, fowl, rabbit, or similar small animal per 250 square feet.
  - d. One bee colony (one beehive box) per 2,500 square feet. All beehive boxes must be at least 25 feet from all property lines.
4. Normal operation maintenance, repair, and preservation activities of existing transportation facilities.
5. Acquisition of right-of-way for public roads, highways, and other transportation improvements.
6. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements with the existing right of way.

7. Utility lines for local or community public service.
8. Two (2) recreational vehicles per lot/parcel/tract.
  - a. Not to be lived in.
  - b. Not allowed to be dumped on site.

**B. CONDITIONAL USES – TYPE II REVIEW PERMITTED**

In an RR-II Zone the following uses are permitted as conditional uses.

1. Animal Boarding facility.
2. Alterations/expansions of the following nonconforming uses/structures are subject to conditional use review and not Article 6 if such uses were lawfully in existence as of 5/5/2021, the date this section was adopted, and continual maintenance since such date. Expansion is allowed on same lot/parcel/tract as it existed on 5/5/2021.
  - a. Warehousing and outdoor storage.
  - b. Utility facility including but not limited to electrical substation and fiber facilities.

**C. DIMENSIONAL STANDARDS**

In an RR-II Zone, the following Dimensional Standards shall apply:

1. The minimum lot size shall be two (2) acres.
2. Front yard. The front yard shall be a minimum of 20 feet.
3. Side yard. A side yard shall be a minimum of 10 feet.
4. Rear yard. The minimum rear yard shall be 10 feet.
5. For new lots/parcels and new/expanded uses, an applicant must demonstrate feasibility of sufficient on-site sewage disposal prior to final approval for development. Upon annexation to any Gilliam County city and at such time as that city's sewer system becomes available, all dwellings must be connected to the city's wastewater system.
6. Outdoor lighting subject to Article 8.
7. Access subject to Article 8.
  - a. Shall have a 20 feet wide paved apron from state, county, or city roadway.
8. Clear vision areas subject to Article 8.
9. Sign regulations subject to Article 8.
10. Parking subject to Article 8.
11. Fences. A fence or hedge within a front yard or street side yard shall not exceed an elevation six feet above the base or ground elevation.

**#end of section#**

## **SECTION 4.140 RR-III RURAL RESIDENTIAL III**

*(added/adopted June 16, 2021 via County Ordinance No. 2021-04 ~ applied to area known as Dunn's Addition to The City of Condon Assessor Map 04S21E03CC and Map 04S21E0CD)*

In an RR-III Zone the following regulations shall apply:

### **A. USES PERMITTED OUTRIGHT**

In a RR-III Zone, the following uses and their accessory uses are permitted when authorized by a zoning/development permit.

1. Single-family dwelling (one per lot/parcel/tract) and attached garage.
  - a. Maximum height of dwelling: 35 feet.
  - b. Manufactured homes are subject to the requirements of Section 8.120 of the Zoning Ordinance.
2. Accessory structures. In addition to a County permit being required for all accessory structures (e.g. barns, sheds, detached garages etc.) all structures in excess of 200 square feet in size also require an Oregon State building permit.
  - a. Height not to exceed 25 feet in height.
  - b. Accessory structure shall be located on same lot as primary residence.
  - c. Accessory means customarily incidental to primary structure.
3. Farm use, subject to conditions and limitations provided herein. No marijuana production, processing, and/or retail. Livestock must be properly caged, fenced or housed and proper sanitation shall be maintained. The total number of livestock allowed on a property is limited by the amount of open area (i.e. area of property excluding all structures and driveways) on the property. The same open area may not be used for two different size animals (e.g. if 10,000 square feet of open area, can only have one horse, not one horse, 8 goats, 40 chickens, and 4 bee colonies). The following are the minimum amounts of open area for various type of animals:
  - a. One horse, cow, llama, or similar large size animal per 10,000 square feet.
  - b. One goat, sheep, or similar medium sized animal per 1,250 square feet.
  - c. One chicken, fowl, rabbit, or similar small animal per 250 square feet.
  - d. One bee colony (one beehive box) per 2,500 square feet. All beehive boxes must be at least 25 feet from all property lines.
4. Normal operation maintenance, repair and preservation activities of existing transportation facilities.
5. Acquisition of right-of-way for public roads, highways and other transportation improvements.
6. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements with the existing right of way.

7. Utility lines for local or community public service.
8. Two (2) recreational vehicle per lot/parcel/tract.
  - a. Not to be lived in.
  - b. Not allowed to be dumped on site.

**B. CONDITIONAL USES - TYPE II PERMITTED**

In an RR-III Zone the following uses are permitted as conditional uses.

1. Animal Boarding facility.
2. Alterations/expansions of the following nonconforming uses/structures are subject to conditional use review and not Article 6 if such uses were lawfully in existence as of 6/16/2021, the date this section was adopted, and continual maintenance since such date. Expansion is allowed on the same lot/parcel/tract as it existed on 6/16/2021.
  - a. Barns exceeding maximum height requirements
  - b. Veterinary clinics
  - c. Farm and ranch supply
  - d. Storage structure(s)

**C. DIMENSIONAL STANDARDS**

In an RR-III Zone, the following Dimensional Standards shall apply:

1. The minimum lot size shall be the existing lot size at the date this section is adopted. All new parcels in this zone shall be a minimum of ten (10) acres.
2. Front yard. The front yard shall be a minimum of 20 feet.
3. Side yard. A side yard shall be a minimum of 10 feet.
4. Rear yard. The minimum rear yard shall be 10 feet.
5. For new lots/parcels and new/expanded uses, an applicant must demonstrate feasibility of sufficient on-site sewage disposal prior to final approval for development. Upon annexation to any Gilliam County city and at such time as that city's sewer system becomes available, all dwellings must be connected to the city's wastewater system.
6. Outdoor lighting subject to Article 8.
7. Access subject to Article 8.
  - a. Shall have a 20 feet wide paved apron from state, county, or city roadway.
8. Clear vision areas subject to Article 8.
9. Sign regulations subject to Article 8.
10. Parking subject to Article 8.
11. Fences. A fence or hedge within a front yard or street side yard shall not exceed an elevation six feet above the base or ground elevation.

**#end of section#**

## ARTICLE 5. LAND DEVELOPMENT REGULATIONS AND STANDARDS

### SECTION 5.010 – SCOPE OF REGULATIONS

The purpose of this Article is to set forth procedures to be followed for creating and reconfiguring lots and parcels in accordance with provisions of ORS 92, to accomplish the orderly development of land, and promote the public health, safety and general welfare of the county.

No person may subdivide partition, replat or adjust the property lines of any lot or parcel in the unincorporated area of Gilliam County except in accordance with the provisions of this Article.

A. **EXEMPTIONS.** The following land divisions shall be exempt from the land partitioning requirements as set forth by this ordinance and more specifically this Article:

1. A person may not negotiate to sell a lot in a proposed subdivision until a tentative plan has been approved in accordance with the requirements of this Article, and may not sell a lot in a subdivision until the final plat has been approved and has been recorded with the County Clerk.
2. A person may negotiate to sell a parcel in a partition prior to the approval of the tentative plan, but may not sell the parcel until the final plat, if required under the provisions of this Article, has been approved and has been recorded with the County Clerk.
3. A document or instrument dedicating land to public use may not be accepted for recording unless the document or instrument bears the approval of the County Court.
4. Building and sanitation permits will not be issued for any lot in a proposed subdivision or parcel in a proposed partition until the final plat, if required, has been approved and has been recorded with the County Clerk.
  - a. The transfer of one parcel between two adjoining ownerships where an additional parcel is not created and where no new or additional dwellings or other structures are involved, and where the existing ownership reduced in size by the parcel transfer is not reduced below the applicable minimum lot size.
  - b. Partitioning of land by parcels of not less than 160 acres exclusively for agricultural purposes, provided the number of such parcels does not exceed two (2) in any one calendar year, and provided that the total number of such parcels created over a five-year period does not exceed four (4).
  - c. And, except as otherwise provided for in this or other County ordinances, or by State statute, this article does not apply to the sale or leasing of:
    - (1) Apartments or similar space within an apartment building; or
    - (2) Cemetery lots, parcels or units in the County; or
    - (3) Property submitted to the provisions of ORS 94.004 to 94.480 and 94.991 (condominiums).

## SECTION 5.020 – LAWFULLY CREATED LOTS AND PARCELS

A unit of land created by any of the following means is considered to have been lawfully created and may be developed when in compliance with the provisions of this Ordinance:

- A. By filing with the County Clerk** a final plat for a subdivision, partition, replat or condominium, provided the plat is in conformance with land division approval granted by the County. The date the plat is recorded is the date the lots or parcels shown on the plat are considered to have been created.
- B. By deed or land sales contract executed** prior to enactment of any applicable planning, zoning or partitioning ordinances or regulations. The deed or contract must have been dated and signed by the parties to the transaction and contain a separate legal description of the parcel. If the deed or contract contains a description of more than one unit of land, only one parcel shall be recognized unless the description describes lots subject to a recorded subdivision plat, describes parcels that were conveyed separately prior to execution of the deed or contract, or describes parcels that are not contiguous. When only a portion of a parcel was conveyed in this manner, the remainder of the parcel shall also be recognized as being lawfully created. When a strip of land was conveyed for a road, railroad, irrigation canal or similar use, the strip shall serve to have divided the underlying parcel only if it was dedicated in fee simple and fee title interest was conveyed to a separate party. Dedication of an easement or right to use a strip of land for roadway purposes does not divide the underlying parcel.
- C. By a survey map that clearly indicates the existence** of the lot or parcel by map or legal description that was filed with the County Surveyor or County Clerk prior to enactment of any applicable planning, zoning or partitioning ordinances or regulations.
- D. Lawfully Created Lots and Parcels Remain Discrete**
  - 1. A lawfully created lot or parcel will remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law.
- E. Improperly Created Lots and Parcels**
  - 1. Units of land created by any of the following means are not recognized as being lawfully created parcels:
    - a. Units of land created solely to establish a separate tax account, either at the request of a property owner or by the County Assessor for mapping purposes.
    - b. A division of land resulting from a lien foreclosure or foreclosure of a contract for the sale of real property, except the foreclosure of a dwelling that was approved by the county for a relative to assist in the farming operation as authorized by ORS 215.283(1)(e)(B).
    - c. The creation of cemetery lots.

- d. An adjustment of a property line by the relocation of a common boundary that results in the creation of an additional unit of land.
  - e. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other public right-of-way purposes provided that such road or right-of-way complies with the Comprehensive Plan and ORS 215.283(2)(q) to (s). Any property divided by the sale or grant of property for state highway, county road, City Street or other public right-of-way purposes after 1991 shall continue to be considered a single unit of land until such time as a subdivision or partition is approved by the County.
  - f. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment must be approved in accordance with the requirements of Section 713 and recorded in the deed records of the County.
  - g. Surveying of, or recording a deed description of a unit of land in order to define a mining claim or to describe agricultural or forestry or aggregate tracts for resource use.
  - h. Issuance of a mining patent or other lot created by the federal government.
2. No development permits for new uses shall be issued for an improperly created lot or parcel. However, development permits and building permits may be issued for the continued use of a dwelling or other building on an improperly created lot or parcel if:
- a. The dwelling or other building was lawfully established prior to January 1, 2007; and
  - b. The permit does not change or intensify the use of the dwelling or other building.
3. A person who buys a unit of land that is not a lawfully created lot or parcel may bring an individual action against the seller in an appropriate court to recover damages or to obtain equitable relief. The court shall award reasonable attorney fees to the prevailing party in an action under this section. However, if the seller of the property is the County, who involuntarily acquired the unit of land by means of foreclosure under ORS chapter 312 of delinquent tax liens, the person who purchases the property is not entitled to damages or equitable relief.



## **SECTION 5.030 – DETERMINATION OF WHETHER LOT OR PARCEL WAS LAWFULLY CREATED**

An application may be submitted for a determination as to whether a lot or parcel was lawfully created. The application will be reviewed by the Planning Director under the Administrative Review procedures of Section 11.090. The determination will be based on whether the lot or parcel meets the standards in this Section.

## **SECTION 5.040 – VALIDATION OF A UNIT OF LAND**

- A. An application may be submitted to validate a unit of land that was created by a sale before January 1, 2007 that did not comply with the applicable criteria for creation of a lot or parcel. The application shall be accepted, notwithstanding that less than all of the owners of the existing lawfully established lot or parcel have applied for the approval. The application will be reviewed by the Planning Director under the Administrative Review procedures of Section 11.090. The application will be approved if it complies with one of the following:
1. The unit of land is not a lawfully created lot or parcel, but could have complied with the applicable criteria for the creation of a lot or parcel when the unit of land was first sold; or
  2. The County approved a permit, as defined in ORS 215.402, for the construction or placement of a dwelling or other building on the unit of land after the date of the sale that created the unit of land. If the permit was approved for a dwelling, the dwelling must meet the requirements for replacement under Section 4.020.C.10.
- B. The application to validate the unit of land is not subject to minimum lot size requirements.
- C. If the application is approved, a partition plat showing the unit of land shall be recorded within 90 days after the date the County decision to validate the unit of land becomes final. The partition plat shall meet the requirements for final plats in Section 5.170. The unit of land will become a lawfully created parcel upon recordation of the plat.
- D. Validation of a unit of land under this Section does not validate any other unit of land that was previously part of the same lot or parcel.

## SECTION 5.050 - LAND DIVISION APPLICATION REQUIREMENTS

### A. APPLICATION REQUIREMENTS

Applications for subdivisions and partitions shall include the following:

1. Three copies of a tentative subdivision or partition plan containing the information required by Section 5.060.
- B. **One 8½ x 11 drawing** of the proposed partition or subdivision for purposes of providing notice. The drawing shall show the proposed new lots or parcels, their size, and the access to each lot. The drawing may be a reduced copy of the tentative plan or a separate drawing.
- C. **A title report** based on research going back in time without limitation, indicating all easements and encumbrances of record that affect the property, and including graphic depictions of the location of all easements and encumbrances that are of record.
- D. **A statement of the proposed method** of obtaining a potable water supply, sanitation and utilities to serve each lot or parcel.
- E. If a subdivision is proposed to be completed in phases, **a description of the proposed timeframe** for platting and completing improvements for each phase.
- F. **Evidence that the proposed division** will comply with all standards and criteria in Section 5.110.
- G. **Completed application form and application fee.**

## SECTION 5.060 - TENTATIVE PLAN CONTENTS

An application for a land division must include 3 copies of a tentative plan that includes the information listed below. The tentative plan does not need to be prepared by a surveyor, but must be clearly and legibly drawn on white paper to a standard engineer's scale (i.e., 1" = 100', 1" = 400' etc.). The scale used shall be large enough so that all required information is clearly legible. The tentative plan must contain the following:

- A. **The words "Tentative Plan"**, the township, range, section, and tax lot number(s) of the property, the date, north point, and scale of the plan, and the name and address of the person who prepared the plan.
- B. **Approximate courses and distances** of existing property lines and proposed new property lines. Each lot or parcel shall be numbered and the approximate acreage or square footage indicated.
- C. **The location of all existing structures and improvements** on the property, including wells and installed septic systems, with distances to existing and proposed property lines shown.
- D. **All water courses and drainage ways**, and the location of any floodways and flood plains. The approximate location of any other areas which are subject to inundation or storm water overflow should also be shown.
- E. **The location of irrigation canals** and ditches, including points of diversion.
- F. **If the application is for a subdivision**, the tentative plan must include the proposed name of the subdivision. The name shall not duplicate, be similar to, or resemble in pronunciation the name of any other subdivision in the county unless the land is contiguous to and will be divided by the same party that platted the subdivision bearing that name, or unless the applicant files and records the consent of the party that platted the contiguous subdivision. The tentative subdivision plan must continue the lot and block numbers of the subdivision plat of the same name last filed.
- G. **The location of approved usable area(s) for subsurface sewage disposal**, or location of public or community sewer lines and easements.
- H. **The location, width and name of all existing roads** on or abutting the property, and any proposed new roads. The proposed width, length, maximum grade, surface condition, status (county, local access or private), and name or number of any proposed new road must be included. A first and second choice of names for each proposed road should be specified, in accordance with the requirements of the Gilliam County Code. No road may be named with a name that duplicates, is similar to, or is pronounced the same as the name of any existing road in the county, unless the road will be a continuation of the existing road. All reservations or restrictions relating to the roads shall be indicated.

- I. **The location, width and purpose of all existing and proposed easements**, denoted by fine dotted lines. The reference number of all recorded easements shall be noted. All reservations or restrictions relating to the easements shall be indicated.
- J. **The location of all utilities on or abutting the property.**
- K. **Any lot or land area intended to be dedicated** or reserved for public use or common use of the property owners in the partition or subdivision, with the purpose of the reservation clearly labeled.
- L. **Topographic information for any area with slopes exceeding 10 percent.** Contour intervals shall be ten feet or smaller. Topographic information is not required when the property is in the Exclusive Farm Use zone and the proposed parcels will exceed the minimum lot size requirement for the zone.
- M. **The location of any proposed fire protection system**, hydrants or water supply available for fighting fire.
- N. **If a subdivision is proposed to be developed in phases**, each phase shall be clearly delineated and labeled.
- O. **A tentative plan to create parcels less than ten acres in size** within an established urban growth boundary or urban reserve area shall include a Conversion Plan showing how the subject property can be divided and developed at densities allowed by the most likely future city zone, including provisions for right-of-way, street and utility extensions in conformance with the city's future development and transportation plans. The applicant shall submit a copy of the Conversion Plan to the city for comments prior to submitting the tentative plan to the county. The city's comments as to whether the Conversion Plan complies with the city's future development plans shall be submitted with the tentative plan. The tentative plan will not be approved if the city indicates that the division will interfere with future urban development or transportation plans. Existing and future structures and other improvements will be required to be sited on lots or parcels in a location and manner consistent with the Conversion Plan.

## **SECTION 5.070 - LAND DIVISION PROCEDURES**

### **A. TENTATIVE PLAN PROCEDURES**

An application for approval of a tentative plan for a subdivision or partition will be processed under the Administrative Review procedures of Section 11.090.

### **B. NOTICE TO AFFECTED AGENCIES**

Notice of an application for approval of a tentative plan will be sent to city, county, state and federal agencies and special districts that may be affected by the proposed division, asking for their comments and recommendations.

## **SECTION 5.080 - APPROVAL OF TENTATIVE PLAN**

Approval of a tentative plan shall not constitute final acceptance of the final plat for recording, but shall be binding upon the County for the purposes of the preparation of the final plat. The County may require only such changes in the final plat as are necessary for compliance with the conditions of approval of the tentative plan.

## **SECTION 5.090 - EXPIRATION OF TENTATIVE PLAN APPROVAL**

- A. Approval of a tentative plan is valid for two years**, within which time the final plat must be prepared and submitted to the County Planning Department for review. An extension may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period. Notice of a decision to grant an extension shall be provided in accordance with Section 11.150. After two years, or at the end of any extension that has been granted, the tentative plan approval will be void if the final plat has not been submitted.
- B. When approval has been granted to develop a subdivision in phases**, the final plat for the first phase shall be submitted in accordance with the time limitations outlined in (A). The final plat for each subsequent phase shall be submitted within two years of the date the final plat for the previous phase was recorded. An extension may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the two year period. The total time period for submittal of the final plats for all phases of the subdivision shall not exceed ten years from the date of final approval of the tentative plan.



## **SECTION 5.100 - EXPEDITED LAND DIVISIONS**

An applicant for a partition of residentially zoned land inside an urban growth boundary may request that the application be processed according to the standards and procedures for expedited land divisions in ORS 197.360 through 197.380 rather than the procedures in this Section.

## SECTION 5.110 - STANDARDS AND CRITERIA FOR APPROVAL

**A. TENTATIVE PLAN APPROVAL CRITERIA:** The County may approve a tentative plan for a subdivision, partition or replat upon finding that it complies with the following:

- 1. The tentative plan complies with all applicable standards** of the Comprehensive Plan and this Section, meets the minimum lot size, setback and other requirements of the zone in which the property is located, and complies with any other applicable standards of this Ordinance such as Significant Resource Combining Zone dimensional standards. The area to the centerline of a road right-of-way that will be created as part of the land division may be included when calculating the size of a proposed lot or parcel.
- 2. The physical characteristics of the proposed lots or parcels** and the surrounding area will not preclude development for the proposed use, taking into consideration the size and shape of the lots or parcels, topography, soil conditions, and potential hazards such as flood plain, fire danger, landslide potential and pollution.
- 3. Any new roads or other transportation improvements are laid out** so as to conform to any adopted Transportation System Plan and the plats of subdivisions and partitions already approved for adjoining property as to width, general direction and other respects, unless the County determines that it is in the public interest to modify the road pattern. Roads may be required to provide access to adjacent properties when deemed necessary by the County to allow the adjoining land to be developed or divided in conformance with the standards of the zone in which the adjoining property is located. Dead-end roads may serve a maximum of 19 lots.
- 4. All lots or parcels will have at least 25 feet of road frontage** that will provide legal and physically practicable access that complies with the access standards in Section 8.020. The frontage may be on a public road, a private road in a destination resort, an existing nonconforming private road, or a federal road (Bureau of Land Management, US Forest Service). A variance to this standard may be requested if the property that is proposed to be divided does not have road frontage. When phased development is proposed, the access standards must be met for each phase, including adequate turnarounds at the end of the improved portion of any partially completed road, even if the road will later be extended to serve the next phase.
- 5. The traffic generated by the proposed new lots or parcels** will not result in traffic volumes that will reduce the performance standards of a transportation facility below the minimum acceptable level identified in the Transportation System Plan (LOS C). This criterion may be met through a condition of approval requiring improvements to the transportation facility.
- 6. The following standards are met if** access will be provided through a flag lot configuration:
  - a. The flagpole section of the flag lot shall be at least 50 feet, but not more than 60 feet in width.
  - b. No more than one flag lot is permitted to the rear of another lot or parcel.

- c. Access to the rear lot or parcel shall be by way of a driveway located entirely within the flagpole section of the lot or parcel. No re-division or property line adjustment shall be allowed that would alter the status of the flagpole for driveway use unless other access meeting all the requirements of this Ordinance is provided.
  - e. A flag lot may have only one flagpole section.
  - f. Adjoining flagpole sections of flag lots are not allowed.
  - g. The driveway within the flagpole will have at least 75 feet of separation from any other existing driveway.
- 7. Utility easements are provided** abutting roads where necessary to provide services to proposed lots and parcels, and where necessary to allow for development of adjoining lands. Utility easements may be required in other locations if specifically requested by a public utility provider. The easements shall be clearly labeled for their intended purpose on the tentative plan. All utilities serving a proposed division shall be placed underground where the surrounding area is presently developed, or is in the process of developing with underground utilities. For land within an urban growth boundary, utilities shall be placed underground if the county's regulations would require underground utilities.
- 8. Existing improvements** (e.g., septic systems, wells, driveways, etc.) shall be located on the same lot or parcel as the use or structure they serve, unless an easement to allow the improvement to be on a different lot is provided and is shown on the final plat.
- 9. If a lot or parcel that is partially in another county** or the incorporated limits of a city is proposed to be divided, the following regulations apply:
- a. No new lots or parcels shall be created that will be partially inside a city and partially outside. If an existing lot or parcel overlaps a city limits, the property may be divided along the city limits line provided that the portion of the property outside the city meets the standards of this Ordinance.
  - b. No new lots or parcels shall be created that will overlap the county line. If an existing lot or parcel overlaps the county line, the property may be divided along the county line provided the portion in Gilliam County meets the standards of this Ordinance.
- 10. If the tentative plan is for a subdivision, the following additional standards are met:**
- a. The proposed name of the subdivision has been approved by the County Surveyor. The name shall not duplicate, be similar to, or be pronounced the same as the name of any existing subdivision in the county unless the proposed new lots are contiguous to and platted by the same party that platted the subdivision bearing that name, or the party that platted the contiguous subdivision consents in writing to use of the name.

