

# CHAPTER 1

## Land Use Planning

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## COMPREHENSIVE PLAN

### **1.0001 Title and Purpose**

Chapter One shall be known and may be cited or pleaded as the Lincoln County Comprehensive Plan and Zoning Regulations. This chapter applies to all that area of Lincoln County subject to county jurisdiction under the provisions of ORS 215.130 and subsequent amendments to the Oregon Revised Statutes. The purpose of this chapter is to promote the public health, safety and general welfare and to implement the goals and policies of the Lincoln County Comprehensive Plan, LCC 1.0005 to 1.0190.

### **1.0005 Introduction**

The comprehensive plan is a statement of Lincoln County's overall policies regarding the nature of future growth and development in the County. This policy reflects a consideration of the County's problems and needs as well as its social, environmental and economic values. The purpose of comprehensive planning is to allow the public to make decisions in advance about the development of the County and the use and conservation of its resources. The resulting plan is a document upon which public agencies and private firms and individuals can rely so their decisions and investments can be made with confidence. People buying homes can do so, assured that their community will grow and develop in an orderly fashion. Businesses can invest in new sites, confident that they can be used for their intended purpose and that needed services will be provided. Public investments in water systems, sewer systems, schools, roads, etc., can be made in an orderly and cost effective manner. At the same time, the comprehensive plan is not intended to be a static document; rather it is intended to be dynamic in nature. Periodic review and revision is a necessary part of the planning process in order to respond to changing social and economic needs and circumstances. The Lincoln County Comprehensive Plan consists of five primary elements: The Comprehensive Plan Inventory; the Comprehensive Plan Policies; the Comprehensive Plan Maps; the Lincoln County Transportation System Plan adopted pursuant to LCC 1.0138 and the Bayshore Dune Management Plan and Foredune Management Plan (Bayshore Plan) adopted pursuant to LCC 1.0108. The Comprehensive Plan Inventory provides the background information, data and other factual base material concerning the social, economic and environmental resources of the County. The Comprehensive Plan Policies are the formal binding policy statements which direct future growth and development and which are derived from the problems and needs identified in the Comprehensive Plan Inventory. The Comprehensive Plan Maps assign land use designations to all areas of the County in accordance with the requirements of the Comprehensive Plan Policies. It should be emphasized that these three elements of the County Comprehensive Plan must be considered together in analyzing a specific application of the plan. For example, the policy provisions for Forest Lands are in response to resources and conflicts identified in the inventory, and are in turn applicable to those resources defined in the inventory and delineated on the plan maps. In order to provide a better understanding of this linkage between the inventory and policy elements of the Comprehensive Plan, the relevant conclusions of the various inventory sections have been summarized below:

#### **(1) Urbanization:**

The County's urbanization policies are based on factual base material contained in the relevant cities' comprehensive plan. This material includes information on population projections, housing needs and projections, and overall urban land needs. Based on the information, policies

establishing urban growth boundaries and joint management procedures have been adopted. For detailed information on particular urban growth boundaries, the appropriate city plans should be consulted.

**(2) Air, Land and Water Quality:**

The air, land and water quality inventory details existing and potential sources of pollution in Lincoln County. Air quality in Lincoln County exceeds minimum standards set by the EPA. There are some waste discharges in Lincoln County affecting air quality; however air quality is remaining the same or improving slightly. Water quality in Lincoln County is described as generally good. Some moderate sedimentation problems exist on portions of some watersheds; in addition some periodic non-compliance with temperature standards occurs as a result of low summer flows and over appropriation. According to the inventory, air, land and water quality problems in the County are relatively minor and are currently adequately regulated by existing state and federal pollution control programs.

**(3) Natural Hazards:**

A variety of natural hazards are identified and detailed in the inventory. They include steep slopes, landslide areas, high water table, weak foundation soils, active sand areas, stream and ocean flooding and coastal erosion. Most natural hazards common to Lincoln County are of such a nature and scale that large scale engineering or structural solutions are not practical. Zoning and performance standard requirements are the primary techniques available for hazard mitigation.

**(4) Forest Lands:**

Approximately 87 percent of the total land area of Lincoln County is forest land. Of this 550,000 acres, roughly 80 percent is in either industrial or public ownership. The primary use of the majority of these forest lands is commercial wood fiber production. Secondary uses include wildlife production, outdoor recreation, domestic watersheds and livestock grazing. Existing ownership patterns, historical use trends, and past and current management practices for private non-industrial forest lands indicates that parcels of 40 to 50 acres comprise the large majority of ownerships and that parcels in this size range are compatible with the conservation of forest lands for forest uses.

**(5) Agricultural Lands:**

The analysis considers available sources of data on farms in Lincoln County including the 1979 Census of Agriculture, the S.C.S. Farm Plans, and the Farm Deferral Information. Comparisons are made of all these sources and they are found to be representative samples of agriculture and commercial agriculture in the County. These sources indicate that different size parcels may be appropriate for different types of activities. Average acreages of commercial farm uses were as follows: crops, 28 acres; pasture, 55 acres; wooded pastures, 34 acres; farm wood lots, 41 acres; overall average, 81 acres. The diversity of these averages preclude a county-wide minimum lot size. The two step approach is suggested using the above information as a guideline and more detailed information applied to the guideline area which is mapped and determined in the study. Use of a Commercial Viability Rating System is proposed as a system to provide for the continuation of the commercial agriculture if the person is able to have similar types and averages of activities as 75 percent of the surrounding farms on Farm Deferral within the guideline area. This result is obtained when a minimum rating of 36 points is achieved.

**(6) Estuarine Resources:**

In terms of both economic and social value, estuaries are among the most valuable of the County's natural resources. Among their many valuable functions, estuaries serve as a nursery for

many commercially important ocean fish and as a migration route for anadromous fish (steelhead and salmon). Crustaceans occur in immense numbers and are important in the diet of young fish which in turn are food for higher carnivores. Open water, eel grass and tide flats provide the food and shelter requirements of a significant portion of the migratory birds using the coastal portion of the Pacific Flyway. Of particular importance are the estuarine marsh and tide flat communities which, through their role in nutrient regeneration and cycling of organic matter, provide a significant portion of the primary productivity upon which many major marine food webs are based. These estuarine wetlands serve a number of other important functions including: providing water storage capacity that counteracts tidal surges and upstream flood runoff; serving as settling and filtering basins for silt, organic material and other pollutants; providing breeding, resting and feeding grounds and escape cover for many forms of fish and wildlife. Estuaries are also extremely important for navigation and shipping, commercial fishery support facilities, commercial aqua culture operations, recreational boating and fishing and other economically important activities which require some alteration of the estuary. Because the delicate balance and operation of an estuary is dependent on the interrelationships of complex natural processes, estuaries represent a very fragile environment. Seemingly modest alterations to the processes that govern them can cause major changes in their biophysical character. For this reason, the potential for resource degradation as a result of competing uses is high. Since estuaries have such high economic and social values, it is of critical importance to establish estuarine management practices that will provide for development of estuarine-dependent resources in a manner compatible with conservation and enhancement of estuarine environments.

**(7) Coastal Shorelands:**

The coastal shorelands planning area includes lands contiguous to the Pacific Ocean and tidal rivers and streams. While the interior portions of the County are largely devoted to public and private commercial timber production, those parts of the land mass adjacent to the ocean and major rivers are devoted to a variety of uses, many of which are unique. Many of the principal economic activities in Lincoln County are directly dependent on sound management of shore land areas. Tourism flourishes in the County almost solely because of the appeal of the ocean, the beaches and the estuaries. Preservation of the scenic qualities of these resources as well as public shore land access is obviously crucial if tourists are to continue to be attracted to the area. The fishing industry is dependent on sound management of shoreline areas. Industrial needs such as processing, moorage, boat repair and construction must be provided for in the limited shore land area. At the same time, areas of coastal waters and adjacent lands which are crucial for the maintenance of marine food webs must be soundly managed. Other features unique to the shore lands such as coastal hazard areas and significant coastal habitat areas also require special management provisions.