- b. Subdivision block lengths and widths are suitable for the uses contemplated and will not inhibit the proper development of adjoining lands. Block widths shall allow two rows of lots unless exceptional or topographic conditions make this unfeasible. The subdivision shall not use block numbers or letters unless it is a continued phase of a previously recorded subdivision bearing the same name that has previously used block numbers or letters, in which case the lot and block numbers must be continued.

**11. If the subdivision will be developed in phases**, each phase when considered individually shall comply with all standards and criteria in this section.

## SECTION 5.120 – CONDITIONS OF APPROVAL

- A. **In granting approval of a tentative plan**, the County may impose conditions of approval deemed necessary to comply with the requirements of this Ordinance. The recommendations and comments of other public agencies will be considered and may also provide the basis for conditions of approval.
- B. **Conditions may require that substandard roads** leading to the land being divided be improved to the road standards. Any requirement for road improvements or dedication of additional right-of-way will be based on a direct nexus between the level of road impacts that will be caused by the increased traffic generated by the new lots or parcels and the level of road improvements that are required.
- C. **Installation of fire-fighting water supplies may be required** when recommended by the appropriate fire protection agency.
- D. **Conditions may include dedication of land for roads** or other public improvements, in accordance with 5.140.
- E. **Conditions will require that the standards of Section 5.110 be met prior to approval of the final plat.**
- F. **A traffic control device in the form of an easement granted** to the county may be required for the purpose of controlling access to or from a lot or parcel for any of the following reasons:
  - 1. To prevent or limit access to roads.
  - 2. To prevent access to a transportation facility from abutting property that is not part of the subdivision or partition.
  - 3. To prevent access to land unsuitable for development.

Traffic control device easements shall be shown on the final plat and shall include a note prohibiting direct motor vehicle access across the traffic control device easement unless authorized by the road authority having jurisdiction over the adjacent road.

- G. **A condition of approval may require** the provision of areas for school bus stops and turnarounds and mail boxes.
- H. **If the division includes common area(s)** for use as open space, recreation, utility facilities or other purposes, a condition of approval will require evidence of provisions to guarantee ongoing property tax responsibility and maintenance of the area. The common area may be conveyed by leasing or conveying title to a corporation, homeowner's association or other legal entity. The terms of the lease or other instrument of conveyance shall include provisions that guarantee:

1. The continuation of use of the land as common area;
  2. The continuity of property maintenance, including the necessary financial arrangements for such maintenance; and
  3. That the legal entity formed for the joint ownership and maintenance of the common area will not be dissolved, nor will it dispose of any common area by sale or otherwise, except to another legal entity which has been conceived and organized for the purpose of maintaining the common area.
- I. **When approval is granted to allow a subdivision** to be platted and developed in phases, conditions of approval will specify the improvements that must be completed prior to approval of the final plat for each phase.

**SECTION 5.130 – DEDICATION REQUIREMENTS**

The County may require dedication of improvements, lands, or rights-of-way for public purposes as a condition of approval of a land division, subject to the requirements and conditions of this Ordinance and state and federal law.

## SECTION 5.140 - DEDICATION OF LAND FOR PUBLIC USE

- A. Approval of a tentative plan may be conditioned** on the reservation or dedication of land for public use, provided the dedication of the land is reasonably related to a public purpose and the amount of land to be dedicated is roughly proportional to the demand on public services generated by the proposed development. Dedication may be for, but is not limited to, roads, sidewalks, walkways, bikeways, parks and recreation areas, and open space, or easements for slopes or utilities.
- B. Areas reserved or dedicated for parks and recreation areas** shall be of suitable size, dimension, topography, accessibility, and general character for the intended purpose. A developer may improve recreation areas for common and exclusive use of persons residing in a subdivision or partition. However, adequate provisions must be established at the time of final plat approval to guarantee ongoing property tax responsibility for, and permanent maintenance of, the area by owners of the lots or parcels benefited.
- C. Open space may be reserved or dedicated for public use** or common use of persons residing in the subdivision or partition. Areas set aside for the purpose of preserving or restoring them to a pristine condition may not be improved, but shall be maintained, such as for fire prevention or weed control. Adequate provision must be established at the time of final plat approval to guarantee ongoing property tax responsibility and maintenance of lands reserved as passive open space.
- D. If the County, a school district, or other public agency** wishes to acquire a specific portion of a proposed division for a needed public purpose and there is reasonable assurance that steps will be taken to acquire the land, the County may require that those portions of the division be either dedicated for public uses or reserved for public acquisition for a period not to exceed six months from the date of approval of the tentative plan. The final plat may not be submitted for review prior to the final outcome of the negotiations, unless the area that may be acquired is shown as being in public ownership.
- E. All lands or rights-of-way proposed for dedication by the applicant** or required by the County shall be offered for dedication for public use at the time the final plat is filed. Such areas shall be clearly shown on the final plat as dedicated for public or common use purposes.
- F. No document or instrument dedicating land, rights-of-way, or an easement to public use** shall be accepted for recordation unless it has been accepted by the County Court. A title report must accompany the final map or plat describing ownership of the lands affected by the dedication. The County will not accept an offer of dedication for a road unless clear title without encumbrances is established in the title report.
- G. Final deeds for acquisition of land for public purposes** shall be based upon accurate surveys and monuments filed with the County Surveyor and accepted by the County Court.



## **SECTION 5.150 – FINAL PLATS**

- A.** Once a tentative plan has been approved, a final plat shall be prepared consistent with the requirements of ORS 92, ORS 209.250 and any additional requirements of the County Surveyor. Final plats must conform to the tentative plan and any conditions of approval.
- B.** Lots and parcels shall be surveyed and monumented by an Oregon registered professional land surveyor, consistent with the requirements of ORS 92, ORS 209.250 and any additional requirements of the County Surveyor. However, parcels larger than 10 acres that are created outside an urban growth boundary are not required to be surveyed and monumented, provided the approximate acreage of each unsurveyed parcel is shown on the plat and the word “unsurveyed” is placed in bold letters adjacent to the parcel number.
- C.** When presenting the final plat for filing, an extra paper copy must be included if the property contains water rights subject to ORS 92.120(5) or a water right permit.
- D.** Final plats that include the creation of a road shall be accompanied by any written certificates pertaining to improvement assurances or responsibilities, such as a road maintenance agreement.

## **SECTION 5.160 - FINAL PLAT PROCEDURES**

- A.** The final plat shall be submitted to the County Surveyor, who will review the plat for conformance with the requirements of ORS 92 and ORS 209.250, and will sign the plat if all requirements have been met.
- B.** The plat shall be forwarded to the County Assessor, County Treasurer and Planning Director for signature prior to filing the plat with the County Clerk. Final subdivision plats must also be signed by the Judge of the County Court. Plats that include a dedication of land to the public must be signed by the County Court. Granting approval or withholding approval of a final plat by any of the required signatories is not a land use decision or a limited land use decision, as defined in ORS 197.015.
- C.** The Planning Director shall review the final plat for consistency with the approved tentative plan. If the final plat complies with the approval criteria of Section 5.170, the Planning Director will sign the final plat. No additional conditions will be imposed on the final plat. If the Planning Director determines the final plat does not comply with the requirements of Section 5.170 the plat will be returned to the applicant to correct the deficiencies. The corrected plat must be resubmitted for approval prior to expiration of the approval period specified in Section 5.230. The determination of whether the final plat conforms to the tentative plan is not a land use decision or limited land use decision, as defined in ORS 197.015.
- D.** Approval of the final plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained. A subdivision or partition plat may not be recorded unless all ad valorem taxes have been paid, including additional taxes, interest and penalties imposed on land disqualified for any special assessment and all special assessments, fees or other charges required by law to be placed upon the tax roll that have become a lien upon the land or which will become a lien during the tax year, in accordance with ORS 92.095.

## **SECTION 5.170 – APPROVAL CRITERIA FOR FINAL PLATS**

### **A FINAL PLAT MAY BE APPROVED IF ALL OF THE FOLLOWING ARE MET:**

- A. The final plat conforms to the tentative plan** as approved by the County, including compliance with any conditions imposed or modifications required at the time of tentative plan approval.
- B. The final plat was prepared according to applicable specifications of ORS Chapters 92 and 209.**
- C. All public and private roads are named and shown on the final plat.** The surveyed center line and easement width of private roads must be included on the plat.
- D. Unless specifically stated otherwise in the conditions of approval for the tentative plan,** all roads, drainage and other required improvements are completed, unless a bonding agreement has been executed in accordance with the provisions in Section 5.190. Improvements include, but are not limited to, the construction of roads and repair of existing roads and any other public facilities damaged in the development of the partition or subdivision. Where the County is not empowered to inspect and approve public improvements (e.g., improvements to a state highway), written certification of the acceptance by the appropriate agency shall be submitted.
- E. The plat contains a donation to the public of all common improvements** that were required as a condition of the approval of the tentative plan. Public roads and easements for public utilities shall be dedicated without any reservation or restriction other than reversionary rights upon vacation. Land dedicated for public purposes may be provided by dedication on the final plat or by a separate dedication or donation document on a form provided by the county. The County Court must agree to accept any lands dedicated to the public, except utility easements in partition plats may be granted for public and other regulated utility purposes without an acceptance from the Court.
- F. Explanations of all common improvements** required as conditions of approval of the tentative plan have been recorded and referenced on the plat.
- G. If the final plat is for a subdivision, the County has received and accepted:**
  - 1. A certification by a city owned domestic water supply system, or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot or parcel in the proposed division; or
  - 2. A bond, irrevocable letter of credit, contract, or other assurance that a domestic water supply system will be installed by or on behalf of the developer to the lot line of each and every lot or parcel in the division. The amount of any such assurance shall be determined by a registered professional engineer, subject to any change in the amount the County considers necessary; or

3. In lieu of (1) or (2), a statement that no domestic water supply facility will be provided to the purchaser of any lot or parcel in the division, even though a domestic water supply source may exist. A copy of any such statement, signed by the property owner and endorsed by the County, shall be filed with the Real Estate Commissioner and shall be included by the commissioner in any public report made for the division under ORS 92.385. If the making of a public report has been waived or the division is otherwise exempt under the Oregon Subdivision Control Law, the property owner shall deliver a copy of the deed declaration to each prospective purchaser of a lot or parcel in the division at or prior to the signing by the purchaser of the first written agreement for the sale of the lot or parcel. The property owner shall take a signed receipt from the purchaser upon delivery of such a deed declaration, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

**H. If the final plat is for a subdivision, the County has received and accepted:**

1. A certification by a city-owned sewage disposal system, or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon, that a sewage disposal system will be available to the lot line of each and every lot or parcel in the proposed division; or
2. A bond, irrevocable letter of credit, contract, or other assurance will be provided to the County, that a sewage disposal system will be installed to the lot line of each and every lot or parcel in the division. The amount of such assurance shall be determined by a registered professional engineer, subject to any change in the amount as the County considers necessary; or
3. In lieu of (1) or (2), a statement that no sewage disposal facility will be provided to the purchaser of any lot or parcel in the division, where the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal for the division in its evaluation report described in ORS 454.755(1)(b). A copy of any such statement, signed by the developer and endorsed by the County, shall be filed with the Real Estate Commissioner and shall be included by the Commissioner in the public report made for the division under ORS 92.385. If the making of a public report has been waived or the division is otherwise exempt under the Oregon Subdivision Control Law, the property owner shall deliver a copy of the statement to each prospective purchaser of a lot or parcel in the division at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The property owner shall take a signed receipt from the purchaser upon delivery of such a deed declaration, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

- I. **If the subdivision or partition is located** within the boundaries of an irrigation district, drainage district, water control district, water improvement district, or district improvement company, the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.

## SECTION 5.180 – CHANGES TO A RECORDED PLAT

- A. **A recorded plat of a subdivision or partition** may be amended to correct errors by an affidavit of correction in accordance with ORS 92.170.
- B. **A subdivision or partition plat** may be modified or vacated through the replat procedures in Section 5.200. The procedures in ORS 368.326 to 368.366 may be used as an alternative method to vacate a subdivision, part of a subdivision, a public road, public easement or other public property.
- C. **The County has the authority** to review an undeveloped subdivision to determine whether it should be vacated in accordance with the procedures in ORS 92.205 through 92.245.
- D. **Interior lot lines** affecting private property within a subdivision or part of a subdivision may be vacated if the person holding title to the property submits an application with a description of the property proposed to be vacated; a statement of the reasons for requesting the vacation; the names, addresses and notarized signatures of all persons holding any recorded interest in the property; and notarized signatures of either: 1) owners of 60 percent of the land abutting the property proposed to be vacated, or 2) 60 percent of the owners of land abutting the property proposed to be vacated. The Planning Director shall review the application and determine whether the proposed vacation complies with applicable land use regulations and facilitates development of the property. A written report shall then be filed with the Board of Commissioners, who shall determine whether the vacation should be approved. Notice and a public hearing are not required. Vacations of interior lot lines under this subsection shall involve only private property. Proposed vacations involving public property or public roads may be considered by the methods described in Section 5.140.

## **SECTION 5.190 – IMPROVEMENT GUARANTEES AND BONDING REQUIREMENTS**

Before Planning Department approval of a subdivision plat or partition map, the land divider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the County Planner an agreement between himself and the County, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the County may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the land divider. The agreement shall also provide for reimbursement of the County for the cost of inspection by the County which shall not exceed 10 percent of the cost of the improvements to be installed.

**A. The land divider shall file with the agreement, to assure his full and faithful performance thereof, one of the following:**

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the district attorney.
2. A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.
3. Cash.
  - a. Such assurance of full and faithful performance shall be for a sum approved by the County Planner as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of inspection.
  - b. If the land divider fails to carry out provisions of the agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds cost and expense incurred by the County, it shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the County, the land divider shall be liable to the County for the difference.

## **SECTION 5.200 – REPLATS**

- A.** The act of replatting shall allow the reconfiguration of lots or parcels and public easements within a recorded plat, or within a portion of a recorded plat. Upon completion of a replat, the previously platted lots, parcels and easements within the replatted area will be vacated.
- B.** A replat shall not serve to vacate any public road or street or any recorded covenants or restrictions.
- C.** The relocation of a common property line between abutting lots or parcels in a recorded plat may be accomplished through a property line adjustment in accordance with the provisions of Section 5.240 rather than through a replat.
- D.** The vacation of interior lot lines affecting private property within a subdivision or part of a subdivision may be accomplished through the vacation procedures of Section 5.180 rather than through a replat.



## **SECTION 5.210 – REPLAT PROCEDURES**

An application for a replat shall be processed in accordance with the Administrative Review procedures of Section 11.090 and the land division procedures of this Article, with the following additional requirements:

- A.** If a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies and public agencies shall be notified.
  
- B.** An application for a replat that will change the exterior boundary of a recorded plat of a subdivision shall include authorization agreeing to the reconfiguration from the homeowner’s association or governing body of the subdivision, if any.

**SECTION 5.220 – APPROVAL CRITERIA**

- A.** A proposed replat that will result in an increase in the number of lots or parcels in a recorded plat shall comply with all approval criteria for a land division in Section 5.110.
  
- B.** A proposed replat to reconfigure or reduce the number of lots or parcels in a recorded plat shall comply with the approval criteria for a land division in Section 5.110, except in regards to minimum lot size requirements.

## **SECTION 5.230 – RE-APPROVAL OF EXPIRED TENTATIVE PLAN**

County approval of a tentative plan that has expired due to failure to record a final plat shall not be reinstated unless a new application is submitted and complies with all requirements of this Article. However, an application requesting formation of one parcel may be approved if:

- A.** The County issued a land use decision approving the parcel prior to January 1, 1994, and:
  - 1.** A plat implementing the previous land use decision was not recorded; or
  - 2.** A condition of approval of the previously approved land use decision requiring consolidation of adjacent lots or parcels was not complied with by a previous owner of the land.
- B.** An application under this section is not subject to the minimum lot size requirement of the Exclusive Farm Use zone.
- C.** Approval of an application under this section does not affect the legal status of land that is not the subject of the application.

## **SECTION 5.240 – PROPERTY LINE ADJUSTMENTS**

### **A. PURPOSE AND SCOPE**

The purpose of a property line adjustment is to allow the relocation of a known common boundary line between two abutting properties, where no additional lots or parcels are created. Property line adjustments may be permitted in any zone or across zones, or between lots or parcels in a recorded subdivision or partition plat. A property line adjustment is not required for a boundary line agreement to establish the physical location of an existing property boundary, but is required to relocate that boundary.

### **B. PROCEDURE**

1. Applications for property line adjustments shall be processed in accordance with the Administrative review procedures of Section 11.090.
2. A scaled plot plan shall be submitted with an application for a property line adjustment showing:
  - a. All existing property lines;
  - b. The proposed location of the adjusted property line;
  - c. The location of existing buildings, with distances to the existing and the proposed property line;
  - d. The location of septic systems, wells and easements, and their distances from the existing and the proposed property line; and
  - e. The existing size and the proposed size of each lot or parcel, in square feet or acres.
3. All owners of the properties that will be modified by the property line adjustment must sign the application form or a letter of authorization.
4. If the application is approved, the adjusted property line must be surveyed and monumented by an Oregon licensed surveyor in accordance with the procedures of ORS 92, and a survey, complying with ORS 209.250 must be filed with the County Surveyor. However, a survey and monumentation are not required when all parcels will be greater than 10 acres or when the property line adjustment involves the sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right-of-way purposes property, as described in Section 5.140.

5. A survey, if required, must be filed with the County Surveyor within one year of the date of final approval of an application for a property line adjustment. If a survey is not required, a final map shall be submitted within one year of the date of final approval. The survey or map shall be signed by the County Surveyor, Planning Director and County Assessor.
6. Within one year of the date of final approval of an application for a property line adjustment a deed or other instrument of conveyance must be recorded with the County Clerk. The deed or instrument shall contain the names of the parties, the description of the adjusted property line, references to original recorded documents, signatures of all parties with proper acknowledgement, and a reference to the planning application casefile number. If the deed or instrument describes only the area being conveyed from one parcel to the other, a statement shall be included that the conveyance is part of a property line adjustment and the described property is not a separate parcel.
7. If the property line adjustment will result in any portion of a septic system, driveway, utility, or other improvement being located on a different parcel than the structure the improvement serves, an easement granting continued use of the improvement shall be recorded with the County Clerk at the time the deed or other instrument conveying the property is recorded.
8. Prior to filing the final survey or map and recording the instruments of conveyance and any required easements, copies of these documents shall be submitted to the Planning Director for review to determine whether all conditions of approval have been met.

**C. APPROVAL CRITERIA**

**A property line adjustment may be approved if it complies with all of the following:**

1. The existing lots or parcels were lawfully created in accordance with Section 5.020.
2. No new parcels will result from the adjustment;
3. All buildings and improvements (e.g., septic systems, wells, etc.) will comply with the minimum setback requirements from the adjusted property line, unless the building or improvement does not currently comply, in which case the building or improvement shall not be rendered more nonconforming by the adjustment;
4. All adjusted parcels shall be large enough to accommodate a use allowed in the zone where the property is located, including an on-site septic system.
5. For property line adjustments involving parcels in the Exclusive Farm Use zone, if the adjustment will result in any parcel being smaller than the minimum lot size of the zone, the adjustment shall not adversely impact existing or potential resource use of the parcels.

6. Property line adjustments in Exclusive Farm Use zone for the purpose of adjusting percentages of nonproductive soils on a vacant parcel for a zone change or to change the requirements to qualify for a dwelling are prohibited.
7. A property line adjustment for the purpose of transferring a dwelling from one parcel to another is prohibited unless the parcel receiving the dwelling:
  - a. Is in an Exclusive Farm Use zone and has a non-expired land use approval for the dwelling;  
or
  - b. Is in a non-resource zone and does not contain a dwelling.
8. The adjustment shall not result in parcel(s) that overlap a city limit or county line.
9. The adjustment shall not result in the loss of access to any parcel unless alternative access complying with Section 8.020 is provided.
10. The adjustment shall not result in any parcel being reduced in size to less than the minimum lot size of the zone if this would potentially allow the creation of an additional parcel from the parcel being increased in size, unless a restrictive covenant is recorded in the County deed records prohibiting the acreage that was added to the parcel through the adjustment from being considered in the division. For instance, an adjustment between a 6 acre parcel and an 8 acre parcel in the Rural Residential-10 zone, which would result in a 3 acre parcel and an 11 acre parcel, is prohibited unless a deed restriction is recorded prohibiting the 3 acres that were added to the 8 acre parcel from being used to allow the division of the 11 acre parcel, since the average size of the parcels when considered together would be less than the 5-acre minimum.

## **SECTION 5.250 – CREATION OF A PUBLIC STREET OUTSIDE A SUBDIVISION**

- A. The creation of a public street** and the resultant separate land parcels shall be in conformance with requirements for subdivision except, however, the Planning Commission shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:
1. The establishment of the public street is initiated by the City Council or Board of County Commissioners and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
  2. The tract in which the street is to be dedicated is a major partition within an isolated ownership either of not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.
- B. In those cases where approval** of a public street is to be without full compliance with the regulations applicable to subdivision, a copy of a tentative plan and the proposed deed shall be submitted to the County Planner at least five days prior to the Planning Commission meeting at which consideration is desired. The plan, deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Section 5.110 of these regulations, shall be approved with conditions necessary to preserve these standards.

## **SECTION 5.260 – CREATION OF A PRIVATE STREET OUTSIDE A SUBDIVISION**

A street which is created in order to allow the partitioning of land for the purpose of transfer of ownership or building development, whether immediate or future, shall be in the form of a street or road in a subdivision or as provided in Section 5.280 of these regulations, except that a private street to be established by deed without full compliance with these regulations shall be approved by the Planning Commission provided it is the only reasonable method by which the rear portion of an unusually deep land parcel of a size to warrant partitioning into not over two parcels may be provided with access. A copy of the tentative plan to create the street and partition the tract shall be submitted to the County Planner at least five days prior to the Planning Commission meeting at which consideration is desired. The document and such information as may be submitted shall be reviewed by the Planning Commission and, if assurance of adequate utility and vehicular access so indicated, shall be approved.



## **SECTION 5.270 – PRINCIPLES OF ACCEPTABILITY**

A land division, whether by a subdivision, creation of a street, or a partitioning, shall conform to any development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by this ordinance.

**SECTION 5.280 – STREETS**

**A. GENERAL.** The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:

1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

The intent of this section is to manage access to land development to preserve the transportation system in terms of safety, capacity, and function. This ordinance shall apply to all arterials and collectors within Gilliam County and to all properties that abut these roadways.

**B. MINIMUM RIGHT-OF-WAY AND ROADWAY WIDTH.** Unless otherwise indicated on the development plan, the street right-of-way and roadway widths shall not be less than the minimum width in feet shown in the following table, provided requirements meet the adjacent County roadway requirements.

<b>Classification</b>	<b>Right-of-Way Width</b>	<b>Roadway Width<sup>1</sup></b>	<b>Roadway Surface</b>	<b>Shoulder Width</b>	<b>Shoulder Surface</b>
Arterial Street	60-120 ft.	32-40 ft. <sup>2</sup>	Paved	4-8 ft.	Paved
Collector Street	60-80 ft.	24-32 ft.	Paved or Gravel	2-4 ft.	Paved or Gravel
Local Street	60 ft.	24-28 ft.	Paved or Gravel	2-4 ft.	Paved or Gravel
Radius for cul-de-sac turnaround	50 ft.	40 ft.			

<sup>1</sup> Roadway width includes shoulder width.

<sup>2</sup> Roadway width can vary to accommodate passing lanes and/or left-turn refuge lanes.

Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-way may be accepted, ordinarily not less than 50 feet. If necessary, slope easements may be required.