**(8) Beaches and Dunes:**

Lincoln County has extensive ocean beaches, as well as several smaller areas of dunes. Numerous dune forms are present, including areas of older stabilized dunes, conditionally stable dune forms, active fore dunes and inter dune areas (deflation plains). Lincoln County's dune areas are relatively small, and other dune resources such as dune habitats and dune aquifers are present, but not substantial. Major portions of Lincoln County's dune areas, such as Bayshore and Salishan spits, are committed to residential development.

**(9) Open Space:**

The inventory concludes that a more than ample supply of open space exists in the planning area. Because the plan restricts residential densities on forest, agricultural and other rural lands, and maintains existing parks and public open space, no conflicts exist for lands needed and desirable for open space.

**(10) Mineral and Aggregate Resources:**

The large majority of the County's known aggregate reserves occur on forest or agricultural lands, where no significant conflicts exist. Some deposits do occur in areas where potential conflicts from other uses could arise. These have been analyzed, consequences have been assessed and conflicts resolved. This resolution has generally taken the form of either permitting in full or prohibiting the conflicting use.

**(11) Energy Sources:**

Energy sources in Lincoln County are confined to some potential low-head hydro-electric sites and some potential wind power generating sites. These sites all occur in areas where no conflicting uses exist.

**(12) Fish and Wildlife Habitats:**

Fish and wildlife habitats of various types occur throughout the County. Many of these habitat areas occur on forest or agricultural lands. Normal forestry and farming activities conducted in accordance with existing regulatory authorities do not conflict with these habitats. Some significant habitats do occur in areas designated for higher intensity developments, and potential conflicts exist. The inventory examines these conflicts and their consequences and concludes that such conflicting uses should be specifically limited through the use of clear and objective standards.

**(13) Significant Natural Areas:**

The Nature Conservancy Data Summary for Lincoln County identified some 52 sites which might be considered for designation as significant natural areas. Through a process of further detailed evaluation, this original inventory was refined to a list of 15 candidate natural areas. Each of these 15 sites has been assessed in detail in terms of location, quality and quantity of resource potential conflicts, etc. Specific programs to resolve conflicts have been proposed on a site-by-site basis.

**(14) Outstanding Scenic Views and Sites:**

Areas of outstanding scenic value have been identified through the use of historic documents, citizen recommendations, and field surveys. Some of these areas are in portions of the County designated for forest and agricultural uses which would not conflict with scenic qualities. Other scenic resources are in areas with potential land use conflicts. The analysis of consequences for these areas suggests that these conflicts should be limited through the use of implementing standards.

**(15) Water Resources:**

Water resources are among Lincoln County's most abundant natural resources. These resources occur throughout the County; potential conflicts are numerous and varied. However, existing regulatory programs which control point and nonpoint source pollution, wetland alterations and other conflicting uses are adequate to resolve conflicts.

**(16) Historic and Cultural Areas and Sites:**

Historic and cultural sites have been inventoried on a site by site basis, and the nature of the historic or cultural values of each site has been analyzed. Numerous sites have been identified for which potential conflicting uses exist. Based on an analysis of the consequences of alternative



courses of action, the inventory concludes that it is not desirable to either fully permit or totally prohibit these uses, but rather programs should be developed to in some way limit conflicting uses.

**(17) Potential and Approved Oregon Recreation Trails:**

Lincoln County has only two formally recognized potential state recreation trails (trails for which specific routes have been selected) and no formally approved trails. The Oregon Coast Hiking Trail follows the Lincoln County beaches, with some overland portions around sections of coastal headland areas. Some conflicts have been identified with this trail route in certain areas designated for residential use. The Oregon Coast Bicycle Route follows public right-of-ways for its entire length in Lincoln County, and no conflicts have been identified with this trail route.

**(18) Scenic Waterways:**

The Alsea and Siletz Rivers in Lincoln County are on both the State and Federal lists of potential scenic waterways, but neither has been studied for formal designation. While no conflicting uses exist in terms of consideration for scenic waterway status, conflicts have been identified for portions of the scenic corridor areas along each of these rivers. Implementary measures to limit these conflicts have been recommended.

**(19) Economy:**

All the evidence examined suggests strongly that Lincoln County's economy will grow relatively rapidly through 2000 and beyond. Specifically, it is projected that the County's total employment will increase at an average compound annual growth rate between 3.9 and 4.4 percent, or from 13,259 in 1977 to a low of about 32,000 and a high of about 35,000 in 2000. The analysis showed that the County's total employment increased at an average compound annual growth rate of about 4.8 percent from 9,560 to 13,250 during the 1970-1977 period. Three major assumptions underlie these conclusions. First, it is projected that a mild increase and then a mild decrease in employment in forest-related industries will occur. For example, it is expected that Lincoln County's employment in lumber and wood products in 2000 will be slightly over 1,000 employees compared to 920 employees in 1977. Second, the County's employment in fish-related employment will increase between 270 percent and 459 percent by 2000, with the largest increase stemming from the on-shore impacts of the new 200-mile fishing zone. Third, the County's employment in tourist and recreation related employment should increase between 300 percent and 340 percent by 2000, thus contributing roughly 68 percent of the total increase in employment in Lincoln County during the 1977 to 2000 period. The analysis suggests this increase will stem largely from growth in the Willamette Valley's employment increasing at an average annual compound growth rate greater than 3.0 percent during the 1977 to 2000 period.

**(20) Transportation:**

Transportation in Lincoln County centers primarily on the use of the private automobile. It is anticipated that this reliance will continue, and the focus of transportation planning for the planning period will be on design, improvement and maintenance of public roads and highways. Mass transit opportunities in Lincoln County appear to be extremely limited during the planning period. The small number of potential users and their low concentration combine to make any such project economically unsound. It is likely that the importance of air travel will increase during the planning period, commensurate with projected population increases. The probability of commercial air service to the Newport area is anticipated and plans for significant improvements at the airport are being formulated. Rail service and commercial shipping activities are both confined to serving industrial wood products operations in the Newport-Toledo area.

In 2011-12, Lincoln County participated in a planning process that addressed transportation and land use issues in South Beach, an area south of the Yaquina Bay Bridge that includes land both within the City of Newport and outside city limits, within Lincoln County. A significant amount of new development in the Newport area is expected in this area. Forecasted traffic volumes along US 101 are anticipated to result in greater congestion levels, particularly during the summertime peak. However, traffic growth is likely to be high enough that significant congestion also will be experienced at other times of the year. The limited state funding available for bridge improvement and replacement causes the Yaquina Bay Bridge to become the major constraint in the operation of the transportation system south of the bridge.

Newport and Oregon Department of Transportation (ODOT), in consultation with Lincoln County, have worked together to identify a transportation system and management strategy that will support future community development in South Beach. The strategy includes alternative mobility standards for US 101, strategic improvements to the state highway and to the local street system and a variety of improvements to the pedestrian and bicycle system. A South Beach Transportation Overlay Zone (SBTOZ) has been created that creates a Trip Budget Program to track vehicle trips generated by future development. The City has adopted the SBTOZ and Trip Budget Program to track the trips from future development so that the planned transportation system will be able to serve future land use needs. The County will rely upon the City's adopted Transportation System Plan (TSP) to identify the necessary and appropriate improvements to the transportation system. The County will participate in the SBTOZ and Trip Budget Program by notifying the City of land use approvals for all development proposed on lands within the SBTOZ. This process will provide the City of Newport with the means to ensure that trips are available in the City's Trip Budget Program to support developments in South Beach. [2013 o. 470 §1]