- C. **RESERVE STRIPS.** Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the County under conditions approved by the Planning Commission.
- D. **ALIGNMENT.** As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuations of the centerlines thereof. Staggered street alignment resulting in “T” intersections shall, wherever practical, leave a minimum distance of 200 feet between the centerlines of streets having approximately the same direction and, in no case, shall be less than 100 feet.
- E. **CONNECTIVITY**
1. The road system of proposed subdivisions shall be designed to connect with existing, proposed and planned roads outside of the subdivision as provided in this section.
  2. Whenever a proposed development abuts unplatted land or a future development phase of the same development, road stubs shall be provided to provide access to abutting properties or to logically extend the road system into the surrounding area. All road stubs shall be provided with a temporary turnaround unless specifically exempted by the Gilliam County Roadmaster, and the restoration and extension of the road shall be the responsibility of any future developer of the abutting land.
  3. Minor collector and local residential access roads shall connect with surrounding roads to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation. Connections shall be designed to avoid or minimize through traffic on local roads. Appropriate design and traffic control such as four-way stops and traffic-calming measures are the preferred means of discouraging through traffic.
- F. **INTERSECTION ANGLES.** Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 80 degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line. Ordinarily, the intersection of more than two streets at any one point will not be approved.

## **G. CORNER CLEARANCE**

1. Corner clearance for connections shall meet or exceed the minimum connection spacing requirements for that roadway.
2. New connections shall not be permitted within the functional area of an intersection or interchange as defined by the connection spacing standards of this ordinance, unless no other reasonable access to the property is available.
3. Where no other alternatives exist, the County may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (i.e., right-in/out, right-in only, or right-out only) may be required.

## **H. JOINT AND CROSS ACCESS**

1. Adjacent commercial or office properties classified as major traffic generators (i.e., shopping plazas, office parks) shall provide a cross access drive and pedestrian access to allow circulation between sites.
2. A system of joint-use driveways and cross access easements shall be established wherever feasible and shall incorporate the following:
  - a. A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards.
  - b. A design speed of 10 mph and maximum width of 20 feet to accommodate two-way travel aisles designated to accommodate automobiles, services, and loading vehicles.
  - c. Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive.
  - d. A unified access and circulation system plan for coordinated or shared parking areas is encouraged.
3. Shared parking areas shall be permitted a reduction in required parking spaces if peak demands do not occur at the same time periods.
4. Pursuant to this section, property owners shall:
  - a. Record an easement with the deed allowing cross access to and from other properties served by the joint-use driveways and cross access or service drive;

- b. Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the County and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
  - c. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.
5. The County may reduce required separation distance of access points where they prove impractical, provided all of the following requirements are met:
- a. Joint-access driveways and cross-access easements are provided in accordance with this section.
  - b. The site plan incorporates a unified access and circulation system in accordance with this section.
  - c. The property owner enters into a written agreement with the County, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint-use driveway.
6. The County may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical.

**I. ACCESS CONNECTION AND DRIVEWAY DESIGN**

**1. Driveways shall meet the following standards:**

- a. If the driveway is a one-way-in or one-way-out drive, then the driveway shall be a minimum width of 10 feet and a maximum width of 12 feet and shall have appropriate signage designating the driveway as a one-way connection.
  - b. For two-way access, each lane shall have a minimum width of 10 feet and a maximum width of 12 feet.
2. Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers shall be avoided due to the potential for vehicular weaving conflicts.
3. The length of driveways shall be designed in accordance with the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public road or causing unsafe conflicts with on-site circulation.

**J. REQUIREMENTS FOR PHASED DEVELOPMENT PLANS**

1. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as single properties in relation to the access standards of this ordinance. The number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area are responsible for compliance with the requirements of this ordinance and both shall be cited for any violation.
2. All access must be internalized using the shared circulation system of the principal development or retail center. Driveways shall be designed to avoid queuing across surrounding parking and driving aisles.

**K. NONCONFORMING ACCESS FEATURES**

1. Legal access connections in place as of April 14, 1999, that do not conform with the standards herein are considered nonconforming features and shall be brought into compliance with applicable standards under the following conditions:
  - a. When new access connection permits are requested;
  - b. Change in use or enlargements or improvements that will increase trip generation.

**L. REVERSE FRONTAGE**

1. Lots that front on more than one road shall be required to locate motor vehicle accesses on the road with the lower functional classification.
2. When a residential subdivision is proposed that would abut on an arterial, it shall be designed to provide through lots along the arterial with access from a frontage road or interior local road. Access rights of these lots to the arterial shall be dedicated to Gilliam County and recorded with the deed. A berm or buffer yard may be required at the rear of through lots to buffer residences from traffic on the arterial. The berm or buffer yard shall not be located within the public right-of-way.

- M. LOT WIDTH-TO-DEPTH RATIOS.** To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed 3 times its width (or 4 times its width in rural areas) unless there is a topographical or environmental constraint or an existing man-made feature.

N. **SHARED ACCESS.** Subdivisions with frontage on the State highway system shall be designed into shared access points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served. If access off a secondary road is possible, then access should not be allowed onto the State highway. If access of a secondary road becomes available, then conversion to that access is encouraged, along with closing the State highway access.

O. **VARIANCES TO ACCESS MANAGEMENT STANDARDS**

1. The granting of the variance shall meet the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.
2. Applicants for a variance from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical.

Applicants shall include proof that:

- a. Indirect or restricted access cannot be obtained;
  - b. No engineering or construction solutions can be applied to mitigate the condition; and
  - c. No alternative access is available from a road with a lower functional classification than the primary roadway.
3. No variance shall be granted where such hardship is self-created.

P. **EXISTING STREETS.** Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division.

Q. **HALF STREET.** Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.

R. **CUL-DE-SAC.** A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a circular turnaround. Adjacent County requirements must be followed. Cul-de-sacs or permanent dead-end roads may be used as part of a development plan. However, through roads are encouraged except where topographic, environmental, or existing adjacent land use constraints make connecting roads unfeasible. Where cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other roads, or to neighborhood activity centers, as specified in Section 5.300.

- S. **STREET NAMES.** Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the Planning Commission.
  
- T. **GRADES AND CURVES.** Grades shall not exceed 6 percent on arterials, 10 percent on collector streets or 12 percent on other streets. Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials or 100 feet on other streets, and shall be to an even 10 feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the Planning Commission may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 percent.
  
- U. **STREETS ADJACENT TO RAILROAD RIGHT-OF-WAY.** Wherever the proposed land division contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.
  
- V. **MARGINAL ACCESS STREETS.** Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.
  
- W. **ALLEYS.** Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission. The corners of alley intersections shall have a radius of not less than 12 feet.
  
- X. **ROADWAY OR STREET REQUIREMENTS ON PARTITIONS.** Excluding farm use roads created for access to areas of farm, roads built which create major partitions with one owner or more for the use of home sites must meet the improvement requirements as per Sections 5.260, 5.340 and 5.350.



**Y. FLAG LOT STANDARDS**

1. Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials.
2. Flag lots may be permitted for residential development when necessary to achieve planning objectives, such as reducing direct access to roadways providing internal platted lots with access to a residential road, or preserving natural or historic resources, under the following conditions:
  - a. Flag lot driveways shall be separated by at least twice the minimum frontage requirement of that zoning district.
  - b. The flag driveway shall have a minimum width of 10 feet and a maximum width of 20 feet.
  - c. In no instance shall flag lots constitute more than 10 percent of the total number of building sites in a recorded or unrecorded plat, or three lots or more, whichever is greater.
  - d. The lot area occupied by the flag driveway shall not be counted as part of the required minimum lot area of that zoning district.
  - e. No more than one flag lot shall be permitted per private right-of-way or access easement.

## SECTION 5.290 – PEDESTRIAN AND BICYCLE ACCESS AND FACILITIES

- A. **GENERAL.** The purposes of this section are to provide for safe and convenient pedestrian, bicycle, and vehicular circulation consistent with access management standards and the function of affected streets, to ensure that new development provides on-site streets and accessways that provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided, and which avoids wherever possible levels of automobile traffic which might interfere with or discourage pedestrian or bicycle travel.
- B. **ON-SITE FACILITIES** shall be provided which accommodate safe and convenient pedestrian and bicycle access from within new subdivisions, multi-family developments, planned developments, shopping centers, and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

### 1. Pedestrian Access and Circulation

- a. Single-family residential developments shall generally include streets and access ways.
- b. Sidewalks shall be required along arterials, collectors, and most local streets in urban areas, except that sidewalks are not required along controlled access roadways, such as freeways.
- c. Pedestrian circulation through parking lots should generally be provided in the form of access ways.
- d. Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of hard surface walkways, landscaping, access ways, or similar techniques.

2. **Bicycle Parking.** The development shall include the number and type of bicycle parking facilities required in Section 8.100. The location and design of bicycle parking facilities shall be indicated on the site plan.

### 3. Commercial Development Standards

- a. New commercial buildings, particularly retail shopping and offices, shall be oriented to the road, near or at the setback line. A main entrance shall be oriented to the road. For lots with more than two front yards, the building(s) shall be oriented to the two business roads.
- b. Off-road motor vehicle parking for new commercial developments shall be located at the side or behind the building(s).

## SECTION 5.300 – BLOCKS

- A. **GENERAL.** The length, width and shape of blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.
- B. **SIZE.** No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet. A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exemption.
- C. **EASEMENTS**
1. **Utility Lines.** Easements for sewers, water mains, electric lines or other public utilities shall be dedicated wherever necessary. The easements shall be at least 12 feet wide and centered on lot or parcel lines, except for utility pole tieback easements which may be reduced to 6 feet in width.
  2. **Water Courses.** If a tract is traversed by a water course such as a drainage way, channel or stream there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to the major water courses may be required.
  3. **Cul-de-Sac and Access Ways**
    - a. Where cul-de-sacs are planned, access ways shall be provided connecting the ends of cul-de-sacs to each other, to other roads, or to neighborhood activity centers.
    - b. Access ways for pedestrians and bicyclists shall be 10 feet wide and located within a 20-foot-wide right-of-way or easement. If the roads within the subdivision are lighted, the access ways shall also be lighted. Stairs or switchback paths may be used where grades are steep.
    - c. Access ways for pedestrians and bicyclists shall be provided at mid-block where the block is longer than 600 feet.
    - d. The Hearings Body or Planning Director may determine, based upon evidence in the record, that an access way is impracticable. Such may include but is not limited to:
      - (1) Physical or topographic conditions make an access way connection impractical. Such conditions include but are not limited to extremely steep slopes, wetlands, or other bodies of water where a connection cannot reasonably be provided.
      - (2) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future, considering potential for redevelopment.

- (3) Where accessways would violate provisions of leases, easements, covenants, restrictions, or other agreements existing as of May 1, 1995, that preclude a required accessway connection.

## SECTION 5.310 – BUILDING SITES

- A. **SIZE AND SHAPE.** The size, width, shape and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the residential lot size provisions of the zoning ordinance with the following exceptions:
1. In areas that will not be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality and shall take into consideration problems of sewage disposal, particularly problems of soil structure and water table as related to sewage disposal by septic tank.
  2. Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- B. **ACCESS.** Except as set forth in Section 5.110, each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet.
- C. **THROUGH LOTS AND PARCELS.** Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 feet wide and across which there shall be no right of access may be required along the line of building sites abutting such a traffic artery or other incompatible use.
- D. **LOT AND PARCEL SIDE LINES.** The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.

## **SECTION 5.320 – GRADING OF BUILDING SITES**

Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards.

- A.** Cut slopes shall not exceed one-and-one-half feet horizontally to one foot vertically.
- B.** Fill slopes shall not exceed two feet horizontally to one foot vertically.
- C.** The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.

## **SECTION 5.330 – BUILDING LINES**

If special building setback lines are to be established in a subdivision, they shall be shown on the subdivision plat or, if temporary in nature, they shall be included in the deed restrictions. Existing ordinance setback requirements must be considered.

## **SECTION 5.340 – LARGE BUILDING SITES**

In dividing tracts into large lots or parcels which at some future time are likely to be re-divided, the Planning Commission may require that the blocks be of such a size and shape, be so divided into building sites and contain such site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size.



## **SECTION 5.350 – PARTITIONING FOR FINANCIAL PURPOSES**

- A. Upon application to the Planning Director, said person may grant a special permit authorizing creation of a security interest or leasehold in a parcel of land.
- B. Permits issued under the authority of this section shall be subject to the following limitations and restrictions.
  - 1. A unit of land possessed by a person under the terms of a lease or a security interest, and the remaining parcels, must remain in the legal use that the parcels were at the time the interest became possessory; except the parcel(s) may be put into agricultural or forest uses; but in no case may an additional structure or improvement, except as may be the basis of the security interest, be added to any parcel by the authority of the permit authorized in Subsection A of this section.
  - 2. The permit authorized in Subsection (1) of this section shall only be valid for the time of the lease or the life of the security interest, except when there is a default and foreclosure upon a security interest.
  - 3. At the end of the life of the security interest, if there is no default or foreclosure, or in the case of leaseholds at the end of the lease, the parcels shall be rejoined into a contiguous unit of land under one ownership and, if possible, shall be reunited or combined into a single tax lot. The owner of the property shall be in violation of this ordinance if he has not, within 30 days of the permit becoming void, made written application to the County Assessor for the combination of the parcels into a single tax lot.
- C. The permit issued under this section shall be immediately void if the owner of the property attempts any transfer of the subject parcels, except as provided by the terms of the permit.

## **ARTICLE 6. NONCONFORMING USES**

### **SECTION 6.010 – APPLICABILITY:**

This Section addresses the following types of situations:

#### **A. NONCONFORMING USE**

A use that was lawfully established, but is no longer allowed in the zone in which it is located.

#### **B. NONCONFORMING STRUCTURE**

A dwelling, other building or structure that was lawfully established, but does not comply with the current density, height, location or other standards of the zone in which it is located.

#### **C. NONCONFORMING LOTS AND PARCELS**

Lots or parcels that were lawfully created, but do not meet the current minimum lot size for the zone in which they are located or that do not have frontage on a public road.

## **SECTION 6.020 – CONTINUATION OF NONCONFORMING USE OR STRUCTURE**

Subject to the provisions of ORS 215.130 and the provisions of Sections 6.010 through 6.050 of this ordinance, a nonconforming use or structure may be continue but may not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is not an enlargement or expansion of a nonconforming use. A nonconforming structure which conforms with respect to use may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this ordinance. Changes in ownership, tenancy, or management of a nonconforming use, building or structure are permitted.

## **SECTION 6.030 – DAMAGE OR DESTRUCTION OF A NONCONFORMING STRUCTURE**

If a nonconforming structure is damaged by fire, other casualty, or natural disaster, it may be repaired, restored or replaced with a structure of the same size without compliance with other provisions of this Ordinance when such work commences under an approved permit within one year of the damage. A proposal to increase the size of the structure is considered an alteration, and must comply with the requirements of Subsection 6.080.

**SECTION 6.040 – DISCONTINUATION OF A NONCONFORMING USE**

If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this ordinance.

## **SECTION 6.050 – INTERRUPTION OR ABANDONMENT OF A NONCONFORMING USE**

- A.** If a nonconforming use, other than a mining operation, is interrupted or abandoned for a period of more than one year, the use shall not be resumed unless it conforms to all regulations and provisions of this Ordinance.
  
- B.** A nonconforming surface mining use will not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:
  - 1. The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a state or local exemption from surface mining regulations; and
  - 2. The surface mining use was not inactive for a period of 12 consecutive years or more. For purposes of this subsection, “inactive” means no aggregate materials were excavated, crushed, removed, stockpiled, or sold by the owner or operator of the surface mine.

## **SECTION 6.060 – CHANGE OF NONCONFORMING USE**

**If a nonconforming use is replaced by another use, the new use shall conform to this ordinance.**

### **Alterations to Nonconforming Uses:**

Alteration of a nonconforming use includes, but is not limited to, a change in the type or operating characteristics of the use, an increase in the size of the building in which the use is located, an increase in the amount of property being used, or the relocation of the use to another portion of the parcel. A nonconforming use may not be relocated to another lot or parcel, unless the use will be in conformance with the regulations of the zone to which it is moved. An application for the alteration of a nonconforming use will be reviewed by the Planning Director under the Administrative Review procedures in Section 11.090. The application must show the following:

- A.** The nonconforming status of the use has been verified, as provided in Section 6.120. Such verification may occur either prior to or concurrently with the application to alter the use;
- B.** The use has not been interrupted or abandoned for a period of more than one year, as provided in Section 6.050; and
- C.** The altered use will have no greater adverse impact on the surrounding neighborhood.

## **SECTION 6.070 – DESTRUCTION OF NONCONFORMING USE OR STRUCTURE**

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of its fair market value as indicated by the records of the County Assessor and is not returned to use and in actual operating condition within one year from the date of destruction, a future structure or use on the site shall conform to this ordinance.



## **SECTION 6.080 – ALTERATIONS TO NONCONFORMING STRUCTURES**

An application to replace, remodel or enlarge a nonconforming structure will be reviewed by the Planning Director under the Administrative Review procedures in Section 11.090. Applications will be approved if it complies with the following:

- A. The nonconforming status of the structure has been verified, as provided in Section 6.120. Such verification may occur either prior to or concurrently with the application to enlarge or modify the structure;
- B. The new structure will be no more nonconforming than the existing structure;
- C. The alteration of a nonconforming structure located in a riparian protection area shall not result in any additional riparian area being permanently disturbed, and
- D. There will be no greater adverse impact to the surrounding neighborhood.

## **SECTION 6.090 – COMPLETETION OF STRUCTURE**

Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which construction has commenced prior to the adoption of this ordinance, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the effective date of this ordinance.

## **SECTION 6.100 – EXCEPTION FOR MINOR REPAIR AND REHABILITATION**

Excepting nonconforming uses, activities involving rehabilitation, replacement, minor betterment repair, normal repair and maintenance, improvements and other similar construction activities involving a use permitted within a specified zone are exempt from the zoning permit requirements of this ordinance provided such activities do not change the use or expand the use capacity or level.

## **SECTION 6.110 – NONCONFORMING LOTS AND PARCELS**

A lawfully created lot or parcel that does not meet the minimum lot size for the zone in which it is located is entitled to the same development rights that such a lot or parcel would otherwise have if it met the minimum area dimension requirements. A lawfully created lot or parcel that does not have frontage on a public road is entitled to the same development rights as other lots or parcels in the same zone once legal access meeting the standards of Section 8.020 is obtained.

## **SECTION 6.120 – VERIFICATION OF NONCONFORMING STATUS**

- A. An application to verify whether a use or structure is nonconforming will be reviewed by the Planning Director under the Administrative Review procedure in Section 11.090. The application must be accompanied by the following:
1. Documentation that establishes the approximate date that the use or structure was established;
  2. Proof that the use or structure was lawfully established in compliance with all zoning and permitting requirements in effect at the time it was established;
  3. Evidence detailing the nature and extent of the use or structure at the time it became nonconforming; and
  4. Proof that the use has not been discontinued or abandoned for a period of more than one year, as provided in Section 6.050.
- B. Documentation and proof of the existence, continuity, nature and extent of the use or structure is only required for the 10 year period immediately preceding the date of application for verification of nonconforming status. Documentation showing the use existed and was continued during this time period creates a rebuttable presumption that the use has continued uninterrupted until the date of application. Such documentation is necessary to show compliance with A.4, but is separate from and does not provide evidence that the use was lawfully established as required by A.2.

**SECTION 6.130 – VERIFICATION OF NONCONFORMING LOT OR PARCEL**

An application to verify whether a lot or parcel was lawfully created and is thus nonconforming may be submitted in accordance with Section 5.030.

## **SECTION 6.140 – GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS**

- A. Lawfully created lots and parcels may be developed in accordance with the requirements of the zone in which they are located even if they do not comply with the minimum lot size requirement for the zone.
- B. Lots and parcels that will be dedicated to the public for use as a park, utility site or similar public purpose are exempt from the minimum lot size requirements of the zone, except in the Exclusive Farm Use zone.

## **SECTION 6.150 – GENERAL EXCEPTIONS TO SETBACK REQUIREMENTS**

The following exceptions to setback requirements are authorized for a lot or parcel in any zone:

**A. Front Setback Exceptions:** If there are buildings on both abutting lots which are within 100 feet of the subject property, and the buildings have front setbacks of less than the required depth for the zone, the depth of the front setback for the subject property need not exceed the average depth of the front setbacks of the abutting lots.

**B. Projection from Buildings:**

1. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues may project up to three (3) feet into a required setback.
2. Uncovered terraces, decks or platforms may project or extend into a required setback not more than five (5) feet provided they are no more than thirty (30) inches above grade or ground level.



## **SECTION 6.160 – GENERAL EXCEPTIONS TO HEIGHT REQUIREMENTS**

The following structures or structural parts, unless otherwise specified in the ordinance, are not subject to the height limitations of this ordinance unless the structure will penetrate the airport imaginary surfaces as specified in Section 4.010: chimneys, church spires, belfries, monuments, fire and hose towers, fire observation towers, transmission towers, smokestacks, flagpoles, windmills, water reservoirs and other similar structures.

## **SECTION 6.170 – GOAL EXCEPTIONS**

A Goal exception is a decision to exclude certain land from the requirements of one or more applicable statewide planning goals. An exception is required to rezone land from a Resource zone to a different zone; to change the existing types of uses, densities, or services allowed in a zone or on a parcel; to amend the Transportation System Plan to change the functional classification, capacity or performance standard of a transportation facility; and similar changes. An application for a goal exception shall be processed under the procedures for an amendment in the Comprehensive Plan, and must comply with the requirements for exceptions in OAR 660-004.

## **SECTION 6.180 – EXCEPTIONS FOR PUBLIC PROJECTS**

Nothing in this Ordinance shall be deemed to apply to the maintenance, rehabilitation, repair, and minor betterment activities not considered to have land use impacts, when conducted by a governmental agency or public utility on public property or public facilities. Public works projects authorized or approved by the Board of Commissioners and determined by the Planning Director to be consistent with the long-term objectives of the Comprehensive Plan shall be exempt from the current provisions of this Ordinance. For the purposes of this section, such uses may include water, gas, telephone, and power distribution lines, valve and meter houses, reservoirs, and similar minor facilities allowed in any zone.

## **SECTION 6.190 – AUTHORIZATION OF SIMILAR USES IN NON-RESOURCE ZONES**

The permitted, administrative and conditional uses listed in non-resource zone Sections of the Ordinance identify specific uses that may be conducted in a specific zone. An application may be submitted to allow a land use or activity that is not specifically listed in a Non-resource zone. Such additional uses are not permitted in the Exclusive Farm Use zone. The application will be reviewed by the Planning Commission at a public hearing in accordance with the procedures in Section 11.100. The application may be approved if the proposed use has similar types of impact(s) as the existing list of permitted, administrative or conditional uses. The following criteria shall be used to determine whether the proposed use is similar to other uses listed in the zone:

- A. The proposed use will create no greater impacts on adjacent properties than those uses listed in the zone.
- B. The proposed use is of the same general character as uses listed in the zone, taking into consideration the type, size and nature of buildings and structures, number of employees and customers, hours and days of operation, transportation requirements, parking requirements, and the amount and nature of any emissions that will be generated, such as noise, smoke, odor, glare, vibration, radiation and fumes.<sup>1</sup>

## ARTICLE 7 CONDITIONAL USES

### SECTION 7.010 – AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES

A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this ordinance and this article by action of the Planning Commission or Planning Director. In the case of a use existing prior to the effective date of this ordinance, and classified in this ordinance as a Conditional Use, a change in use or in lot area or an alteration of a Conditional Use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a Conditional Use.

#### **A. GENERAL APPROVAL CRITERIA AND CONDITIONS**

1. In addition to criteria, standards and conditions that may be set forth in a specific Zone, this Article, or other regulations applicable to a specific Conditional Use shall not be approved or permitted unless the following criteria are met. A Conditional Use may be approved on the Condition or Conditions that the applicant obtain and maintain compliance with other permits and approvals required.
  - a. The proposed use shall be in compliance with the applicable Comprehensive Plan designation and policies.
  - b. As applicable, sewage and/or solid waste disposal methods shall be provided in compliance with applicable local, State and Federal regulations.
  - c. Proposal shall be found to be in compliance or conditioned upon compliance with applicable air and noise pollution standards.
  - d. Required access shall be legally established, available, and adequate to serve the proposed use or provisions to provide such evident.
  - e. Public services deemed necessary shall be available or provisions for such provided and no use shall be approved which is found to exceed the carrying capacities of affected public services unless there are provisions to bring such capacities up to the need.
  - f. Proposal shall be in compliance with the applicable standards and limitations of the primary and combining zone as may be applicable.
  - g. No use shall be approved which is found to have a significant adverse impact on resource-carrying capacities unless there are provisions for mitigating such impact.
  - h. No use shall be approved which is found to exceed the carrying capacities of affected public services and facilities.

- i. All required State and Federal permits or approvals have been obtained or will be as a condition of approval.

**2. In addition to specific standards and/or conditions set forth by the applicable zone, this article or some other applicable regulations, other conditions may be imposed that are determined necessary to avoid a detrimental impact, and to otherwise protect the best interests of the surrounding area and the County as a whole. Such conditions may include, but are not limited to, the following:**

- a. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- b. Establishing a special setback or other open space or lot area or dimension.
- c. Limiting the height, size or location of a building or other structure.
- d. Designating the size, number, improvements, location and nature of vehicle access points and parking or loading areas.
- e. Limiting or otherwise designating the number, size, location, height, and lighting of signs and outdoor lighting.
- f. Requiring diking, screening, fencing, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.
- g. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- h. Limiting the term of the Conditional Use Permit to a specific time.
- i. Requiring necessary on-site or off-site improvements and maintenance.
- j. Requiring the holder of a Conditional Use Permit to obtain review, renewal, or reapplication approval of the permit in the event that there is an increase in impact from the use on public facilities beyond that which was projected at the time of initial approval.

**3. The County may terminate a permit in the event that:**

- a. The holder of a Conditional Use Permit, or its parent corporation or any partially or wholly owned subsidiary thereof, subsidiary or joint venture fails to meet Federal, State and/or local regulations for any facility under County jurisdiction.
- b. The applicant or holder of a Conditional Use Permit, or its parent corporation, or any partially or wholly owned subsidiary thereof, subsidiary or joint venture, fails to provide or maintain adequate public facilities.

#### **4. Procedures for Reviewing/Altering Conditional Use Permits:**

- a. Planning Director provides notice of permit review as required by original Conditional Use Permit.
- b. Planning Director schedule a pre-review meeting with permit Holder.
- c. Planning Director prepares staff report and may prepare recommendation upon request of Planning Commission if applicable.
- d. If applicable, schedule Public Hearing with Planning Commission. At hearing Receive public input in accordance with County Hearings Ordinance.
- e. Planning Commission continue hearing to review testimony and permit if necessary.
- f. Planning Commission makes one of the following decisions:
  - (1) Renews Permit as is
  - (2) Renews Permit with alterations
  - (3) Renews Permit conditioned on approval by the Gilliam County Court of any contractual changes required
  - (4) Deny renewal of permit.

#### **5. Information to be relied upon in making decision:**

- a. Testimony from the public
- b. Reports from applicable State and Federal Agencies and those specifically identified by the Planning Director
- c. Reports from Cities in County if applicable
- d. Reports from Citizen Advisory Committee if applicable
- e. Information provided by applicant in the application

## SECTION 7.020 – STANDARDS GOVERNING CONDITIONAL USES

In addition to the standards of the zone in which the conditional use is located and the general standards of this ordinance, conditional uses shall meet the following standards:

### A. CONDITIONAL USES, GENERALLY

1. **Setback.** Requirements are addressed in each individual zone.

### B. CHURCH, HOSPITAL, NURSING HOME, CONVALESCENT HOME, RETIREMENT HOME.

A church, hospital, nursing home, convalescent home, or retirement home may be authorized as a conditional use after consideration of the following factors: sufficient area provided for the building, required yards, and off-street parking (related structures and uses such as a manse, parochial school, or parish house are considered separate principal uses with additional lot area required); location of the site relative to the service area of the church, hospital, or home; probable growth and growth needs; site location relative to land uses in the vicinity; and adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets. A church, hospital, nursing home, convalescent home, retirement home, or related building shall be at least 30 feet from a side or rear lot line.

### C. SCHOOLS

1. **Nursery schools** shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from abutting lots and from a street.
2. **Elementary schools** shall provide a basic site area of five acres plus one additional acre for each 1,100 pupils of predicted ultimate enrollment.
3. **Secondary schools** shall provide a basic site area of 10 acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.

### D. RADIO, TELEVISION TOWER, UTILITY STATION, OR SUBSTATION

1. In a residential zone, all equipment storage on the site shall be within an enclosed building.
2. The use shall be fenced and provided with landscaping.
3. The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.
4. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed, and installed as to minimize their conflict with scenic values.



**E. MANUFACTURED HOME PARK.**

**A manufactured home park may be permitted as a conditional use provided it meets the requirements of Chapter 446, Oregon Revised Statutes, and the Rules and Regulations Governing the Construction and Sanitary Operation of Travelers' Accommodations and Trailer Parks adopted by the Oregon State Board of Health. In addition, the following minimum standards shall apply:**

1. **Parking Space Requirement.** A parking space shall be provided for each manufactured home space on the site. In addition, guest parking spaces shall also be provided in every manufactured home park within 200 feet of the manufactured home spaces served and at a ratio of one parking space for each two manufactured home spaces. Parking spaces shall have durable and dustless surfaces adequately maintained for all-weather use and shall be properly drained.

**F. COMMERCIAL AMUSEMENT ESTABLISHMENT.**

**A commercial amusement establishment may be authorized after consideration of the following factors:**

1. Adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets.
2. Adequacy of off-street parking.
3. Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.

**G. MINING, QUARRYING, OR OTHER EXTRACTION ACTIVITY.**

**A proposal for mining, quarrying or other extraction shall not be approved unless the following standards are met:**

1. Plans and specifications submitted to the County for approval must contain sufficient information to allow the Planning Commission to consider and set standards pertaining to the following:
  - a. Public pedestrian and vehicular access to the facility will be limited
  - b. The approval of any State or Federal agency having jurisdiction has been or will be obtained
  - c. Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as this is practicable, noise, vibration or dust which is injurious to persons or other uses in the vicinity.

**H. AUTOMOBILE WRECKING YARD**

In considering a conditional use application for an automobile wrecking yard, the Planning Commission shall require that it be enclosed by a sight-obscuring fence not less than six (6) feet high.

**I. LIVESTOCK FEED YARD, LIVESTOCK SALES YARD**

1. In considering a conditional use application for a livestock feed yard, the Planning Commission shall require:

- a. That the feed yard be located no closer than 1,000 feet to a lot or parcel in an Recreational Residential (RR), Rural Residential Zone (R-R 10) or any lot or parcel zoned residential
- b. That the feed yard be located no closer than 1,000 feet to a principal highway or major County road as shown on the comprehensive plan
- c. That provisions have been made for adequate drainage and pest control.

2. In addition to any other requirements of this ordinance, the Planning Commission may consider and impose such other requirements as it deems necessary to the health, safety, and welfare of the citizens of the county, including location of the feed lot with respect to prevailing wind patterns and other existing or potential development, and limitation of the number of animals to be kept on the premises.

**J. HOME OCCUPATIONS.**

**When permitted as a Conditional Use and conducted as an accessory use shall be subject to the following limitations as set forth by ORS 215.488:**

1. Will be operated by a resident of the property on which the business is located;
2. Will employ no more than five full- or part-time persons;
3. Will be operated in:
  - a. A dwelling; or
  - b. Other buildings normally associated with uses permitted in the zone in which the property is located.
4. Will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.
5. Nothing in this subsection authorizes the construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.

6. The existence of home occupations shall not be used as justification for a zone change.
7. The County shall review a permit allowing a home occupation under this subsection every 12 months following the date the permit was issued and may continue the permit if the home occupation continues to comply with the requirements of this section.

**K. SOLID WASTE DISPOSAL FACILITY**

**When permitted as a Conditional Use, such a facility shall meet the following standards:**

1. The facility shall have sufficient screening and buffer area between the disposal site and adjacent property considering the size and location of the facility;
2. The facility must not interfere materially with “accepted farming practices” as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm use;
3. The facility shall be conditioned upon the applicant obtaining a solid waste disposal permit from the Oregon Department of Environmental Quality and compliance with the conditions of that permit, and with permit and requirements of any other regulating agency.

**L. RECREATION VEHICLE PARK.**

1. **A recreation vehicle park shall be built to State standards in effect at the time of construction, and any additional conditions set forth in the Commission’s approval prior to occupancy.**
2. **Temporary Workforce Housing.** Utility facilities necessary for public service and power generation facilities 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 OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to OAR 660-033-0130(5). 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.

**M. FARM PARCEL LESS THAN 160 ACRES.**

**May only be approved if found to comply with the following criteria: Constitutes a Commercial Agricultural Enterprises consisting of a farm operation which will:**

1. Will be appropriate for the continuation of existing commercial agricultural enterprises in the area;
2. Will contribute in a substantial way to the existing agricultural economy; and
3. Will help maintain or establish new agricultural processors and established or new farm markets.
4. In the review of such divisions of land less than 100 acres, the following factors shall be addressed in the development of the required findings:
  - a. Farm management plan as applicable;
  - b. That the proposed parcel size is consistent with Commercial Agricultural activity in the area and the proposed parcel is equal to the median farm size within two square miles of the subject property;
  - c. The proposed parcel is of sufficient size and capable of producing the types of crops grown in the area at commercial levels of production, taking into account typical yields of such crops and the marketability thereof commercially;
  - d. That the NRCS soils data regarding soil type, suitability, irrigation needs and availability, and other related factors are sufficient to support the conclusion that the parcel is capable of producing at commercial levels.

**N. ESTABLISHMENT OF A NONFARM DWELLING OR PARCEL IN AN EFU ZONE QUALIFIED.**

**Final approval for an application for the establishment of a nonfarm dwelling on land in an Exclusive Farm Use (EFU) Zone or other zone qualifying as such a zone that is valued at true cash value for farm use under ORS 308.370 shall not be given prior to the County receiving evidence that the subject lot or parcel has been disqualified for valuation at true cash value for farm use as required by ORS 215.236.**

**O. MANUFACTURED HOME AUTHORIZED AS A TEMPORARY RESIDENCE FOR CARE OF A RELATIVE IN CONJUNCTION WITH EXISTING RESIDENTIAL USE**

- 1. As a temporary use in every zone,** the County may, as a Type II Conditional Use, allow one accessory manufactured home dwelling providing that no additions to the manufactured home shall be permitted in conjunction with a primary dwelling with the following findings:
  - a. That an accessory dwelling is necessary to care for or provide custody of an elderly, mentally handicapped, or infirm relative whom a medical doctor certifies is in need of this kind of care or custody.
  - b. Residential utilities and facilities can be provided. Septic feasibility is required prior to approval.
- 2. A temporary use permit** granted under this section is void when the elderly, handicapped, or infirm relative whom the subject of the permit moves to another residence, or is absent from the residence for more than 120 days or leaves the residence with no likelihood of returning. Exception to the 120-day limit can be provided for because of extraordinary circumstances such as extended hospitalization.
- 3. Within 30 days of the permit becoming void or revoked, the accessory manufactured home dwelling shall be removed by the owner of the real property unless otherwise approved by the Commission.**
- 4. The County or designated representative thereof may review permits** issued under this section at any time and may revoke the permits when they are found to be not in compliance.
- 5. Any accessory manufactured home dwelling placed under a permit authorized by this section must be located as close as possible to the primary dwelling.**

**P. MANUFACTURED HOME AUTHORIZED AS A TEMPORARY RESIDENCE ON AN INDIVIDUAL LOT.**  
**A manufactured home may be authorized as a temporary residence as a Type I Conditional Use Permit on an individual lot and shall comply with the following additional provisions:**

1. The manufactured home shall be occupied by the owner of the lot on which the manufactured home is located.
2. A manufactured home shall be placed upon a lot for which a building permit for a housing unit has been obtained.
3. The manufactured home shall be occupied only during a period in which satisfactory progress is being made toward the completion of the housing unit on the same site.
4. Electric, water and sewer utility connections shall be made to the manufactured home.

5. The owner of the lot agrees to remove the manufactured home from the lot not later than eighteen months from the date on which the building permit for the housing unit is issued or not later than two months following the completion of the housing unit, whichever occurs first.
6. The Commission or designated representative thereof may review permits issued under this section at any time and may revoke the permits when they are found to be not in compliance.
7. Any accessory manufactured home dwelling placed under a permit authorized by this section must be located as close as possible to the primary dwelling under construction. Unless there are physical limitations of the land, this should be within 100 feet of said dwelling.
8. In lieu of requirements (Paragraphs 1, 2, 3, and 5 above), a manufactured home may be authorized as a temporary residence on an individual lot for the purpose of residency for an employee on a temporary construction or other job; such occupancy shall not exceed six months in any calendar year.

**Q. CONDITIONAL USES IN EXCLUSIVE FARM USE ZONES**

1. A Type I or Type II Conditional Use in an Exclusive Farm Use Zone may be approved only when the Planning Director or Hearings body finds that the use will not:
  - a. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
  - b. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
2. An applicant for a conditional use in the Exclusive Farm Use Zone may demonstrate that the standards for approval set forth in Subsection A of this section will be satisfied through the imposition of conditions. Any condition so imposed shall be clear and objective.

**R. USE OF EXISTING SOLID WASTE RAIL UNLOADING FACILITY FOR HAZARDOUS WASTE.**

**When permitted as a Conditional Use, such a use shall meet the following standards:**

1. The facility shall not be used to store waste defined as hazardous waste under 40 CFR Part 261 or OAR Chapter 340, Division 101, for a period of more than ten (10) days.
2. The facility shall have sufficient screening and buffer area between the facility and adjacent property considering the size and location of the facility.
3. The facility must not interfere materially with “accepted farming practices” as defined in ORS 215.203(2)(c) on adjacent land devoted to farm uses.
4. The facility shall unload, load, store and transport solid, hazardous and other waste in the manner required by Federal and State law. (Adopted May 4, 1994)

**S. TRANSPORTATION IMPROVEMENTS**

1. Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are:
  - a. Not improvements designated in the Transportation System Plan; or
  - b. Not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and the following standards:
    - (1) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.
    - (2) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife, air and water quality, cultural resources, and scenic qualities.
    - (3) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
    - (4) The project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.
2. If review under this section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for an amendment shall be undertaken prior to or in conjunction with the conditional permit review. (Adopted April 14, 1999)

**T. WIND POWER GENERATION FACILITY SITING REQUIREMENTS**

1. **Purpose.** The Gilliam County Facility Siting Requirements are intended to establish a local conditional use permitting process that is clear, timely, and predictable as well as encompasses important local issues such as the health, safety and welfare of citizens in Gilliam County.
2. **Definitions**
  - a. "Commercial Wind Power Generation." An activity carried out for monetary gain using one or more wind turbine generators that has a combined generating capacity greater than 1 MW.
  - b. "Decommissioning Fund." An adequate financial vehicle dedicated and maintained with appropriate yearly adjustments to assure the money to dismantle the Wind Power Generation Facility and to restore the site to a useful, nonhazardous condition.
  - c. "Wind Power Generation Facility." An energy facility that consists of one or more wind turbines or other such devices and their related or supporting facilities that produce electric power from wind and are:

- (1) Connected to a common switching station; or
- (2) Constructed, maintained, or operated as a group of devices.

d. Energy Facility Siting Council (EFSC) a board of citizens that determines rather a wind facility of 105 MW or more may be built in Oregon.

**3. Procedure.** The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Article 7 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing will not apply to proposed facilities for which EFSC is making the land use decision.

**4. Requirements under the Energy Facility Siting Council.**

If a holder of a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Gilliam County's land use and other ordinances as contained in the site certificate. Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

**5. Wind Power Generation Facility Siting Requirements.** The requirements set out in this section shall apply for the application and review of the siting of a Wind Power Generation Facility and the issuance of a Gilliam County Facility Conditional Use Permit.

**a. The following information shall be provided as part of the application:**

- (1) A general description of the proposed Wind Power Generation Facility,** a tentative construction schedule, the legal description of the property on which the facility will be located, and identification of the general area for all components of the proposed Wind Power Generation Facility, including a map showing the location of components.
- (2) Identification of potential conflicts, if any, with:**
  - (a) Accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm uses;
  - (b) Other resource operations and practices on adjacent lands except for wind power generation facilities on such adjacent lands; and
  - (c) The nature and extent of the proposed facility on the cost of accepted farm or forest practices on surrounding EFU land.



- (3) **A Transportation Plan, with proposed recommendations**, if any, reflecting the guidelines provided in the Gilliam County's Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with the Gilliam County Roadmaster. The plan will designate the size, number, location and nature of vehicle access points.
- (4) **An avian impact monitoring plan.** The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:
- (a) The landowners/farm tenants.
  - (b) Facility owner/operator representative. (Chair)
  - (c) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.
  - (d) Two Gilliam County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Gilliam County Board of Commissioners.
  - (e) U.S. Fish and Wildlife representative, if the agency chooses to participate.
  - (f) Gilliam County Planning Commission member.

If there are no interested residents that are willing to serve on the TAC, this portion of the requirement may be waived. At the request of applicant, this committee requirement may be waived or discontinued by the County.

- (5) **A Covenant Not to Sue** with regard to generally accepted farming practice shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.
- (6) **A fire prevention and emergency response plan** for all phases of the life of the facility. The plan shall address the major concern associated with the terrain, dry conditions, and limited access.
- (7) **An erosion control plan**, developed in consultation with the Gilliam County Road Department. The plan should include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be

satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit.

**(8) A weed control plan** addressing prevention and control of all Gilliam County identified noxious weeds directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

**(9) A socioeconomic impact assessment of the Wind Power Generation Facility,** evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed problematic, decision makers need information about the socioeconomic impacts that are likely to occur.

**(10) The requirements of OAR 660-033-0130(37) will be satisfied.**

**(11) Information pertaining to the impacts of the Wind Power Generation Facility on:**

(a) Wetlands;

(b) Wildlife (all potential species of reasonable concern);

(c) Wildlife habitat;

(d) Criminal activity (vandalism, theft, trespass, etc.) and proposed actions, if any, to avoid, minimize or mitigate negative impacts.

**(12) A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in 6. of this section.**

**b. Gilliam County may impose clear and objective conditions** in accordance with the County Comprehensive Plan, County Development Code and State law, which Gilliam County considers necessary to protect the best interests of the surrounding area, or Gilliam County as a whole.

**c. Prior to commencement of any construction, all other necessary permits shall be obtained,** e.g., Gilliam County Zoning Permit, road access and other permits from the Gilliam County Road Department, and from the Oregon Department of Transportation.

**d. The following setback requirements and restrictions apply to the siting of a facility:**

**The Wind Power Generation Facility shall be on property zoned EFU, and no portion of the facility shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU Zones are not considered zoned for residential use.) Towers shall be set back at a minimum,**

**110% of maximum total turbine height from blade tip height, measured from the centerline of the turbine tower from:**

- (1) Any State, County or Federal right-of-way or the nearest edge of a State, County, or Federal roadway, whichever is closer;**
  - (2) Any right of ingress or egress on the owner's property;**
  - (3) Any overhead utility lines;**
  - (4) All property lines; if adjacent landowner agrees in writing to a lesser distance, this requirement may be waived.**
  - (5) Any existing guy wire, anchor, or small wind energy tower on the property.**
  - (6) Any residence including those outside the project boundary.** If a landowner agrees in writing to a lesser distance, this requirement may be waived.
  - (7) A minimum of 150% of the maximum total turbine height from blade tip height, measured from the centerline of the turbine tower, from federal transmission line.** If affected parties agree in writing to a lesser distance, this requirement may be waived.
- e. Reasonable efforts shall be made to blend the wind facility's towers with the natural surroundings in order to minimize impacts upon open space and the natural landscape.**
  - f. Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.**
  - g. The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.**
  - h. The turbine towers shall be of a size and design to help reduce noise or other detrimental effects.**
  - i. Private access roads shall be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.**
  - j. Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet;** elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.
  - k. Required permanent maintenance/operations buildings shall be located off-site in one of Gilliam County's appropriately zoned areas, except that such a building may be constructed on-site if:**

(1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers; and

(2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of this section.

(a) To the extent feasible, the County will accept information presented by an application for an EFSC proceeding in the form and on the schedule required by EFSC.

**6. Decommissioning/Dismantling Process.** The applicant's dismantling of incomplete construction and/or decommissioning plan for the Wind Power Generation Facility shall be completed and filed with the Planning Department prior to construction and shall include the following information:

**a. A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility** without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section.

**b. A description of actions the facility owner proposes take to restore the site to a useful, no hazardous condition,** including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

**c. A current detailed cost estimate, a comparison of that estimate with present funds set aside for dismantling or decommissioning,** and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and be updated by the facility owner/operator on a 5-year basis.

**d. Restoration of the site shall consist of the following:**

(1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

(2) The underground collection and communication cables need not be removed if 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 or interfering with agricultural use or other consistent resource uses of the land.

(3) Gravel shall be removed from areas surrounding turbine pads.

(4) Access roads shall be removed by removing gravel and restoring the surface grade and soil.

- (5) After removal of the structures and roads, the area shall be graded as close as reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Gilliam County.
  - (6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the landowner is submitted to Gilliam 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.
- e. The applicant (facility owner/operator) shall submit to Gilliam County a bond or letter of credit acceptable to the County, in the amount of the decommissioning fund naming Gilliam County and the landowner as beneficiary or payee.**
- (1) The calculation of present-year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of Commerce, Bureau of Economic Analysis, or any successor agency (the "Index"). The amount of the bond or letter of credit account shall be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased by the cumulative percentage increase. If at any time the Index is no longer published, Gilliam County and the applicant shall select a comparable calculation of present-year dollars. The amount of the bond or letter of credit account shall be prorated within the year to the date of decommissioning.
  - (2) The decommissioning fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility.
  - (3) The facility owner/operator shall describe the status of the decommissioning fund in the annual report submitted to Gilliam County.

- f. If any disputes arise between Gilliam County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request nonbonding arbitration.** Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.
- g. For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this Section.**

## **7. Wind Power Generation Facility Siting Subsequent Requirements**

- a. A bond or letter of credit shall be established for the dismantling of uncompleted construction and/or decommissioning of the facility.** For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.
- b. The actual latitude and longitude location or State plane NAD 83(91) coordinates of each turbine tower, connecting lines, and transmission lines shall be provided to Gilliam County once commercial electrical production begins.**
- c. A summary of as-built changes in the facility from the original plan, if any, shall be provided by the owner/operator.**
  - (1) The Wind Power Generation Facility requirements shall be facility-specific, but can be amended as long as the facility does not exceed the boundaries of the Gilliam County Conditional Use Permit where the original facility was constructed.
  - (2) An amendment to the conditional use permit shall be required if proposed facility changes would:
    - (a) Increase the land area taken out of agricultural production by an additional 20 acres or more;
    - (b) Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;
    - (c) Require an expansion of the established facility boundaries;
    - (d) Increase the number of towers;
    - (e) Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity.

No amendment would be required if an expansion of power-generating capacity is due to technology upgrades installed within the existing boundaries of the established Wind Power Generation Facility. Notification by the facility owner/operator to the Gilliam County Planning Department of non-significant changes is encouraged, but not required. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC.