**(21) Energy:**

Increasing population coupled with reliance on increasingly scarce energy resources necessitates expanded efforts for conservation and more efficient use of energy. Local governments can encourage efficient energy use and conservation through a variety of methods including seeking funding sources for alternative energy development, encouraging residents to utilize conservation programs, providing public information and education on energy related matters and encouraging energy efficient design in housing and other types of developments.

**(22) Housing:**

The problem of providing both adequate and affordable housing has become an issue of national concern. Housing problems in Lincoln County largely parallel national trends. Overall vacancy rates in the County are very low; this coupled with rapidly escalating building costs and interest rates has driven acreage housing costs to levels beyond the income capabilities of many County residents. Fewer and fewer families are able to afford ownership of a single family residence, still the overwhelming preference of most households. The County's role in providing areas for needed housing is projected to be relatively small during the planning period (as compared to areas within incorporated cities). However, in existing rural communities and other rural residential areas, the provision of opportunities for affordable housing will be emphasized.

**(23) Recreation:**

The physical setting of Lincoln County holds a great deal of potential for outdoor oriented recreation. An extensive network of state, federal and locally managed outdoor recreation facilities are available. They provide access to the larger water bodies and dramatic scenery for tourists and residents alike. The potential for year round recreation is limited somewhat by climate, topography

and drainage conditions. Needs for all-weather or indoor recreation facilities are apparent to satisfy recreational demand in cooler winter months.

**(24) Public Facilities:**

Historically, few if any public facilities were available in the rural areas of Lincoln County. As demand for recreational development increased, various services have developed in the unincorporated areas. Through the formation of special districts, water, fire protection and in some cases, sanitary sewer services has been provided. The delivery of these services has been localized, and the networks have developed in a largely uncoordinated fashion. In some cases, levels of development have exceeded service capabilities and attendant problems have ensued. The need for overall comprehensive plan policies to guide the future development and delivery of services in these rural areas is identified. [2008 o.456 §1; 2012 o.466 §1]

**1.0010 Land Use Planning Goals**

Land use planning goals:

- (1) To identify activities, issues and problems of land use.
- (2) To ensure that all growth is orderly and efficient.
- (3) To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land, and to assure an adequate factual basis for such decisions and actions.

**1.0015 Land Use Planning Policies**

Land use planning policies:

(1) The Comprehensive Plan for Lincoln County shall be filed in the office of the County Clerk and available in the County Planning Department and may be available at city halls and libraries throughout the County.

(2) The inventory information shall be referenced in the plan and shall be available for use and inspection in the Planning Department. Additional copies of inventory information may be distributed to city halls and libraries throughout the County.

(3) Lincoln County shall maintain a planning process to coordinate federal agency, state agency, county, city and special district plans which are to be consistent with this comprehensive plan.

(4) All departments of county government shall work together to encourage orderly and efficient patterns of growth,

(5) The County shall review the entire plan at least every five years to determine the need for revision and updating.

(6) If revisions are required as a part of the overall review and update process, the comprehensive plan text and/or map shall be amended by ordinance using the following procedure:

(a) All plan revisions shall be reviewed by the appropriate citizen committees. The committees shall be notified of the proposed plan revisions by the County and shall be given the opportunity to submit committee reports containing findings, recommendations and possible alternatives, and invited to attend public hearings.

(b) Proposed plan revisions shall then be presented to the Planning Commission for a public hearing, after which a recommendation shall be made to the Board of County Commissioners.

(c) The Board of County Commissioners may affirm, deny or table matters or refer matters back to the Planning Commission for further action.

(7) Lincoln County plan designations would allow for less intensive uses which do not preclude future planned land uses.