**d. Within 120 days after the end of each calendar year, the facility owner/operator shall provide Gilliam County an annual report including the following information:**

- (1)** Energy production by month and year.
- (2)** Nonproprietary information about wind conditions (e.g., monthly averages, high wind events, bursts).
- (3)** A summary of changes to the facility that do not require facility requirement amendments.
- (4)** A summary of the avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.
- (5)** Employment impacts to the community and Gilliam County during and after construction.
- (6)** Success or failures of weed control practices.
- (7)** Status of the decommissioning fund.
- (8)** Summary comments – any problems with the projects, any adjustments needed, or any suggestions.
- (9)** For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

The annual report requirement may be discontinued or required at a less frequent schedule by the County. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator.

## **U. SMALL WIND ENERGY SYSTEMS (SWES)**

### **1. Definitions:**

- a. Meteorological tower (met tower)** Defined to include the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes. Booms to hold equipment, anemometers, and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- b. Rotor Diameter** Defined as the cross sectional dimension of the circle swept by the rotating blades.
- c. Small Wind Energy System (SWES)** Defined as a single towered wind energy system that:
  - (1) Is used to generate electricity
  - (2) Has a rated nameplate capacity of 10 Kilowatts or less; and
  - (3) Has a total height of 150 feet or less.
- d. Total Height** Defined as the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- e. Wind energy system** defined as the equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire, or other component used in the system.
- f. Wind Energy System Owner** defined as the individual that owns, or intends to own, the property upon which he/she will operate a SWES in accordance with this section.
- g. Wind Generator** defined as the blades and associated mechanical and electrical conversion components mounted on the tower.
- h. Wind Tower** defined as the monopole; a freestanding or guyed structure that supports a wind generator.

### **2. Applicability**

In order to properly integrate all regulations as defined in section 1. and to regulate such systems in an orderly and comprehensive manner, it is hereby provided that SWES are subject to the regulation set forth in this Section. The purpose of this Section is to oversee the permitting of SWES and to preserve and protect public health and safety and surrounding agriculture lands without significantly increasing the cost or decreasing the efficiency of a SWES. These provisions shall apply to all SWES located in Gilliam County.



### 3. Standards

**a. Setbacks:** A wind tower for a SWES shall be set back a minimum of 110% of maximum total turbine height from blade tip height, measured from the centerline of the turbine tower:

- (1) Any State, County or Federal right-of-way or the nearest edge of a State, County, or Federal roadway, whichever is closer;
- (2) Any right of ingress or egress on the owner's property;
- (3) Any overhead utility lines;
- (4) All property lines; and
- (5) Any existing guy wire, anchor, or small wind energy tower on the property.

### 4. Access

**a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.**

**b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.**

### 5. Electrical Wires

All electrical wires associated with a SWES other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.

### 6. Lighting

A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the SWES, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from abutting properties.

### 7. Appearance, color and finish

The wind generator and wind tower shall remain painted or finished in the color finish that was originally applied by the manufacture.

## **8. Signs**

All signs; other than the manufacture's, installer's identification, appropriate warning signs, or owner identification of a wind generator, wind tower, building, or other structure associated with a SWES visible from any public road shall be prohibited.

## **9. Code Compliance**

A SWES including tower shall comply with all applicable construction and electrical codes.

## **10. Utility Notification and Interconnection**

SWES that connect to the electric utility shall comply with the utilities regulations.

## **11. Attachments**

SWES shall not be attached to any building, including guy wires.

## **12. Met Towers**

Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedure as a SWES.

## **13. Number of SWES**

Each property is eligible for two SWES only. (Reason to limit to two SWES is the intent is for personal use, not to generate power for sale for profit –If a personal SWES does generate power for a farm, home, etc, and excess is sold that is acceptable)

## **14. Abandonment**

- a. A SWES that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Planning Director may issue a Notice of Abandonment to the owner of a SWES that is deemed to have been abandoned. The owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action within 30 days from the date of the notice. The Planning Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the SWES has not been abandoned.
- b. If the SWES is determined to be abandoned, the owner of a SWES shall remove the wind generator from the wind tower at the owner's sole expense within 3 months of the date of Notice of Abandonment. If the owner fails to remove the wind generator from the wind tower, the Planning Director may pursue legal action to have the wind generator removed at the owner's expense.

## **15. Connection to Power Grid**

Any property owner seeking to construct a SWES and connect such system to the main power grid with the capability of transporting energy back to the main power company shall provide notice to the Planning Director of the power company's commitment to receive the power.

## **16. Variances**

Variances to the minimum distances restrictions and standards contained in this section are not permitted.

## **17. Violations**

It is unlawful for any person to construct, install, or operate a SWES that is not in compliance with this Section or with a condition contained in a conditional use permit issued pursuant to this Section.

## **18. Approval procedure**

A SWES shall be processed as a Type I conditional use as set forth in Section 7.030.

# **V. WIRELESS TELECOMMUNICATION FACILITIES**

**1. Application Requirements.** An application for a wireless telecommunications facility shall comply with the following meeting, notice and submittal requirements:

- a. Pre-application Conference. The applicant shall attend a scheduled pre-application conference prior to submission of a land use application. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with the Planning Department staff.
- b. Submittal Requirements. An application for a conditional use permit for a wireless telecommunications facility shall include:
  - (1) A copy of the blank lease form.
  - (2) A copy of the applicant's Federal Communications Commission license.
  - (3) A map that shows the applicant's search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles.

- (4) A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, and any equipment shelter, utility connections, and any fencing proposed to enclose the facility.
- (5) A copy of the design specifications including proposed colors and elevation of an antenna array proposed with the facility.
- (6) An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape.
- (7) A copy of a letter of determination from the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA) whether or not aviation lighting would be required for the proposed facility.

**2. Approval Criteria.** An application for a wireless telecommunications facility will be approved upon findings that:

- a. The facility will not be located on irrigated land.
- b. The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that it has made a good faith effort to co-locate its antenna on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served.
- c. The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residents.
- d. The applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available approved by the Planning Commission.
- e. Required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODA.
- f. The form of lease for the site does not prevent the possibility of co-location of additional wireless telecommunication facilities at the site.

- g. Any tower or monopole shall be designed in a manner that it can carry the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting that statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers.
- h. An approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner, or as set forth in the lease between the landowner and the applicant.

**W. MARIJUANA BUSINESSES**

For standards and approval criteria specific to marijuana businesses (production, processing and retail) see Article 8. Marijuana businesses are still subject to the other sections of this Article.

**X. COMMUNITY GATHERING PLACE**

1. Minimum Lot Size: Same as underlying zone, except 40 acres in the M-L Zone
2. For special events only. Cannot operate as a daily service food emporium. (Restaurant or catering business)
3. Services provided include food and beverages, including alcohol beverages, provided the required licenses are obtained.
4. Adequate domestic water and sanitary waste water collection services are provided on site.
5. Adequate street access, parking and routing aisles must be provided. Roadways and parking lots must be graveled or paved and dust kept to a minimum.
6. Outside lighting must be provided and designed to not shine directly on adjacent properties and to shield glare.
7. Hours of operation restrictions may be imposed as a condition of approval to ensure compatibility with adjacent uses.

**#End of Section#**

## **SECTION 7.030 – CONDITIONAL USE PROCESSING, TYPE I**

- A. The Planning Director shall, within five (5) days of the receipt of a complete application for a Type I conditional use, provide individual written notice of such applications as required by Section 11.140 of this ordinance.**
1. Provide for a minimum of ten (10) days for all such persons, parties, and owners to respond relative to the subject application;
  2. Explain the nature of the application and the proposed use or uses which could be authorized;
  3. List the applicable criteria from the ordinance and the plan that apply to the application at issue;
  4. Include the name of a local government representative contact and the telephone number where additional information may be obtained;
  5. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
- B. If no objection is received within the response period, the Planning Director may take action on the subject application for approval, approval with amendments or conditions, denial, or referral to the Planning Commission for public hearing. If one or more objections are received within the response period, the Planning Director may refer the application to the Planning Commission for public hearing.**
- C. Notwithstanding the provisions of Section 7.030.A-C, the Planning Director, at his or her discretion, may refer review of the application to a Conditional Use, Type II, review pursuant to Section 7.040 of this ordinance.**

**SECTION 7.040 – CONDITIONAL USE, TYPE II.**

An application for Conditional Use, Type II, shall be subject to review pursuant to the public hearing requirements set forth in Ordinance 87-3 and the notice requirements set forth in Section 11.140 of this ordinance.

## SECTION 7.050 – TIME LIMIT ON A CONDITIONAL USE PERMIT AND/OR DESIGN REVIEW PLAN

- A. Final Approval – Expiration.** Unless otherwise approved in the initial approval by the reviewing authority, the authorization and approval of a Conditional Use Permit and/or a Design Review Plan shall be null and void after two years or such other time as may be specified from the date of final approval unless a building permit has been obtained and construction and/or site improvements have commenced, or other evidence of substantial development, compliance, and/or investment is clearly evident. The Planning Commission may grant an extension not to exceed one year.
- B. Time Limitation on Transportation-Related Conditional Use Permits.** Authorization of a conditional use shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.
- C. Issuance of a Conditional Use Permit and/or approval of Design Review Plan** shall confer no right to the applicant beyond the time period for which it was issued or approved.
- D. If the conditions applicable to a Conditional Use Permit and/or a Design Review Plan are not fulfilled within time limits** set forth in Subsection (1) of this section in lieu thereof, the Planning Commission may revoke said permit and/or plan approval after giving notice to the applicant, affected property owners, and other “affected” persons or parties, and upon holding a public hearing to make a determination of noncompliance.
- E. If a permit approval is revoked for such noncompliance,** or if the permit is declared null and void as set forth in Subsection (1) of this Section, renewal of such permit may only be achieved by submittal of a new application, payment of the applicable filing fee, and processing of such application as an original application pursuant to the provisions of this Article. Such application shall be subject to any and all regulations in effect on the date of receipt of a new application.
- F. Limitations on Re-filing-No reapplication for an amendment to the text of this ordinance, a zoning map, or a variance, conditional use, or temporary use by a property owner,** which has been denied wholly or in part by the Planning Commission or County Court, shall be considered by the Planning Commission within a 6-month period immediately following the denial of such application. However, if in the opinion of the Planning Commission, new evidence or a change in circumstances warrants such reapplication in a lesser time, the Commission may permit a new application



## **SECTION 7.060 – PERMIT AND IMPROVEMENTS ASSURANCE**

The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission standards established and the conditions attached in granting a Conditional Use Permit.

## **ARTICLE 8. SUPPLEMENTARY PROVISIONS**

### **SECTION 8.010 – AUTHORIZATION OF SIMILAR USES**

The Planning Director or the Planning Commission may permit in a particular zone a use not listed in this ordinance, provided the use is of the same general type as the uses permitted in a zone of this ordinance.

## **SECTION 8.020 ACCESS**

- A.** Except as modified in this section, every lot shall abut a street, other than an alley, for at least 25 feet.
  
- B.** In the EFU and R-C zones, a lot may abut upon a private easement for a width of at least 25 feet provided that the Planning Director or the Planning Commission grants approval upon making a finding that the private easement is of adequate width, alignment, grade, and restricted length to afford the same degree of public safety as a public street and that unusual circumstances make extension of the public street system impractical.

## **SECTION 8.030 CLEAR VISION AREAS**

- A.** In all zones, a clear-vision area shall be maintained on the corners of all property at the intersection of two roads, a road and a driveway, or a road and a railroad. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet (3½) in height, measured from the established road centerline grade, except for authorized road signs and cyclone or other open construction fences, which permit clear vision through the triangular area. Trees may be located in this area as long as all branches and foliage are removed to a height of eight (8) feet above the grade.
  
- B.** A clear-vision area shall consist of a triangular area, two sides of which are lot lines intersecting at the corner of the lot, and the third side of which is a line across the corner of the lot joining the non-intersection ends of the other two sides. For purposes of this section, lot lines shall be considered to be the edge of the right-of-way.
  
- C.** Any side of the triangular clear-vision area adjacent to a road, railroad, or access drive to a parking area shall be at least 30 feet. Any side of the clear-vision area adjacent to a residential driveway shall be at least 15 feet.

## **SECTION 8.040 – OUTDOOR LIGHTING STANDARDS**

**All outdoor lighting, including for accessory facilities and the lighting of commercial signs, shall comply with the following:**

- A.** Any outdoor light shall be shielded to illuminate downward.
- B.** The outdoor light source (bulb or element) shall not be visible at or beyond the property line.
- C.** Outdoor lights shall not exceed the height limit of the zone where the light will be located.
- D.** Structures over 50 feet in height shall not be lighted unless required to be lighted by the Federal Aviation Administration (F.A.A.). Structures over 50 feet in height, that are required to be lighted by F.A.A. shall be shielded to illuminate upward.

## SECTION 8.050 – SIGN REGULATIONS

The following regulations shall apply to any sign erected, moved, or altered after adoption of this Ordinance. Official traffic control signs and instruments of the state, county, or municipality are exempt from all provisions of this Section.

- A. **All outdoor advertising signs** shall be in compliance with the provision of ORS Chapter 377 when applicable.
- B. **No outdoor advertising sign permitted by ORS 377** shall be erected within 100 feet of a residential dwelling without written consent of the owner and/or occupant of said dwelling.
- C. **No sign shall be placed in a manner that will interfere with visibility** or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.
- D. **No sign shall cause glare, distraction or other driving hazards**, or by position, shape, color or other characteristic be similar to any traffic signal.
- E. **Light from a sign shall be directed away from roads and adjacent parcels.** The light source shall be shielded to illuminate downward and the light source shall not be visible beyond the property line or parcel on which the sign is located. No sign may incorporate a bare incandescent bulb with wattage exceeding 20 watts, except as a shielded indirect light source. Illuminated signs require an electrical permit.
- F. **Sign structures may be placed within the required setbacks** from property lines provided they comply with the vision clearance standards of Section 8.030, but may not be placed within or overhang a dedicated right-of-way unless a permit approving the location has been issued by the Oregon Department of Transportation or County Road Master.
- G. **No sign may be situated in a manner that results in the blanketing of an existing sign.**
- H. **Prohibited Signs**-The following types of signs are allowed in commercial, industrial and service community zones, but are prohibited in all other zones:
  - 1. Moving or flashing signs or signs which incorporate video or fiber optic displays or other mediums that display changing or moving text or images.
  - 2. Anchored balloon or other inflatable signs.
  - 3. Roof-mounted signs.

## **I. Sign Size Standards**

Sign area shall be calculated based on the overall dimensions of all panels that display messages. When the sign message is not mounted on a panel, the sign area shall be calculated by drawing a regular geometric shape around the message area. For signs that are incorporated into murals, awnings and similar architectural features, only the portion of the sign considered to contain a message will be calculated as sign area. Signs shall meet the following size standards:

- 1.** Free-standing signs shall not exceed 35 feet or the height limit of the zone, whichever is less.
- 2.** Signs mounted above an entrance to a building shall have a minimum ground clearance of eight feet.
- 3.** Building-mounted signs shall not extend more than one foot above the exterior wall of the building.
- 4.** Temporary signs that are 32 square feet or smaller are permitted in any zone.
- 5.** In the Exclusive Farm Use zone, one or more signs with a combined total area not exceeding 32 square feet are permitted on any tract. No more than one free-standing sign is permitted per parcel.
- 6.** In the Airport Development, Limited Industrial and General Industrial zones, one or more signs with a combined total area not exceeding 300 square feet are permitted on any parcel. No individual sign shall exceed 150 square feet in area. No more than one free-standing sign is permitted per parcel.
- 7.** In all other zones not specified in subsection 6, one or more signs with a combined total area not exceeding eight square feet are permitted on any parcel.

## **SECTION 8.060 – GENERAL PROVISIONS REGARDING ACCESSORY USES**

An accessory use shall comply with all requirements for a principal use, except as this ordinance specifically allows to the contrary, and shall comply with the following limitations:

- A.** A side yard or rear yard may be reduced to three feet for an accessory structure erected more than 65 feet from a street other than an alley, provided the structure is detached from other buildings by five feet or more and does not exceed a height of one story nor an area of 450 square feet.
  
- B.** Boats and trailers, travel trailers, pickup campers or coaches, motorized dwellings, and similar recreation equipment may be stored but not occupied on a lot as an accessory use to a dwelling in any zone provided that:
  - 1. In an R-C and the R-R zone, parking or storage in a front yard or in a side yard abutting a street other than an alley shall be permitted only on a driveway.
  
  - 2. Parking or storage shall be at least three (3) feet from an interior side lot line.



## **SECTION 8.070 – PROJECTIONS FROM BUILDINGS**

Architectural features such as cornices, eaves, canopies, sun shades, gutters, chimneys, and flues shall not project more than three feet into a required yard.

## **SECTION 8.080 – GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS**

If a lot or the aggregate of contiguous lots held in a single ownership, as recorded in the office of the County Clerk at the time of the passage of this ordinance, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, provided that, if there is an area deficiency, residential use shall be limited to a single-family dwelling.

## **SECTION 8.090 – GENERAL EXCEPTIONS TO YARD REQUIREMENTS**

**The following exceptions to yard requirements are authorized for a lot in any zone:**

- A.** If there are buildings on both abutting lots which are within 100 feet of the intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
  
- B.** If there is a building on one abutting lot which is within 100 feet of the lot, and this building has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the front yard of the abutting lot and the required front yard depth.

## SECTION 8.100 – OFF-STREET PARKING REQUIREMENTS

At the time of construction, reconstruction, or enlargement of a structure, or at the time a use is changed in any zone, off-street parking spaces shall be provided as required in accordance with standards required below:

### A. NUMBER OF PARKING SPACES REQUIRED

1. The minimum number of parking spaces required for various uses is shown in this section. Square feet specifications refer to the floor area of the building containing the use. In addition to these requirements, one space is required per employee working on the premises during the largest anticipated shift at peak season, including proprietors.

<u>USE</u>	<u>NUMBER OF SPACES</u>
Residential	2 spaces per dwelling unit
Visitor-oriented Accommodations	1 space per guest unit
Nursing Home, Hospital	1 space per 3 beds
Retail store, general merchandise	1 space per 200 square feet
Retail store, bulk merchandise	1 space per 400 square feet
Eating and drinking establishment	1 space per 2 seats
Office, medical	1 space per 200 square feet
Office, financial and other businesses	1 space per 400 square feet
Industrial or manufacturing use	2 spaces
Public Assembly, church, meeting hall	1 space per 2 seats
Public Assembly, school	1 space per 4 feet of bleacher seating in gymnasium or ball field, whichever is greater

2. Parking requirements for uses not specified in (A) shall be based on the listed use that is most similar to the proposed use. If no use listed in (A) is similar to the proposed use, the applicant shall submit a parking study that includes an estimate of the parking demand based on recommendations of the Institute of Traffic Engineers or similar data.
3. Accessible (ADA) parking spaces shall be provided in accordance with current state Structural Specialty Code and ODOT adopted standards.
4. In the event several uses occupy a single structure or parcel of land, the number of required spaces shall be the total of the requirements for all of the uses.
5. Uses that require more than ten parking spaces shall include an area designated for bicycle parking, with bike racks that will accommodate at least one bicycle for each ten vehicle parking spaces. The bicycle parking area may be in the same location as the vehicle parking spaces or may be located closer to the building entrance or use.

## **B. LOCATION OF OFF-STREET PARKING**

1. Required parking spaces for residential uses shall be located on the same lot or parcel as the dwelling unit, but shall not be located in the front setback except within an approved driveway.
2. Parking spaces for non-residential uses may be located on a different lot or parcel than the use they will serve, subject to compliance with the following:
  - a. The parking area shall be within 500 feet, measured in a straight line, from the primary entrance of the building or use the parking area will serve.
  - b. The lot or parcel where the parking area will be located shall be in the same zone as the use that the parking area will serve, or may be in a different zone provided the use that the parking area will serve is permitted in that zone. Parking areas shall not be located in a zone that does not allow the use that the parking area will serve.
  - c. If the lot or parcel where the parking will be provided is under different ownership than the parcel on which the proposed use will be located, evidence shall be submitted that a written agreement, lease or contract authorizing the parking has been recorded in the County deed records. The contract shall specify the area that may be used for parking and contain provisions outlining responsibility for maintenance. The contract may not be terminated unless alternative parking in compliance with the requirements of this section is provided or the use that required the parking no longer exists.
  - d. Accessible (ADA) parking spaces may not be located off-site.
3. Parking spaces shall not be located in a clear-vision area or within an area that is required to be landscaped.
4. Parking within a public right-of-way is prohibited unless written approval from the County Road Master is submitted.

## **C. GENERAL STANDARDS**

1. Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by shared use of the same parking or loading spaces, provided the owners or operators of the uses, structures or parcels attest that their operations and parking needs do not overlap at any point of time. Shared parking spaces that are not on the same lot or parcel as all of the uses that will utilize the spaces shall meet the locational requirements of Section B.
2. Use of Parking Facilities. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business.

3. The minimum size of each parking space shall be 9' x 15'.
4. All run-off generated by the parking area shall be collected and retained on-site. A drainage plan shall be submitted as part of a proposal for any parking area that will have an impervious surface and more than five spaces.
5. Any lighting used to illuminate off-street parking areas shall be arranged so that it will not project light rays directly upon any adjoining property in a residential zone.
6. Except for single-family and duplex dwellings, groups of more than three (3) parking spaces shall be so located and served by a driveway such that their use will require no backing movements or other maneuvering within a road or right-of-way other than an alley.
7. Areas used for parking and maneuvering of vehicles shall have a durable and dustless surface maintained adequately for all weather use, but not necessarily paved.
8. Except for parking to serve residential uses, parking and loading areas within residential zones or adjacent to residential uses shall be designed to minimize the disturbance of residents.
9. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.
10. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. Service drives providing for two-way traffic shall be at least 20 feet in width if less than 500 feet in length, or 26 feet in width if more than 500 feet in length. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers. Service drives to drive-in establishments shall be designed to avoid backing movements or other maneuvering within a road right-of-way, or stacking of vehicles within the right-of-way.
11. Service drives to parking areas shall have a minimum vision clearance area formed by the intersection of the driveway edge with the road right-of-way line and a straight line joining side lines through points thirty (30) feet from their intersection.
12. Parking areas adjacent to a property line shall be contained by a curb or bumper rail placed to prevent a motor vehicle from extending over an adjacent property line or into a road right-of-way.
13. Any parking area containing more than five spaces that will be located adjacent to a road shall include a landscaped strip at least five feet in width between the parking area and the property line abutting the road.

## **SECTION 8.110 – STREAM SETBACK REQUIREMENTS**

**All dwelling units and accessory structures shall be set back 100 feet from streams as identified on Sensitive Fish Species Map (Section 15 of Comprehensive Plan) to protect riparian habitat.**

## **SECTION 8.120 – MANUFACTURED HOME CRITERIA**

- A.** The manufactured home shall have been constructed after June 15, 1976, and meet the construction requirements of the Oregon Manufactured Home Law in effect at time of construction.
- B.** The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.
- C.** The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade.
- D.** The manufactured home shall have a pitched roof, which shall have a slope which is a nominal 3 feet in height for each 12 feet in width.
- E.** The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential buildings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.



## SECTION 8.130 – STANDARDS FOR USES IN EFU ZONE

### A. FARM DWELLING STANDARDS

1. Dwellings customarily provided in conjunction with farm use as defined in ORS Chapter 215.203(2) must meet one of the following tests:
  - a. **Test 1 – Minimum Size.** A dwelling may be considered customarily provided in conjunction with farm use if:
    - (1) The parcel on which the dwelling will be located is at least 160 acres; and
    - (2) The subject tract is currently employed for farm use, as defined in ORS 215.203, where the day-to-day activities on the subject land are principally directed to the farm use of the land; and
    - (3) Except as permitted in ORS 215.283(1)(p)(1999 Edition), there is no other dwelling on the subject tract; and
    - (4) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
    - (5) The parcel is not considered high-value farmland.
    - (6) The County governing body or its designate shall require as a condition of approval of a single family dwelling under ORS 215.283 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, 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.
  - b. **Test 2 – Actual Income.** A dwelling may be considered customarily provided in conjunction with farm use if:
    - (1) On a tract not defined as high-value farmland, the subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:
      - (a) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products; or
      - (b) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

- (2) On a tract defined as high-value farmland, the subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and
  - (3) Except as permitted in ORS 215.283, there is no other dwelling on the subject tract; and
  - (4) The dwelling will be occupied by the person or persons who produced the commodities which grossed the income; and in determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- c. **Test 3 – Production Capability.** 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; and
  - (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) of this section; and
  - (3) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in Subsection (2) of this section; and
  - (4) The subject lot or parcel on which the dwelling is proposed is not less than 20 acres; and
  - (5) Except as permitted in ORS 215.283(1)(p) (1999 Edition) there is no other dwelling on the subject tract; and
  - (6) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
  - (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 in Subsection (3) of this section; and
  - (8) In order to identify the commercial farm or ranch tracts to be used in subsection (1) of this section, the 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 subsection (3) of this section as follows:

- (a) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;
  - (b) Determine for each tract in the study area the number of acres in every land classification from the County Assessor's data;
  - (c) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Commission pursuant to subsection (9) below. Add these to obtain the potential earning capability for each tract;
  - (d) Identify those tracts capable of grossing at least \$10,000 based on data generated in subsection (c) above; and
  - (e) Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (2) and (3) above.
- (9) The information utilized in addressing the criteria in Subsection (a) and (b) of this section will be provided in a technical memorandum utilizing formulas detailed in Chapter 660, Division 33. The technical memorandum is incorporated by reference herein and of this section will be provided in a technical memorandum utilizing formulas detailed in Oregon Administrative Rules will be appended to this Code as an Appendix.

## SECTION 8.140 – SITE PLAN REVIEW

### A. PURPOSE

The purpose of site plan review is to provide for administrative review of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development that is compatible with the natural and man-made environment and is consistent with applicable requirements of this Ordinance.

### B. PROCEDURE:

1. **The requirements of this Section apply when site plan review is required for a use that is administratively or conditionally permitted in a zone.** The requirements apply to new development; a change in use of an existing building; the addition of outdoor uses not previously reviewed, such as storage or parking; or an addition to an existing building of more than 500 square feet.
2. **An application for site plan approval will be processed under the Administrative Review procedures of Section 11.090 unless it is submitted concurrently with an application that requires a higher level of review.**
3. **No building permit shall be issued until the site plan has been approved in accordance with this section and no certificate of occupancy shall be issued unless the development complies with the approved site plan and all conditions of approval.**
4. **Approval of a site plan shall be valid for two (2) years from the date of final approval.** An extension may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period. Notice of a decision to grant an extension shall be provided in accordance with Section 11.140. If construction is commenced by issuance of an approved building permit or the issuance of a development permit including for a mining operation, the site plan / development permit shall stay in full force and effect. If not, the site plan approval shall expire.
5. **Site Plan Review Committee-Approval Authority:**  
The Planning Director, County Building Official, Road Master and any fire district with jurisdiction over the property shall constitute the site plan review committee. This committee shall have the authority to review the tentative site plan for compliance with the requirements of this Ordinance, state and federal regulations, and may recommend that the application be modified, approved, approved with conditions, or denied.
6. **An approved site plan may be amended through the same procedure as in the initial approval of such site plan;** except, that minor alterations or modification to a previously approved site plan may be approved by the Planning Director; provided that, in the judgment of the Planning Director, such modifications or alterations do not represent deviations of a substantial nature.

### **C. APPLICATION REQUIREMENTS**

An application for site plan review must include 3 copies of a tentative plan that includes the information listed below. Additional information may be required if requested by the Site Plan Review Committee. The tentative plan must be clearly and legibly drawn on white paper to a standard engineer's scale (i.e., 1" = 100', 1" = 400' etc.). The scale used shall be large enough so that all required information is clearly legible. Separate sheets may be submitted showing different facets of the site plan, such as landscaping, parking, drainage, etc. The tentative plan must contain the following:

- 1. The words "Tentative Site Plan", the property owner's name, the township, range, section, and tax lot number of the property, the date, a north point, and the scale of the plan.**
- 2. Lot dimensions and orientation.**
- 3. The location, size and purpose of all existing and proposed easements.**
- 4. The location of any proposed fire protection system, hydrants or water supply available for fighting fire.**
- 5. Location and dimensions of all existing and proposed buildings and structures, with distances between buildings and setbacks from property lines clearly shown.**
- 6. The location of all buildings and other development on abutting parcels that is within ten feet of the subject property.**
- 7. Existing and proposed walls and fences; location, height and materials.**
- 8. Off street parking and loading facilities, in accordance with Section 8.100, including:**
  - a. Location, dimensions and methods of improvement of all driveways and parking areas.
  - b. Number of spaces and internal circulation pattern.
  - c. Access: Pedestrian, vehicular, service; and the location of all points of ingress and egress.
  - d. Loading: Location, dimensions, number of spaces, internal circulation and access from public right of way.
- 9. In addition to standards set forth by this ordinance, Section 8.050 Applicable Sign Codes, the following sign limitations shall apply:**
  - a. For any use permitted by this section, the total area of all signs shall not exceed 200 square feet, no free-standing sign shall exceed 80 square feet and a height of 20 feet, no sign exceeding 50 square feet of area and 6 feet in height shall be located upon the roof of any building, no sign shall exceed 15 percent of the area of the wall it is attached to, no sign shall be closer than 20 feet to a principal highway or major County road, no sign shall flash or move or be illuminated between the hours of 11:00 p.m. and 7:00 a.m., nor

located in such a manner as to face directly, shine or reflect glare onto a lot, except as approved by the Planning Director.

**10. Lighting:** General nature, location and hooding devices (not including interior building lighting). All exterior lighting sources are to be shielded to illuminate downward and the light source shall not be visible beyond the property boundary in accordance with the standards in Section 8.040.

**D. THE LOCATION, DIMENSIONS AND METHODS OF IMPROVEMENT for all property to be dedicated to general public purposes or to public utilities.**

**E. DETAILED PLAN for any required or proposed landscaping that shall clearly illustrate:**

1. Plants and tree species, their initial sizes and other proposed landscaping materials.
2. The location and dimensions of all areas to be devoted to landscaping, and location of any automatic sprinkler systems.

**F. OUTDOOR STORAGE AND ACTIVITIES, IF PERMITTED IN THE ZONE: Type, location and height of screening devices.**

**G. TOPOGRAPHIC INFORMATION for any area with slopes exceeding 10 percent. Contour intervals shall be ten feet or smaller.**

**H. DRAINAGE PLAN, or evidence that stormwater runoff will be accommodated by an existing storm drainage system.**

**I. IDENTIFICATION OF PROPOSED TRASH STORAGE LOCATIONS, including proposed enclosure design construction and access for pickup purposes.**

**J. LOCATION OF ALL EXISTING AND PROPOSED UTILITIES and septic systems on or abutting the property.**

**K. ELEVATION DRAWINGS showing the exterior appearance of all proposed buildings.**

**L. APPROVAL STANDARDS:**

**The Site Plan Review Committee shall review the tentative site plan for compliance with the following standards:**

1. All provisions of this zoning ordinance and other applicable regulations are compiled with.
2. Elements of the site plan are arranged so that:
  - a. Traffic congestion is avoided.
  - b. Pedestrian and vehicular safety and welfare are protected.
  - c. Significant features and public amenities are preserved and maintained.
  - d. Surface drainage systems are designed so as not to adversely affect neighboring properties, roads, or surface and subsurface water quality.
  - e. Structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, etc.), loading and parking and similar accessory areas shall be buffered or screened to minimize adverse impact on neighboring properties.

**M. THE DEVELOPMENT WILL NOT RESULT IN TRAFFIC VOLUMES THAT WILL REDUCE THE PERFORMANCE STANDARD of a transportation facility below the minimum acceptable level identified in the Transportation System Plan (LOS C).This standard may be met through a condition of approval requiring improvements to the transportation facility.**

**N. THE DEVELOPMENT WILL NOT ADVERSELY AFFECT AGRICULTURAL OR FORESTRY USES.**

**O. CONDITIONS OF APPROVAL**

1. In granting approval of a site plan, the County may impose conditions of approval deemed necessary to comply with the requirements of this Ordinance.
2. Installation of sprinklers or fire-fighting water supplies may be required when recommended by the appropriate fire protection agency.

**P. A SURVEY MAY BE REQUIRED if there is a question about the location of a property line, easement or other feature.**

**Q. A BONDING AGREEMENT MAY BE REQUIRED to assure that conditions attached in granting approval of a site plan are met.**

## SECTION 8.150 – STANDARDS FOR MINING OPERATIONS

### A. STATEMENT OF PURPOSE

The purpose of this Section is:

1. To identify and protect significant sand, gravel, rock, stone and related aggregate resources to ensure the continued availability of aggregates at reasonable costs for the overall development of Gilliam County;
2. To coordinate the development and utilization of significant aggregate resources with other land uses to minimize conflicts;
3. To establish standards of development and operation for significant aggregate resource extraction and processing sites;
4. To prohibit the use of land in the Significant Resource Overlay (SR) zone for uses incompatible with the extraction and processing of significant aggregate;
5. To provide for the agricultural use of land in the SR Overlay prior to the development of extraction and processing activities; and
6. To provide for the reclamation, rehabilitation and beneficial final use of aggregate resource sites in a manner compatible with the surrounding land use pattern.

### B. DEFINITIONS

As used in this Section:

1. **“Aggregate Resources”** means naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, cinders, and other naturally occurring solid materials commonly used in construction and road building.
2. **“Conflicting Use”** means a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by mining or processing activities at a significant mineral or aggregate site, as specified in OAR 660-023-0180(5) (b) and OAR 660-023-0180 (7).
3. **“Development Permit”** means a permit approved by the decision maker and issued by the Director granting authority to the permittee to initiate some or all aspects of mining of aggregate at the site specified in the permit. The definition does not include a text amendment to the Comprehensive Plan whereby the Plan is amended to include the site in any category described Article.



4. **“ESEE analysis”** means the consideration and balancing of the positive and negative economic, social, environmental and energy consequences of a decision to allow, limit, or prohibit a conflicting use, following the process in OAR 660-023-0040. Based on the results of the ESEE analysis, the decision maker determines a level of protection for the resource and adopts Comprehensive Plan provisions and regulations to achieve the designated level of protection.
5. **“ESEE consequences”** are the positive and negative economic, social, environmental and energy (ESEE) affects that could result from a decision to allow, limit, or prohibit a conflicting use.
6. **“Existing site”** means a significant aggregate site that is lawfully operating, or is included in the aggregate inventory in the Comprehensive Plan on September 1, 1996.
7. **“Expansion area”** means resource proposed aggregate mining area contiguous to an existing site in which mining approval is being sought under this Article.
8. **“Farmland”** means land planned and zoned for exclusive farm use pursuant to Goal 3 and OAR 660-033.
9. **“Future potential use”** means a use that is not adopted or approved at the time an application under this Article is deemed complete by the Director.
10. **“Goal 5 process”** means the planning process for mineral and aggregate resources identified in OAR 660-023-0180. Depending on the circumstances the process may include, but is not limited to, one or more of the following: the identification of resource sites; the determination of site significance; the identification of conflicting uses; the identification of measures to minimize conflicts; analysis of ESEE consequences; and adoption of a program to protect the resource. The term does not include a determination to issue a development permit, even if part of the Goal 5 process as described in this Article is considered.
11. **“Goal 5 protection”** means those conditions and terms imposed on the mining of a site determined to be significant under Section 8.180 and that has completed the Goal 5 process as set forth in Section 8.260 and has been added to the Comprehensive Plan.
12. **“Impact area”** means a geographic area within which conflicting uses could adversely affect a significant Goal 5 resource.
13. **“Inventory”** is a survey, map, or description of one or more resource sites that is prepared by a local government, state or federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, “inventory” means to collect, prepare, compile, or refine information about one or more resource sites (see resource list).
14. **“Minimize a conflict”** means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels) to “minimize a conflict” means to ensure conformance to the applicable standard.

15. **“Mining”** means the extraction and processing of aggregate resources, in the manner provided below:
- (a) The term includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads.
  - (b) The term does not include excavations of sand, gravel, clay, or rock or other similar materials by a landowner or tenant on the landowner or tenant’s property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or non-surface impacts of underground mines.
  - (c) The term includes: stockpiling and movement of aggregate materials, and the operations or activities necessary to abandon a mining area.
16. **“Mining area”** means the geographic area containing an identified significant aggregate site within which some or all aspects of mining are permitted. The mining area may consist of one or more properties or portions of properties, and may include two or more contiguous properties under different ownership. The mining area does not include undisturbed buffer areas or areas on a property where mining is not authorized.
17. **“Noise or dust sensitive use”** means a conflicting use that is primarily used for year round habitation. Residences, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. A forest or farm use is not noise or dust sensitive uses unless the use is so:
- (a) Defined in state law, or
  - (b) Determined based on analysis and findings adopted through the Goal 5 planning process.
18. **“Operator”** includes owner.
19. **“Processing”** means the activities described in ORS 517.750 (11). Processing includes, but is not limited to crushing, washing, milling and screening, as well as the batching and blending of mineral aggregate into asphalt or Portland cement concrete within the operating permit area.
20. **“Program or program to achieve the goal”** is a plan or course of proceedings and action to prohibit, limit, or allow uses that conflict with significant Goal 5 aggregate resources adopted as part of the Comprehensive Plan and Land Development Code (e.g., zoning standards, easements, cluster developments, preferential assessments, or acquisition of land or development rights).

21. **“Protect”** means to adopt land use regulations for a significant aggregate site in order to authorize mining of the site and to limit or prohibit new conflicting uses within the impact area of the site.
22. **“Resource site” or “site”**, for the purposes of completing the Goal 5 process under this Article, is a particular area where resources are located. A site may consist of one or more properties or portions of properties, and may include two or more contiguous properties under different ownership.
23. **“Resource list”** means a list that includes the descriptions, maps, and other information about significant Goal 5 aggregate resources with Gilliam County and is adopted by the County as part of its Comprehensive Plan or as a land use regulation.
24. **“Significant site”** means a site listed on one of the Comprehensive Plan significant aggregate inventories.
25. **“Thickness of aggregate layer”** means the depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and non-aggregate overburden.

#### **C. REVIEW REQUIRED**

Proposals for new or expanded operations for mining, crushing, stockpiling or processing of aggregate or other mineral resources may be approved by the Planning Director under the Administrative Review procedures in Section 11.090 unless a higher level of review is required by the regulations of the zone where the property is located. “Expanded operation” means the commencement of methods or processing measures not previously approved, such as blasting or asphalt batching, or the expansion of a previously approved operation to an area beyond the original site approved for mining, processing and stockpiling.

#### **D. APPLICATION FOR A DEVELOPMENT PERMIT AUTHORIZING MINING OF AGGREGATE**

1. **A person may apply for a development permit authorizing mining of aggregate as set forth in this section.** The issuance of the development permit authorizing the initiation of mining is subject to the Administrative Review procedures in Section 11.090 unless a higher level of review is required by the regulations of the zone where the property is located.
2. **One-step process.** A single application shall be required which shall consist of:
  - a. if a site is already on Appendix C of the Gilliam County Comprehensive Plan, a request for a development permit, which if authorized to be issued, shall result in an authorization to initiate some or all aspects of mining pursuant to this Chapter; or

**3. If the site is not on the inventory of the Gilliam County Comprehensive Plan, a request for:**

- a. An amendment to the Comprehensive Plan text, and, if required under this Article, an amendment to the Land Development Ordinance Zoning Map; and
- b. A development permit, which if authorized, shall authorize the initiation of some or all aspects of mining pursuant to this Section.

**E. CONTENTS - THE APPLICATION SHALL CONTAIN:**

1. The information required by Article 11, Sections 11.030 and 11.040;
2. Information regarding the location, quality, and quantity of the aggregate resource;
3. A conceptual site reclamation plan;
4. A traffic impact assessment within one mile of the entrance to the mining area;
5. An indication of whether the applicant intends to haul material to another authorized site for processing, and if so, a proposal for hauling;
6. Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500-foot impact area; and
7. A site development plan as described in subsection (D) of this section.

**F. SITE DEVELOPMENT PLAN. (note this is slightly different than 8.140 site plan which also refers to aggregate?)**

The applicant shall submit the information and materials set forth in this subsection to the Director as part of the application for a development permit authorizing the mining of aggregate resources. An application for site plan approval will be processed under the Administrative Review procedures of Section 11.090 unless it is submitted concurrently with an application that requires a higher level of review.

1. The name and address of the extraction operator, property owner, and applicant, if different from the mining operator or property owner.
2. The location (township, range, section, tax-lot[s]) and size of the resource site.
3. An aerial photograph of the resource site that was photographed less than 12 months prior to submission of the application. Older photographs may be submitted if accompanied by a signed declaration by the applicant stating that no substantial changes have occurred.
4. Provisions for safety fence.

5. Measures, if any, required by federal and state agencies to meet applicable environmental quality standards and minimize impacts on fish and wildlife habitat.
6. Proposed final use as shown in the Department of Geology and Mineral Industries (DOGAMI) reclamation plan.
7. A reclamation plan approved by Oregon Department of Geology and Mineral Industries (DOGAMI) which results in the proposed final use or Oregon Division of State Lands (DSL) conditions of operation.
8. A surface water management plan as required by DOGAMI or DEQ.
9. Past and present use of the land, including agricultural and forest resource uses.
10. Types and location of vegetative screening to be used.
11. Types, location, and sizes of equipment to be used.
12. The full extent and nature of the operation, such as blasting, crushing, or asphaltic compounding.
13. A reproducible map at a scale of 1inch equals 400 feet, unless a different scale is approved by the Director, which depicts the general land area within a one-mile radius and identifies:
  - (a) The property under the applicant's control;
  - (b) The land areas proposed for extraction, processing and storage of topsoil or aggregate;
  - (c) Location of all uses within 1500 feet of the resource site boundaries;
  - (d) Location of on-site haul roads and proposed access point(s);
  - (e) Location and names of all structures, roads, railroads and utility facilities within 1500 feet of the resource site;
  - (f) Required setback areas;
  - (g) Identification of soil types in the resource site, if available; if not available, identification of the soil types adjoining the resource site; and
  - (h) Phasing of mining activity, if applicable.
14. Proposed months, days and hours of mining operation.

- 15.** The resource site owner or authorized agent of the owner shall file a truck route plan with the County Roadmaster indicating all proposed haul routes for any equipment used in the preparation, exploration, or mining of the site, including proposals to haul material to another authorized site for processing. The truck route plan shall also include a proposal for the rehabilitation and restoration of any county roads, or any local access roads, which may be damaged or diminished in quality due to the conducting of such preparation, exploration, or mining activities.
- 16.** Evidence that:
- (a) The County Roadmaster has approved a truck haul plan including all routing, paving and access to the resource site and to and from any other approved site if material is hauled to the other site for processing; and
  - (b) The County Roadmaster has made a finding that the development will not have significant adverse impacts on the quality of county roads, or local access roads in the area, or
  - (c) Verification that a performance security meeting the requirements of this Section has been filed or is not needed.
- 17.** Other pertinent information for all proposed mining and associated uses.

## **SECTION 8.160 – GOAL 5 PROCESS; GENERALLY**

### **A. THE GOAL 5 PROCESS IS SET FORTH IN SECTION 8.170 OF THE ZONE CODE.**

The process involves following the steps set forth in this section to determine whether and under what conditions aggregate extraction and processing may occur:

- 1. STEP 1** - determine adequacy of information provided in the application with regard to the location, quality, and quantity of the aggregate resource;
- 2. STEP 2** - Determine site significance and classification;
- 3. STEP 3** - Identify impact area and all conflicts with existing uses;
- 4. STEP 4** - Determine whether conflicts can be minimized;
- 5. STEP 5** - Analyze ESEE consequences if significant conflicts cannot be minimized;
- 6. STEP 6** - Approve the mining of the aggregate resource;
- 7. STEP 7** - Determine the post-mining use;
- 8. STEP 8** - Identify conflicts from new conflicting uses;
- 9. STEP 9** - Analyze ESEE consequences and decide whether to allow new conflicting uses; and
- 10. STEP 10** - Adopt final decision and implementing amendments to the Comprehensive Plan and Land Development Ordinance.

**B. Except as provided in 8.260 (A)(1) (a), the decision maker must complete the Goal 5 process within 180 days after an application filed under this Section is deemed complete under Section 8.170.**

**C. The decision maker is not required to follow strictly the order of the process as set forth in Section 8.190, so long as such review or determination does not significantly adversely affect the outcome of the Goal 5 process.**

## **SECTION 8.170 – STEP 1: GOAL 5 PROCESS**

- A. STEP 1** - The first step in the Goal 5 aggregate process requires the Director to determine whether an application filed under this Section may be deemed complete under Section 11.040 and this section.
- B. THE DIRECTOR SHALL DEEM AN APPLICATION FILED UNDER THIS SECTION COMPLETE IF THE APPLICATION CONTAINS:**
1. The information required by 8.150;
  2. A description of the quality of the resource, including a statement of compliance with federal, state or local standards issued by a certified lab according to the following applicable methods:
    - a. Resistance to Abrasion (AASHTO Designation T96, ASTM Designation C 131, OSHD Test Method 211)
    - b. Sodium Sulfate Soundness (OSHD Test Method 206)
    - c. Oregon Air Degradation (OSHD Test Method 208) or
    - d. Other test appropriate for the type of resource.
  3. A conceptual site reclamation plan;
  4. A traffic impact assessment within one mile of the entrance to the mining area pursuant to Section 8.190(B)(b);
  5. Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500-foot impact area; and
  6. A site development plan as described in Section 8.150.
- C. INFORMATION ON LOCATION, QUANTITY, AND QUALITY MUST BE RELIABLE INFORMATION, SUCH AS:**
1. An engineer's or geologist's report; or
  2. Drill results, including depth.
- D. IF APPLICATION IS DEEMED COMPLETE — GO TO STEP 2.** If the Director deems the application complete, the Director shall next determine whether the site is significant pursuant to Section 8.180.



**E. IF APPLICATION IS NOT DEEMED COMPLETE** - If the Director determines that the application is not complete for the sole reason that the applicant is unable to provide information adequate to make the determination required by subsection (B) (2) of this section, the Director shall:

- 1.** Return the application to the applicant

## SECTION 8.180 – STEP 2: DETERMINE SITE SIGNIFICANCE AND CLASSIFICATION

- A. **STEP 2** — The Director shall determine whether an aggregate resource site is a significant or a non-significant site pursuant to this section.
- B. **AN AGGREGATE RESOURCE SITE SHALL BE SIGNIFICANT** if adequate information regarding the location, quality, and quantity of the resource demonstrates that the site meets the following criteria:
1. A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation(ODOT)specifications for base rock for air degradation, abrasion, and sodium sulfate soundness; and
  2. The estimated amount of material is more than 333,333 thousand cubic yards or 500,000 tons; or
  3. The aggregate site was listed on an inventory of significant aggregate sites in the Comprehensive Plan on September 1, 1996.
- C. **NOTWITHSTANDING SUBSECTIONS (1) THROUGH(3) OF THIS SECTION**, and except for an expansion area of an existing site if the operator of the existing site had an enforceable property interest in the expansion area on March 1, 1996, an aggregate site is not significant if the following criteria apply:
1. More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource Conservation Service(NRCS) maps on June 11, 2004; or
  2. More than 35 percent of the proposed mining area consists of soil classified as Class II or a combination of Class II and Class I or Unique soil on NRCS maps available on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds 17 feet; or
  3. More than 35 percent of the proposed mining area consists of soil classified as a combination of Class II and Class I or Unique soil on NRCS maps available on September 1, 1996, and the average width of the aggregate layer within the mining area is less than 17 feet.
- D. **NOTWITHSTANDING SECTION C ABOVE**, a local government may also determine that an aggregate resource on farmland is significant if subsections (1) and (2) of this section apply or if subsection (3) of this section applies;
1. The quantity of material proposed to be mined from the site is estimated to be 500,000 tons of aggregate material or less; and
  2. Not more than 35 percent of the proposed mining area consists of soil
    - a. Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or

- b. Classified as Class II, or a combination of Class II and Class I or Unique soil, on NRCS maps available on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds the amounts specified in subsection (2) above; or
  - 3. A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination.
- E. **IF SIGNIFICANT SITE — GO TO STEP 3.** If the Director determines that the site is a significant site under this section, the Director shall proceed to Section 8.190.