(8) Lincoln County shall develop and adopt standards to buffer incompatible land uses.

(9) Lincoln County supports incorporation of smart growth principles into decision-making processes. Smart growth concepts include promoting transit-oriented development, mixed-use development, minimum street connectivity standards, minimum densities, and minimum floor-area ratios and parking standards. [2008 o.456 §4]

#### **1.0020 Intergovernmental Coordination Policies**

The County shall work with all local, state and federal agencies districts owning and managing property within Lincoln County to assure coordinated comprehensive planning:

(1) Pursuant to the federal consistency requirements of the Coastal Zone Management Act (Section 307), all state and federal permits for activities affecting land use within Lincoln County shall be reviewed by the County for compliance with the comprehensive plan before the permit is granted.

(2) The County shall maintain communication with local, state and federal agencies which may include the exchange of maps, data and other appropriate information.

(3) During all comprehensive plan updates and revisions, the County shall encourage the participation of affected local, state and federal agencies and districts.

#### **1.0025 Citizen Involvement Policies**

(1) There shall be a continued effort to involve citizens and citizen advisory committees (CACs) in all phases of the planning process. The committee for citizen involvement (CCI) shall continue to assist in developing and implementing the Lincoln County Citizen Involvement Program (CIP).

(2) A systematic written procedure shall be established by the County to derive comments from the Citizens Advisory Committees to the Planning Commission and governing body. The procedure shall show which party is to be addressed at each level of planning.

(3) The facts and rationale upon which planning decisions are made shall be provided to the affected citizens advisory committees, and to others upon request.

(4) Citizens Advisory Committee recommendations and the response to those recommendations shall be part of the Planning Commission files.

#### **1.0030 Urbanization Policies**

(1) Lincoln County shall work with citizens and cities of Lincoln County in the establishment, maintenance and amendment of urban growth boundaries. Establishment and change of the boundaries shall be based upon consideration of the following factors:

(a) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;

(b) Need for housing, employment opportunities, and livability;

(c) Orderly and economic provision for public facilities and services;

(d) Maximum efficiency of land uses within and on the fringe of the existing urban area;

(e) Environmental, energy, economic and social consequences;

(f) Retention of agricultural land as defined, with Class VI the lowest priority; and

(g) Compatibility of the proposed urban uses with nearby agricultural activities.

(2) Public facilities and services extended to lands outside urban growth boundaries shall be appropriate for, and limited to, rural types and levels.

(3) Outside of urban growth boundaries, Lincoln County shall provide only rural levels and types of public facilities and services.

(4) Developments within urban growth boundaries, but outside of city limits shall be allowed only when the property owner has agreed to accept and pay for (now or at some future date at the discretion of the service provider) service extension, installation, and hook up fees at levels equal to those required within the city. Public facilities (water, sewer and streets) design shall be approved by the city, special district or other private service provider prior to final approval.

(5) Land use decisions affecting urban growth areas outside city limits shall be made after the affected city is given the opportunity to make a recommendation. The city and county plans shall be coordinated for these areas.

(6) Within city urban growth boundaries, subdivisions and partitions shall be to the city's urban densities as set out in the city's plan designation for the affected property or be at interim densities of five acres or greater so long as lots do not interfere with efficient urbanization.

(7) Within urban growth boundaries and outside of city limits, the Lincoln County land use designations shall apply prior to annexations. After annexations, the city land use designations shall apply.

(8) Lincoln County shall comment on proposed annexations when cities have provided a description of the proposed area annexation to the County ten days prior to applicable public hearings.

(9) Lincoln County shall coordinate with cities and special districts on plans, public facility extensions and urban services delivery. Where necessary this will be done through intergovernmental agreement.