## SECTION 8.190 – STEP 3: IDENTIFY IMPACT AREA AND ALL CONFLICTS WITH EXISTING USES

### A. **STEP 3A** - Identify an impact area and known conflicts within it. The Director shall:

1. Identify an impact area for the purpose of identifying conflicts with proposed mining and processing activities.
  - a. The impact area shall be large enough to include uses listed in subsection (B) of this section and shall be limited to 1,500 feet from the boundaries of the proposed mining area, except where factual information is adequate to indicate significant potential conflicts beyond this distance.
  - b. For a proposed expansion of an existing site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing site and shall not include the existing site.
2. Prepare a map showing the impact area and proposed mining area; and
3. Identify known conflicting uses.
4. Prepare a staff report containing the determinations made under Section 8.170 and 8.180, and subsection (A) of this section along with any supporting findings; and
5. Set the matter before the decision maker to complete the Goal 5 process. The decision maker may approve, modify, or deny any determination of the Director required by Section 8.180, or this subsection. If the decision maker modifies or denies a determination made by the Director which is required under those provisions, the decision maker shall make a new determination consistent with those provisions before completing the Goal 5 process.

### B. **STEP 3B** - Identify all conflicts from existing and approved uses in the impact area.

1. The decision maker shall identify all existing or approved land uses within the impact area that will be adversely affected by proposed mining.
2. The decision maker shall also specify conflicts from existing or approved uses that are able to be reasonably predicted.
3. For purposes of this subsection, “approved land uses” are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by Gilliam County.

4. The consideration of conflicts that could be caused by the mining of a significant aggregate site shall be limited to:
  - (a) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that is sensitive to such discharges;
  - (b) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site, unless a greater distance is necessary to include the intersection with the nearest arterial identified in the Transportation Plan.
  - (c) Conflicts with local roads shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the Transportation Plan and County Code.
  - (d) Standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity which haul other materials;
  - (e) Safety conflicts with existing public airports due to bird attractions i.e. open water impoundments specified under OAR 660-013;
  - (f) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the Plan amendment is initiated; and
  - (g) Conflicts with agricultural practices.
  - (h) Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780.
- C. **STEP 3C** – For an aggregate site on farmland that is determined to be significant under Section 8.180
- D. **THE REQUIREMENTS OF SECTION 8.210 AND 8.250 ARE NOT APPLICABLE** - Except for Section 8.190 (B)(f), the requirements of Section 8.210, and 8.250 are not applicable. Instead the decision maker shall determine whether mining is permitted by a conditional use permit.
- E. **IF THERE ARE CONFLICTS - GO TO STEP 4.** If the decision maker identifies conflicts, the decision maker shall proceed as set forth in Section 8.200.

- F. **IF THERE ARE NO CONFLICTS - GO TO STEP 6.** If the decision maker identifies no conflicts, the decision maker shall proceed as set forth in Section 8.220.
  
- G. **IF THE DECISION MAKER FINDS THAT THE APPLICATION IS CONSISTENT WITH STEP 3C, PROCEED TO STEP 10.**

## **SECTION 8.200 – STEP 4: DETERMINE WHETHER CONFLICTS CAN BE MINIMIZED**

- A. STEP 4 - DETERMINE WHETHER CONFLICTS CAN BE MINIMIZED.** The decision maker shall determine whether the conflicts identified pursuant to Section 8.190 can be minimized by reasonable and practicable measures. Such measures shall be clear and objective.
- 1. If conflicts cannot be minimized; go to STEP 5.** If the decision maker finds that all the conflicts identified by the decision maker cannot be minimized by reasonable and practicable measures, the decision maker shall proceed as set forth in Section 8.210.
  - 2. If conflict can be minimized; go to STEP 6.** If the decision maker finds that all the conflicts identified by the decision maker can be minimized, the decision maker shall identify the reasonable and practicable measures that would minimize the conflicts. The decision maker shall next proceed as set forth in Section 8.220.
- B. IN MAKING THE DETERMINATION whether proposed measures would minimize conflicts with agricultural practices, the decision maker shall consider only the requirements of ORS 215.296.**
- C. RECORDING A WAIVER OF REMONSTRANCE INCOMPLIANCE WITH SECTION 11.130, is evidence that a conflict has been minimized under Section 8.200, or resolved under Section 8.210 or 8.250.**

**SECTION 8.210 – STEP 5: ANALYZE ESEE CONSEQUENCES IF SIGNIFICANT CONFLICTS CAN NOT BE MINIMIZED**

- A. **STEP 5 - Identify and resolve conflicts through ESEE analysis.** Limited to any conflicts identified in Section 8.190 that could not be minimized, the decision maker shall determine the ESEE consequences of either protecting the resource by allowing mining without or with limitations, or not protecting the resource and prohibit mining. The determination shall be based on weighing the identified ESEE consequences, with consideration of the following:
1. The degree of adverse effect on existing land uses within the impact area;
  2. Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and
  3. The probable duration of the mining operation and the proposed post-mining use of the site.
- B. **IF THE SITE SHOULD BE PROTECTED AND MINING AUTHORIZED - GO TO STEP 6.** If, based on the ESEE analysis required under this section, the decision maker determines that the site should be given Goal 5 protections and mining should be approved with or without limitations, the decision maker shall proceed as set forth in Section 8.220.
- C. **RECORDING A WAIVER OF REMONSTRANCE INCOMPLIANCE WITH SECTION 11.130(E), is evidence that a conflict has been minimized under Section 8.200, or resolved under Section 8.210.**



**SECTION 8.220 – STEP 6: APPROVE THE MINING OF THE AGGREGATE RESOURCE**

- A. **STEP 6 — APPROVE THE MINING.** The decision maker shall protect the resource site and approve an application for mining if:
1. No conflicts were identified under Section 8.190, or
  2. All identified conflicts with a significant aggregate resource site are minimized pursuant to Section 8.200, or
  3. Based on an ESEE analysis, conducted pursuant to Section 8.210, mining is permitted with or without limitations.
- B. **GO TO STEP 7.** After the decision maker approves an aggregate site for mining of aggregate, the decision maker shall proceed as set forth in Section 8.230.

**SECTION 8.230 – STEP 7: DETERMINE THE POST-MINING USE OF SITE**

- A. STEP 7 — POST-MINING USE AND RECLAMATION.** At the time the determination under Section 8.220 is made, the decision maker shall:
1. Determine the post-mining use of the site.
  2. Proceed as set forth in Section 8.240 (STEP 8).
- B. FOR SIGNIFICANT AGGREGATE SITES ON CLASS I, II SOILS AND UNIQUE FARMLAND,** the post-mining use shall be limited to farm uses under ORS 215.203, uses listed under ORS 215.283 (1), and fish and wildlife habitat uses, including wetland mitigation banking.
- C. THE COUNTY AND APPLICANT SHALL COORDINATE WITH DOGAMI** regarding the regulation and reclamation of aggregate sites, except where exempt under ORS 517.780.

## SECTION 8.240 – STEP 8: IDENTIFY CONFLICTS FROM POTENTIAL FUTURE USES

**A. STEP 8 - DETERMINE ALL CONFLICTS FROM POTENTIAL FUTURE USES IN THE IMPACT AREA.** The decision maker shall:

1. Identify future potential uses which, if allowed, would conflict with the proposed mining;
2. Identify predicted conflicts from those future potential uses.

**B.** The consideration of future potential uses shall be limited to those land uses that, if approved, would be allowed outright in the underlying zoning district.

**C. GO TO STEP 9.** The decision maker shall next proceed as set forth in Section 8.250.

**SECTION 8.250 – STEP 9: ANALYZE ESEE CONSEQUENCES AND DETERMINE WHETHER TO ALLOW A FUTURE POTENTIAL USE**

**STEP 9 - Analyze future potential uses and determine whether to allow the use.**

- A. THE DECISION MAKER SHALL DETERMINE WHETHER TO ALLOW, LIMIT, OR PREVENT A FUTURE POTENTIAL use identified in Section 8.240. To make this determination, the decision maker shall apply the standard ESEE process set forth in OAR 660-023- 0040 and 660-023-0050.**
  
- B. RECORDING A WAIVER OF REMONSTRANCE IN COMPLIANCE WITH SECTION 11.130 (E), is evidence that a conflict has been minimized under Section 8.200, or resolved under Section 8.210 or Section 8.250.**
  
- C. GO TO STEP 10. The decision maker shall next proceed as set forth in the applicable provisions of Section 8.260.**

## SECTION 8.260 – STEP 10: ADOPT FINAL DECISION AND IMPLEMENTING AMENDMENTS

- A. **STEP 10A - AMEND THE COMP PLAN TO CARRY OUT THE DECISION.** The decision maker shall implement the determinations made under this Article by amending the Comprehensive Plan as set forth in paragraphs (1) of this subsection.
1. **Inventories.** The decision maker shall amend the appropriate appendices following Article 10 (Land Development Ordinance) to include the site on an inventory and to include any supporting analyses pursuant to this paragraph.
    - a. If the decision maker, based on location, quality, and quantity information determines that an aggregate resource is significant, the decision maker shall amend the County's Inventory of Significant Sites.
    - b. If the decision maker, based on the criteria of 8.180D, determines that an aggregate resource is significant, the decision maker shall amend the County's Inventory of Significant Sites.
  2. **If the decision maker makes a determination approving mining** under subsections (A) (1) (a), the amendments set forth in the Comprehensive Plan shall include:
    - a. A program to protect the resource;
    - b. Identified measures to minimize conflicts and any special condition, and regulations. Such measures, conditions, and regulations shall be clear and objective; and
    - c. The approved post-mining use.
- B. **STEP 10B - AMEND THE ZONING MAP TO APPLY THE SIGNIFICANT OVERLAY ZONE.** If the decision maker makes a determination approving mining under subsections (A)(1)(a) the decision maker shall amend the Land Development Code Zoning Map:
1. **To show the mining area.** The extraction area shall be applied to significant sites where mining is permitted by the Comprehensive Plan. The mining area boundary as set forth in an application may be modified through the Goal 5 process to reduce conflicts with uses existing within the impact area.
  2. **To show the impact area.** The size of the impact area may be increased or decreased through application of the Goal 5 process.
  3. **To apply a Significant Overlay Zone** to the impact area for sites receiving protection pursuant to Goal 5.

## SECTION 8.270 – MARIJUANA BUSINESSES

**A. PURPOSE & INTENT** - This section describes the requirements for establishing marijuana businesses, including all medical and recreational marijuana production, processing, wholesaling, and retail uses in Gilliam County. The purpose of this section is to:

- Establish reasonable time, manner and place requirements for new business that produce, process, wholesale or retail marijuana.
- Provide clear and objective standards for marijuana businesses.
- Minimize conflict with other permitted uses in underlying zones.
- Protect resources identified in the Gilliam County Comprehensive Plan.
- Protect the public health, safety, and general welfare of the citizens of the County.

**B. APPLICABILITY** - In construing this section, related provisions of state law and administrative rule provide relevant context. These regulations shall not apply to:

- Personal use of marijuana.
- Any Marijuana Business, structure or building legally established prior to the adoption of the provisions in this section.
- Any marijuana retailer that applied for a registration with the Oregon Health Authority and has subsequently obtained full, unconditional approval prior to the adoption of this article.

*The alteration, expansion or replacement of a Marijuana Business will be subject to this section.*

Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses:

1. More than five marijuana businesses established on the same parcel. A single business may maintain more than one (1) type of license or permit on the subject parcel.
2. New dwellings used in conjunction with a marijuana crop.
3. A farm stand, as described in ORS 215.283(1)(o), used in conjunction with a marijuana crop.
4. A commercial activity, as described in ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.
5. Marijuana production, processing, wholesaling and retailing are not permitted in conjunction with a winery, home occupation, Bed and Breakfast Inn or lodging / commercial residential use.

## C. DEFINITIONS

Marijuana Processing - The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority; excludes packaging or labeling.

Marijuana Production / Grow - The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, includes packaging or labeling, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and is a “person designated to produce marijuana by a registry identification cardholder.”

1. Outdoor Production means producing marijuana:
  - (a) In an expanse of open or cleared ground; or
  - (b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.
2. Indoor Production means producing marijuana in any manner:
  - (a) Utilizing artificial lighting on mature marijuana plants; or
  - (b) Other than “outdoor production,” as that is defined in this section.

Marijuana Retailing - The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

Marijuana Wholesaling - The purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

**D. USE TABLE & PROCEDURES** - Table 1 below identifies the marijuana uses permitted as specified for each of the different zones, subject to the type of review and regulations.

*As used in the Table “A” means the use is an Administrative Land Use Decision and allowed outright subject to the permitting and development standards set forth in the applicable Articles of this Ordinance.*

*As used in the Table “C” means the use is a Conditional Use subject to approval criteria contained in Article 7; as either a Type I or Type II review.*

*As used in the Table “P” means the use is prohibited; including new agriculture dwellings to support the commercial growing of marijuana, farm stands to sell marijuana products, and commercial activities in conjunction with marijuana on EFU.*

**Table 1. Summary of Use Table for Marijuana Businesses**

<b>Zone</b>	<b>Production / Grow</b>	<b>Processing</b>	<b>Retailing</b>
Airport Development (A-D)	C	P	P
Exclusive Farm Use (EFU)	A	A <sup>1</sup>	P
Rural Unincorporated Community (R-C)	C	C	P
Recreational Residential (R-R)	P	P	P
Limited Industrial (M-L)	A / C <sup>2</sup>	C	C
General Industrial (M-G)	A / C <sup>2</sup>	C	C
Intermodal-Industrial (I-M)	A / C <sup>2</sup>	C	P
Rural Residential (R-10)	P	P	P
<b>Combining Zone</b>			
Flood Hazard (FH)	C	P	P
Geological Hazard (GH)	C	P	P
Significant Resource Combining (SR)	C	P	P
Airport Overlay (AO)	C	P	P

<sup>1</sup> Processing products and floor area subject to ORS 215.283(1)(r) or Section 4.020.C.8 of this Ordinance as amended.

<sup>2</sup> Indoor production is permitted; outdoor production is allowed conditionally.

\* Wholesaling, specific to products grown off-site, is prohibited.

**E. MARIJUANA BUSINESS STANDARDS**

In addition to the standards below, a Marijuana Business referenced in Table 1 above shall be subject to the respective standards contained in Article 4 (Use Zones) and/or Article 7 (Conditional Use Criteria) of this Ordinance.

*When conditions herein imposed are less restrictive than comparative provisions imposed by any other provision of this Ordinance by resolution of State Law or State Administration regulations, then the more restrictive conditions shall govern.*



1. **Minimum Yard Depth & Setbacks (EFU Zone)** - Outdoor marijuana canopies, buildings and structures used for indoor or outdoor marijuana production, and buildings and structures used for marijuana processing in the EFU zones shall be located at least 25-feet from any property line or a greater distance of 50' from an existing dwelling situated on neighboring property. The distance shall be measured using a straight-line extending horizontally from the nearest part of the canopy area or building or structure used for marijuana production or marijuana processing to the point nearest to any property line.

Marijuana production or processing on resource zones shall be located a minimum of 1,000 feet from a public elementary or secondary school or a private or parochial elementary or secondary school, and a minimum of 500 feet from a public park. The measurement shall be made using a straight line extending horizontally from the closest point anywhere on the property line of the subject property to the closest property line of the affected property.

2. **Access** – The subject property shall have frontage on, or direct access from, a constructed public, county, or state road, and take access on a road or easement serving the subject property. Road access to the marijuana business shall meet current county road standards and shall be adequately maintained and remain clear of obstructions.
3. **Security Cameras** - If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission or registration requirements of the Oregon Health Authority.
4. **Lighting** - Lighting shall be regulated as follows:
  - a. Light cast by light fixtures (i.e., artificial lighting) inside any structure or building used for marijuana production or processing shall use adequate light barriers to ensure article lighting is not visible from adjacent properties. Example of light barriers include: light deprivation greenhouses or similar technologies, fully shielded and directional lights, retractable shade clothes, not-transparent building materials, and landscaping or other natural features.
  - b. Outdoor marijuana grow lights shall not be illuminated during the period commencing 30 minutes before sunset and ending 30 minutes after sunrise the following date.
  - c. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall be downcast, shielded and hooded, and not spill onto adjacent lots.

**5. Fences, walls or other barriers**

- a. Shall be limited in area by being located no more than 20-feet in any direction from the outer extent of all areas used for Marijuana Business activities, including but not limited to buildings, structures, outdoor marijuana canopies, and areas used for off-street parking, loading, and storage.
- b. Development standards of that zone and state agencies as required shall apply (e.g., height and vision clearance).

**6. Water** - The applicant shall submit proof of a legal water source for the proposed marijuana production or marijuana processing. Proof could include, but is not limited to, a copy of a water right that serves the proposed use or a letter from the irrigation district, water provider or the Watermaster.

**7. Odor** – An indoor marijuana facility shall be equipped with a carbon or charcoal filtration system for odor control.

- a. The system shall consist of one or more fans and filters.
- b. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) sufficient to scrub or purge the facility total interior air volume, minus sealed grow rooms and non cannabis areas like offices, once per hour.
- c. The filter(s) shall be rated for the required CFM.
- d. The filtration system shall be maintained in working order and shall be in use.
- e. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the charcoal filtration system otherwise required.

**F. MARIJUANA RETAILING** - Marijuana retailing shall be subject to the following standards and criteria:

**1. Hours & Window Service** - A marijuana retailer may only sell to consumers between the hours of 8:00 a.m. and 8:00 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 8:00 a.m. and 8 p.m. The use shall not have a walk-up window or drive-thru window service.

**2. Odor** – An indoor marijuana facility shall be equipped with a carbon or charcoal filtration system for odor control.

- a. The system shall consist of one or more fans and filters.
- b. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) sufficient to scrub or purge the facility total interior air volume, minus sealed grow rooms and non cannabis areas like offices, once per hour.

- c. The filter(s) shall be rated for the required CFM.
  - d. The filtration system shall be maintained in working order and shall be in use.
  - e. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the charcoal filtration system otherwise required.
3. **Co-Location of Related Activities and Uses** - Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
4. **Minimum Separation Distances** - A Marijuana Retail Business shall be located a minimum of 1,000 feet from:
- a. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including associated property and parking lot;
  - b. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including associated property and parking lot;
  - c. Other marijuana retailer of the same type (e.g., recreational or medical).
  - d. A Marijuana Retail Business shall be located a minimum of 500 feet from a public park.

The measurement shall be made using a straight line extending horizontally from the closest point anywhere on the property line of the Marijuana Business property to the closest property line of the affected property.

## **ARTICLE 9. VARIANCES**

### **SECTION 9.010 - AUTHORIZATION TO GRANT OR DENY VARIANCES**

The Planning Director or the Planning Commission may authorize a Variance from the requirements of this ordinance in accordance with this article, where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No Variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a Variance, additional conditions may be attached which are necessary to protect the best interest of the surrounding property or vicinity and otherwise achieve the purpose of this ordinance.

## **SECTION 9.020 - MINOR VARIANCES**

Minor Variances involving the following may be granted by the Planning Director after a thorough examination and upon presentation of the following evidence:

### **A. Minor Variances involve only the following circumstances:**

1. Deviation from a minimum lot size by not more than 10% or setback by not more than 25%.
2. Expansion of a nonconforming use by not more than 10%.

### **B. Evidence:**

A Minor Variance may be granted only where the applicant can show that literal application or enforcement of the ordinance would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest or the intent or spirit of the ordinance.

### **C. Procedure.**

Upon receipt of the application form and payment of the applicable fee for a Minor Variance, the Planning Director shall render a decision within five working days, or may elect to defer the decision to the Planning Commission for public hearing. Additional information may be requested by the Planning Director in arriving at his decision. If additional information is requested, the Planning Director shall have five additional working days to render this decision beginning when the additional information is given to the Planning Director.

### **D. Notice to Property Owners.**

Should the Planning Director decide to grant a Minor Variance, the decision shall not become final until 15 days have elapsed. A notice of the proposed Variance shall be mailed within two working days of receipt thereof to all owners of property within 250 feet of the subject property, and objections and comments solicited. If written objections to the proposed Variance are received within the 15-day period, a public hearing shall be held before the Commission according to Section 11.100 of this article.

## **SECTION 9.030 - CIRCUMSTANCES FOR GRANTING A VARIANCE**

A Variance may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Planning Commission shall make all of the following findings:

- A. That the literal application of the ordinance would create practical difficulties resulting in greater private expense than public benefit; and**
  
- B. That the condition creating the difficulty is not general throughout the surrounding area but is unique to the applicant's site; and**
  
- C. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased; and**
  
- D. That in the case of a use Variance, the literal application of the ordinance would result in unnecessary hardship to the applicant. An unnecessary hardship will be found when the site cannot be put to any other identifiable beneficial use under the terms of the applicable ordinance.**

## **SECTION 9.040 - PROCEDURE FOR TAKING ACTION ON A VARIANCE APPLICATION**

The procedure for taking action on an application for a Variance shall be as follows:

- A. A property owner may initiate a request for a Variance by filing an application with the Planning Department, using forms prescribed pursuant to Section 11.130. Application shall be filed 21 days prior to the Planning Commission meeting of submittal thereto.**
  
- B. Before the Planning Commission may act on a Variance application, it shall hold a public hearing following the procedures established in Section 11.100.**
  
- C. Within five days after a decision has been rendered, the Planning Director shall provide the applicant and recognized parties with written notice of the decision of the Commission.**

## **SECTION 9.050 TIME LIMIT ON A PERMIT FOR A VARIANCE**

Authorization of a Variance shall be void after one year unless substantial construction has taken place or the proposed use has occurred. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request.



## **ARTICLE 10. AMENDMENTS**

### **SECTION 10.010 - AUTHORIZATION TO INITIATE AMENDMENTS**

An amendment to the text of this ordinance or to a zoning map may be initiated by the County Court, the County Planning Commission, or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the Planning Department, using forms prescribed pursuant to Section 11.130.

## **SECTION 10.020 - PUBLIC HEARINGS ON AMENDMENTS**

The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed and shall, within 40 days after the hearing, recommend to the County Court approval, disapproval, or modification of the proposed amendment. After receiving the recommendation of the Planning Commission, the County Court shall hold a public hearing on the proposed amendment.

**SECTION 10.030 - RECORD OF AMENDMENTS**

The County Clerk shall maintain records of amendments to the text and zoning map of the ordinance.

## **SECTION 10.040 - TIME LIMIT ON REAPPLICATION**

No application of a property owner for an amendment to the text of this ordinance or to the zoning map shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request, except the Planning Commission, new evidence or a change of circumstances warrant it.

**SECTION 10.050 APPROVAL CRITERIA FOR AMENDMENTS**

**A. The applicant for an amendment must show that the proposed change conforms with the Comprehensive Plan.**

**B. A plan or land use regulation amendment significantly affects a transportation facility if it:**

1. Changes the functional classification of an existing or planned transportation facility;
2. Changes standards implementing a functional classification system;
3. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
4. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

**C. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:**

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel needs through other modes.

## **ARTICLE 11. ADMINISTRATIVE PROVISIONS**

### **SECTION 11.010 - ADMINISTRATION**

The County Planning Director shall have the power and the duty to enforce the provisions of this ordinance

## **SECTION 11.020 – APPLICATION PROCEDURES**

### **Pre-Application Conference**

The purpose of a pre-application conference is to familiarize the applicant with the provisions of this Ordinance and other land use laws and regulations applicable to the proposed development. Any potential applicant may request a pre-application conference by filing a written request along with the applicable fee to the Planning Department. The written request should identify the development proposal, provide a description of the character, location, and magnitude of the proposed development and include any other supporting documents such as maps, drawings, or models. Agencies and persons with an interest in the proposed development may be notified of the conference and be invited to attend or provide written comments on the proposal when deemed appropriate by the Planning Director.

## SECTION 11.030 - APPLICATION REQUIREMENTS

- A. Applications for development or land use action shall be submitted on forms prescribed by the County,** shall include sufficient information and evidence necessary to demonstrate compliance with applicable criteria and standards of this Ordinance and other requirements of law, and be accompanied by the appropriate filing fee. An application shall not be considered to have been submitted until all application fees have been paid.
  
- B. Applications shall be submitted by the property owner, a purchaser under a recorded land sale contract,** or by a condemner who has been granted immediate possession by a court of competent jurisdiction. For the purposes of this section, the term "property owner" shall mean the owner of record, including a contract purchaser, but does not include a person who holds a security interest.
  
- C. The application shall include the signature of all owners of the property.** A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign. Public or private agencies or entities must provide authorization pursuant to statute, ordinance, or the bylaws or resolution of the entity's governing body.



## SECTION 11.040 - APPLICATION COMPLETENESS

- A. An application will not be acted upon until it has been deemed complete by the Planning Director.** In order to be deemed complete, the application must comply with the requirements of Section 11.040, and all applicable criteria or standards must be adequately addressed in the application.
- B. Within 30 days of the date an application is filed, the Planning Department will notify the applicant in writing,** specifying any additional information that is required to make the application complete. The application shall be deemed complete upon receipt of:
1. All of the missing information; or
  2. Some of the missing information and written notice from the applicant that no other information will be provided; or
  3. Written notice from the applicant that none of the missing information will be provided.
- C. If the application was complete** when first submitted or the applicant submits additional information as described in subsection (B) within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- D. When an applicant fails to submit the requested information** without refusing in writing to do so as described in subsection (B), the application shall be void on the 181st day after the application was filed.
- E. Acceptance of an application does not waive further requests for information** at a later time to provide additional necessary information or technical data to show compliance with applicable county or state standards. The burden of proving compliance with all applicable criteria remains with the applicant throughout the permitting process.

## **SECTION 11.050 - EXISTING VIOLATIONS ON THE PROPERTY**

Whenever a violation of federal, state or local law exists on the subject property, the County shall either refuse to accept, or later may reject, or deny any application for building or land use permits unless the property is brought into compliance with the law or the application will remedy the violation.

## SECTION 11.060 - CONSOLIDATED APPLICATIONS

- A. Applications for more than one land use decision on the same property may be submitted together for concurrent review.** If the applications involve different review processes, they will be heard and decided under the higher review procedure. For example, combined applications involving an administrative review and a conditional use will be reviewed and decided by the Planning Commission.
  
- B. Applications that are paired with a Comprehensive Plan Map or Zoning Map amendment shall be contingent upon final approval of the amendment by the Board of Commissioners.** If the Board denies the amendment, then any other application submitted concurrently and dependent upon it shall also be denied.

## **SECTION 11.070 - DECISION PROCESS**

### **Decision Time-frames**

- A. Legislative decisions are not subject to the time-frames in this section.**
- B. For applications concerning lands located within an urban growth boundary and applications for mineral or aggregate extraction, final action shall be taken within 120 days after the application is deemed complete.**
- C. For applications concerning private activities on federal lands, if a decision is not rendered within 60 days of receipt of the application, the application shall be considered approved.**
- D. For all other applications submitted under this Ordinance the County will take final action within 150 days after the application is deemed complete.**
- E. These time-frames may be extended for a specified period upon written request by the applicant. The total of all extensions may not exceed 215 days.**
- F. Time periods specified in this Section shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the County is not open for business, in which case it shall also be excluded.**
- G. Land use permits shall be effective when a final written decision is rendered by the Board of Commissioners, or the deadline for appeal of a lower decision has expired without an appeal being filed.**

### **FINDINGS REQUIRED**

- A. Approval or denial of an application shall be in writing, based upon compliance with the criteria and standards relevant to the decision, and include a statement of the findings of fact and conclusions related to the criteria relied upon in rendering the decision.**

### **BURDEN OF PROOF**

- A. The burden of proof in showing that an application complies with all applicable criteria and standards lies with the applicant.**

**SECTION 11.080 - APPROVAL OR DENIAL OF APPLICATION**

Approval or denial of an application for a use permitted by this ordinance shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the criteria, standards and facts set forth.

**SECTION 11.090 - ADMINISTRATIVE REVIEW**

*(Amended May 5, 2021 county Ordinance No. 2021-02)*

Except for the specific types of applications reserved to the Planning Commission as set forth in Section 11.100, all applications shall be subject to Administrative Review and decision.

Applications subject to Administrative Review will be reviewed by the Planning Director, who shall make a tentative decision without a public hearing except as otherwise specified in this section.

Uses subject to Administrative Review will be reviewed according to the following procedures:

- A.** The Planning Director may approve or deny an application for a permit without a hearing if the Planning Director gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice per ORS 215.416 (11)(c)(A) and listed below:
  - a) Notice shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:
    - (i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;
    - (ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or
    - (iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.
  - b) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
  - c) Notice shall be given at least ten (10) days prior to a decision.
  
- B.** After preliminary review of the application, and taking into consideration any comments received, if the Planning Director feels the proposed use may warrant a public hearing because of its size, scope, nature, potential impacts or other factors, the Director may refer the application directly to the Planning Commission for a public hearing in accordance with the procedures in Section 11.100 Planning Commission Review.

- C. Decision of Planning Director.** A decision on an administrative action shall be rendered by the Planning Director subject to the following:
- a. The burden of proof is placed upon the applicant to demonstrate the following:
    - i. The proposed action is in accordance with the applicable criteria of the GCZLDO.
    - ii. Proof of change in neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors.
  - b. The Planning Director will consider written comments from parties or other persons.
  - c. In all cases, the Planning Director shall enter findings and conclusions to justify their decision.
  - d. Conditions may be imposed and any changes or alterations of conditions shall be processed as a new Administrative Action.
- D. Notice of a Decision by the Planning Director.** Notice of decision shall be filed in the records of the Planning Director and also mailed to applicant, the owner(s) or contract purchasers of the subject property, and all parties within the required notification areas. Notice of decision shall contain:
- a. Identification of the application;
  - b. Applicable approval criteria;
  - c. The decision of the Planning Director;
  - d. Other information pertinent to the application, if any;
  - e. The date the decision was mailed;
  - f. Notice that any party may appeal the decision within twelve (12) days from the date such notice was mailed by filing a timely statement with the Director in accordance with 11.180

## **SECTION 11.100 - PLANNING COMMISSION REVIEW**

### **A. The Planning Commission shall have review authority for the following application types:**

1. Conditional uses
2. Comprehensive Plan Map and Zoning Map amendments (recommendations to County Court)
3. Text amendments to the Comprehensive Plan and Zoning Ordinance (recommendations to County Court)
4. Appeals of Administrative Decisions
5. Other applications forwarded by the Planning Director in accordance with the procedure in Section 11.090.

### **B. If the property is within an area covered by a Community Planning Advisory Committee (CPAC) appointed by the Board of Commissioners, notice of the application shall be sent to the Committee for comments and a recommendation on the application.**

### **C. The Planning Commission will hold a de novo public hearing to consider the application. Notice of the hearing will be provided in accordance with the requirements of Section 11.140.**

### **D. A written staff report will be available at least seven (7) days prior to the Planning Commission hearing.** The report will be mailed/emailed to the applicant, and, in the case of an appeal, to the appellant. All materials associated with these proceedings will be available for inspection at the Gilliam County Planning Office. Copies of such materials are subject to applicable reproduction fees.

### **E. In the case of conditional use applications, except an application for a destination resort, and appeals, the Planning Commission will approve, approve with conditions, or deny the application in a written decision.** The decision will be sent to all parties who participated either orally or in writing at the administrative or Planning Commission level. The Planning Commission decision may be appealed to the Board of Commissioners in accordance with the requirements of Section 11.180. Any appeal shall be submitted in writing within twelve (12) days of the issuance of notice of decision.

### **F. In the case of applications for a Zoning Map or Zoning Ordinance text amendment or destination resort, the Planning Commission will make a written recommendation to the Board of Commissioners to approve or deny the application.**

***#end#***



## **SECTION 11.110 - BOARD OF COMMISSIONERS REVIEW**

- A. The Board of Commissioners will hold a public hearing to review all Planning Commission recommendations concerning a Zoning Map or Zoning Ordinance text amendment. These hearings shall be de novo. The Board decision will be the final County decision.**
- B. Upon receiving an appeal of any other type of Planning Commission decision, the Board will determine whether to accept the appeal in accordance with the provisions of Section 11.070. Upon acceptance of an appeal, the Board shall establish the scope of the hearing, in accordance with one of the following:**
1. Review of the record before the Planning Commission. Only the evidence, data and written testimony submitted prior to the close of the record at the Planning Commission level will be reviewed. No new evidence or testimony related to new evidence will be considered, and no public hearing will be held.
  2. Limited evidentiary hearing. Only specific issues, criteria or conditions specifically identified by the Board will be considered. New testimony and evidence must be related to these specified issues, criteria or conditions in order to be accepted and considered by the Board.
  3. Full de novo hearing. New issues may be raised and new testimony, arguments and evidence may be accepted and considered by the Board.
- C. Notice of the record review or hearing shall be mailed to all parties who participated at the administrative or Planning Commission level, in accordance with the requirements of Section 11.140. In the case of an appeal hearing, the Notice shall specify any limitations on the scope of the hearing as determined by the Board pursuant to subsection (B) above.**
- D. Written notice of the decision shall be mailed to all parties who participated at the Board level or at an earlier proceeding on the application. An appeal of the Board's decision must be to the state Land Use Board of Appeals (LUBA).**

## **SECTION 11.120 - CALL-UP OF ADMINISTRATIVE DECISION**

A decision of the Planning Director or Planning Commission may be called up by the Board of Commissioners at any time prior to the expiration of the appeal period. Upon call-up, the lower decision will be processed like an appeal, but the burden of proof shall remain with the applicant.

## SECTION 11.130 - FORM OF PETITIONS, APPLICATIONS AND APPEALS

Petitions, applications and appeals provided for in this ordinance shall be made on forms prescribed by the County. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; and such other information as is needed to determine conformance with the ordinance.

**A. All applications required by this and other County Planning ordinances for a specific land use action may be consolidated in a single permit processing procedure, including the public hearing, notice and Commission action requirements:**

**Examples:** A single land use action requiring a zone change and conditional use, a conditional use and dimensional variance, or a conditional use and partitioning.

**B. Development/Zoning Permit.** Prior to the construction, addition to or change of use of a structure, or the change of use of a lot, a Development/Zoning Permit shall be obtained from the County Planning Department. A Development/Zoning Permit shall be void after one year from the date of issuance unless construction or use has commenced. A Development/Zoning Permit may be extended for an additional period not to exceed one year upon written request prior to the expiration of the original permit. Development/Zoning Permits shall be issued by the County Planning Director or other designated County representative only in accordance with the provisions of this ordinance.

1. Approval or denial of a permit application shall be based on standards and criteria set forth in this ordinance and other appropriate ordinances and regulations of the County.
2. Approval or denial of a permit shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the criteria, standards, and facts set forth.
3. Written notice of the approval or denial shall be given to all parties to the proceedings.
4. No Development/Zoning Permit shall be approved and issued unless the following criteria are met:
  - a. The proposed use is either permitted as an "Outright Use" or as a "Use Permitted with a Development/Zoning Permit" in the applicable zone;
  - b. The minimum lot size standards and other dimensional standards of the applicable zone are met;

- c. Access is guaranteed to the subject property and use;
- d. Required sewage disposal approval is evident, as is compliance with other environmental permit requirements.
- e. Public facilities and services deemed necessary are available including, but not limited to, schools, electrical power, telephone, fire protection and solid waste disposal.
- f. All other applicable local, State or Federal permit approvals are evident.

**C. Incomplete Applications**

1. If an application for a permit or zone change is incomplete, the Planning Director shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information within 30 days of the notice of incomplete information.
2. If the applicant submits the missing information within the 30-day period, the application shall be deemed complete for the purpose of Section 11.040 of this ordinance.
3. If the applicant does not submit the missing information within the 30-day period, the application shall be deemed incomplete on the 31<sup>st</sup> day after the Planning Director notified the applicant of incomplete information.

**D. Wetlands Notice.** The Planning Director shall provide notice to the Division of State Lands, the applicant and the owner of record within five (5) working days of the acceptance of any complete application for the following that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory:

1. Subdivisions;
2. Building permits for new structures;
3. Other zoning permits and allow physical alternation of the land involving excavation and grading, including permits for removal or fill, or both, or development in the floodplain and floodways;
4. Planned unit development.

E. **Permit Conditions**. Any land development decision resulting from a review required by the Land Development Code, may be subject to the imposition of permit conditions. These permit conditions are those determined to be reasonably necessary to ensure compliance with the intent of the Land Development Code and the Comprehensive Plan.

1. The Director shall require as a condition of approval of a use limited or prohibited within an SR zone, that the owner of property seeking approval of that use first 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 mining within the SR zone.

## SECTION 11.140 - PUBLIC NOTICE

- A. Each notice of hearing authorized or required by this ordinance shall be published in a newspaper of general circulation in the County at least ten (10) days prior to the date of hearing.**
- B. In addition to the notice required under Subsection 'A' of this section, notice of Conditional Use, Appeal Variance, or an Amendment to the Zoning Map shall be provided as follows [ORS 215.416]:**
1. To the Applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:
    - (i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;
    - (ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or
    - (iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.
  2. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
  3. Notice of a public hearing on an application shall be provided to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" if:
    - a. The name and address of the airport owner has been provided by the Oregon Department of Aviation to the county planning authority; and
    - b. The property subject to the land use hearing is:
      - i. Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or
      - ii. Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."
    - c. Notwithstanding the provisions of subsection (3) of this section, notice of a land use hearing need not be provided as set forth in subsection (3) of this section if the zoning permit would only allow a structure less than 35 feet in height and the property is located outside the runway "approach surface" as defined by the Oregon Department of Aviation.

- d. Shall provide notice to the Oregon Department of Aviation when the local government or its designee receives an application for a comprehensive plan amendment, zone change or permit as defined in ORS 215.402 or 227.160 that, if approved, would result in a water impoundment larger than one-quarter acre within 10,000 feet of an airport identified in ORS 836.610 (1). [revised 3-XX-2021 ORS 215.416 and ORS 197.183]

**C. Notice to Affected Agencies including but not limited to ODOT**

1. Gilliam County will provide timely notice to Oregon Department of Transportation (ODOT) regarding any land use action on or adjacent to a State transportation facility. Information that should be conveyed to reviewers includes:
  - a. Project location.
  - b. Proposed land use action.
  - c. Location of project access point(s).
2. Additional information which may be supplied to Oregon Department of Transportation upon request includes:
  - a. Distances to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property;
  - b. Number and direction of lanes to be constructed on the driveway, plus striping plans;
  - c. All planned transportation features (lanes, signals, bikeways, walkways, crosswalks, etc.);
  - d. Trip generation data or appropriate traffic studies;
  - e. Parking and internal circulation plans for vehicles and pedestrians;
  - f. Plat map showing property lines, right-of-way, and ownership of abutting properties; and
  - g. A detailed description of any requested variance.

**D. The notice provided by the jurisdiction shall:**

1. Explain the nature of the application and the proposed use or uses which could be authorized;
2. List the applicable criteria from the ordinance and the plan that applies to the application at issue;
3. Set forth the street address or other easily understood geographical reference to the subject property;
4. State the date, time and location of the hearing;
5. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
6. Be mailed at least 20 days before the hearing;
7. Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
8. All materials associated with these proceedings will be available for inspection at the Gilliam County Planning Office. Copies of such materials are subject to applicable reproduction fees;
9. State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing. Copies of such materials are subject to applicable reproduction fees;
10. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

**E. All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time notice provided in Subsection C of this section.**

**F. If new documents or evidence is provided in support of the application after the time notice provided in Subsection C of this section, any party shall be entitled to a continuance of the hearing. Such continuance shall not be subject to the limitations of Section 11.070.**



- G. At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:**
1. Lists the applicable substantive criteria;
  2. States that testimony and evidence must be directed toward the criteria described in Paragraph 1 of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
  3. States that failure to raise an issues with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issues precludes appeal to the board based on that issue.
- H. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing.** Such an extension shall not be subject to the 120-day limitation of Section 11.070 of this ordinance.
- I. The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings** if the local government can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio, television and internet.

## **SECTION 11.150 - NOTICE OF PERMIT EXTENSION**

A decision to grant an extension of the approval period to initiate development or complete the requirements of a land use approval is an Administrative Decision. Notice of the decision to grant the extension will be provided in accordance with the requirements of Section 11.140. Notice of the extension shall also be mailed to any other parties who participated in the original land use decision.

## SECTION 11.160 - CONDITIONS OF APPROVAL

- A. Conditions May be Imposed.** Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, the Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both extent and amount to the anticipated impacts of the proposed use or development.
- B. Modification of Conditions.** At an applicant's request, the review authority which made the decision on the application may modify or amend one or more conditions of approval. The request shall be processed as a separate land use application with proper notice and hearing, and be subject to a separate fee.
- C. Compliance with Conditions.** An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions in Section 11.200.

## SECTION 11.170 - SEWAGE DISPOSAL APPROVAL

No Zoning Permit shall be issued for any use or structure which will have an individual sanitary subsurface disposal system until written approval is obtained by the applicant for said system.

**Note:**

A "conventional subsurface **sewage** treatment and disposal system" - consists of a house **sewer, septic tank** followed by a **leaching system**, any necessary pumps or siphons, and any ground ...

## **SECTION 11.180 - APPEALS**

An applicant or other party entitled to appeal a Decision may appeal:

1. Administrative Decision to the Planning Commission.
2. Planning Commission Decision to the Governing Body.
3. Governing Body Decision to Land Use Board of Appeals.

A person may appeal if the person:

- A. Filed a notice of intent to appeal the decision as provided in Subsection D of this section;**
- B. Appeared or participated in the proceedings leading to the decision orally or in writing; and**
- C. Meets one of the following criteria:**
  1. Was entitled as right to notice and hearing prior to the decision to be reviewed;
  2. Was a person who would have had a right to notice if the hearing had been scheduled; or
  3. Is aggrieved or has interests adversely affected by the decision.
- D. Written notice of the appeal must be filed with the County within twelve (12) days from the date the decision or requirement is mailed or delivered to the parties:**
  1. The facts that establish that the petitioner has standard;
  2. The date of the decision; and
  3. The issues the petitioner seeks to have reviewed.
- E. The County Court (Governing Body) shall determine whether to accept review of the appeal, or to decline to consider the appeal of a Planning Commission Decision.**
- F. The County Planning Commission may review a lower decision upon its own motion provided the motion is made within twelve (12) days of the lower decision.**

- G. An appeal or review proceeding shall be based upon, but not limited to, the record of the decision being appealed or reviewed.**
  
- H. Following the Appeal hearing, the County Court or Planning Commission may overrule or modify any decision or requirement and shall set forth findings for such decision in writing.**
  
- I. The procedure, public notice and type of hearing for an appeal or review shall be in the same manner as for any application under this ordinance.**

**SECTION 11.190 - FINAL ACTION REQUIRED WITHIN 120 DAYS**

Except as otherwise provided for by Subsections (3) and (4) of ORS 215.428, the County or its designate shall take final action on an application for a permit or Zone Change, including resolution of all appeals under ORS 215.422 and this ordinance, within 120 days after the application is deemed complete.

## SECTION 11.200 - REVOCATION

The Commission may revoke or modify any permit granted under the provisions of this ordinance on any one or more of the following grounds:

- A. A permit may be revoked on the basis of fraud, concealment, or misrepresentation by the applicant.**
  
- B. A permit may be revoked on the basis that the use for which such permit was granted is not being exercised within the time limit set forth by the Commission or this ordinance.**
  
- C. A permit may be revoked or modified on the basis that the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, code, resolution, law or regulations.**
  
- D. A permit may be revoked or modified on the basis that the use for which the permit was granted was so exercised as to be detrimental to the public health, safety or welfare.**
  
- E. Any permit granted pursuant to this ordinance shall become null and void if not exercised within the time period specified in such permit, or if no time period is specified in the permit, within one year from the date of approval of said permit.**
  
- F. The Commission shall hold a public hearing on any proposed revocation after giving written notice to the permittee and other affected persons as set forth in this ordinance. The Commission shall render its decision within 45 days after the conclusion of the hearing. In the case where the permittee is not satisfied with the action of the Commission, he may appeal the Commission's decision to the County Court in the manner provided in Section 11.170 of this ordinance.**
  
- G. Impact on public facilities exceeds original estimates.**



**SECTION 11.210 - VIOLATION OF STANDARDS IN AN EXCLUSIVE FARM USE ZONE**

**A. A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the Commission alleging:**

1. That a condition imposed pursuant to Subsection 7.020.Q of this ordinance has been violated;
2. That the violation has:
  - a. Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
  - b. Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
  - c. That the complainant is adversely affected by the violation.

**B. Upon receipt of a complaint, the Planning Director shall:**

1. Forward the complaint to the operator of the use alleged to be in violation;
2. Schedule a hearing before the Commission to review the complaint. The public hearing shall be held pursuant to Ordinance 87-3. The Commission shall determine whether the allegations are true.

**C. Upon a determination by the Commission that the allegations of the complaint are true, the Commission shall direct the violator to correct the conditions that led to the violation within a specified time period.**

**D. The Planning Director shall notify the operator of the use of the Commission's decision.** If the Commission has determined that the allegations of the complaint are true, the Planning Director shall also warn the violator not to commit further violations and inform the violator of possible future punitive sanctions.

**E. The Commission shall assess a fine if it determines either of the following:**

1. The conditions that led to a violation are not corrected within the time period specified pursuant to Subsection C of this section; or

2. If there is a determination pursuant to Subsection C of this section following the receipt of a second complaint about a use that a further violation has occurred.

**F. The Commission shall order suspension of the violating use until the operator of the use corrects the conditions that led to the violation, if it determines either of the following:**

1. The conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to Subsection E of this section; or
2. There is a determination pursuant to Subsection C of this section following the receipt of a third or subsequent complaint that a further violation has occurred.

**G. If a Type I or Type II Conditional Use is initiated without prior approval pursuant to Subsection A of this section, the Planning Director shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against committing further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval.**

**H. If there is a determination pursuant to Subsection C of this section following the receipt of a complaint that a further violation occurred after approval was granted under Subsection G of this section, the violation shall be deemed a second violation and the Commission shall assess a fine against the violator.**

**I. The Commission shall order suspension of the violating use until the operator of the use corrects the conditions that led to the violation, if it determines either of the following:**

1. The conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to Subsection E of this section; or
2. There is a determination pursuant to Subsection C of this section following the receipt of a third or subsequent complaint that a further violation has occurred.

**J. If a Type I or Type II Conditional Use is initiated without prior approval pursuant to Subsection A of this section, the Planning Director shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against committing further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval.**

- K. If there is a determination pursuant to Subsection C of this section following the receipt of a complaint that a further violation occurred after approval was granted under Subsection G of this section, the violation shall be deemed a second violation and the Commission shall assess a fine against the violator.**