#### **1.0040 Air, Land, and Water Quality Goals**

Air, land, and water quality goals:

- (1) To improve the quality of air, land and water resources.
- (2) To secure sufficient water resources to support future growth.
- (3) To not exceed the carrying capacity of the County's water resources.
- (4) To ensure the safe and sanitary disposal of solid waste.
- (5) To ensure that land use will not degrade the quality of air, land and water resources.
- (6) To coordinate planning within river basins.

#### **1.0045 Air, Land, and Water Quality Policies**

(1) Lincoln County shall work to solve identified air, land, and water quality problems, with other counties and with:

(a) The Lincoln County Soil and Water Conservation District in coordinating land and water management.

(b) The Oregon Water Resources Department to determine water availability and its allocation.

(c) The Department of Environmental Quality and the Environmental Protection Agency to determine standards to monitor air noise, land and water quality.

(d) The Department of Forestry to enforce the Forest Practices Act.

(e) Local citizens and jurisdictions.

(2) Lincoln County shall work with state and federal agencies to assure that pesticides and herbicides are not dispersed in quantities and in a manner so as to adversely affect human health and property of its citizens.

(3) Lincoln County shall strongly discourage the siting of nuclear power generation plants within the County due to the presence of high water tables, low water flows, and many geologic faults within the County.

(4) Lincoln County shall strongly discourage the disposal of nuclear waste within the County due to the presence of high water tables, low water flows, and many geologic faults within the County.

(5) Lincoln County shall require that disposal of chemical waste dumps in the County so as to assure that no future uses of such sites results in danger to human health, life and property.

(6) The Lincoln County Solid Waste Advisory Committee shall develop and maintain a solid waste disposal management plan.

(7) Lincoln County shall recognize the authority and responsibility of the Oregon Department of Environmental Quality to manage the waste and process discharges of all existing and future development. Lincoln County shall require conformance with all applicable state and federal regulations regarding waste and process discharges prior to approval of any development.

(8) Lincoln County shall cooperate in the identification and monitoring of known aquifers. The quality of aquifers capable of augmenting domestic water supplies shall be protected.

(9) Lincoln County shall consider participation in the Cool Counties Climate Stabilization Declaration through the National Association of Counties. [2008 o.456 §6]

#### **1.0050 Natural Hazards Goals**

Natural hazard goals:

- (1) To identify and evaluate areas where natural hazards are known or suspected to exist.
- (2) To protect life and property from natural disasters and hazards.
- (3) To provide appropriate safeguards for land uses in areas of natural hazards.

#### **1.0055 Natural Hazard Policies**

(1) Lincoln County shall require the provision of adequate safeguards before permitting development in identified areas of known or suspected natural hazards. In regard to forest operations on forest lands, the Oregon Forest Practices Act is to provide such safeguards.

(2) Except for beach front protective structures regulated by state permitting agencies, Lincoln County shall require site investigation reports from a registered professional geologist or certified engineering geologist prior to consideration of development requests in areas of known or suspected geologic hazards. Forest operations shall be subject only to the requirements of the Forest Practices Act.

(3) Lincoln County shall require developments in areas subject to flooding to comply with the requirements of the U.S. Department of Housing and Urban Development (HUD) Flood Insurance Program.

(4) Lincoln County shall maintain maps of identified geologic hazards which shall be available to the public. Presently available are:

(a) Environmental Geology of Lincoln County, Department of Geology and Mineral Industries, 1973, with quadrangle maps; and

(b) Environmental Hazard Inventory, Coastal Lincoln County, RNKR Associates, 1977, with 1"-400' photo mapping of coast.

(5) "Areas of Natural Disaster and Hazards" are areas that are subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas.

#### **1.0060 Forest Land Goals**

Forest land goals: To conserve forest land for forest uses.

#### **1.0065 Forest Land Policies**

(1) Forest land shall be retained for the production of wood fiber and other forest uses.

(2) Lincoln County shall provide for compatible uses on forest lands.

(3) Lincoln County shall recognize the Oregon State Department of Forestry as the regulatory agency for forest management practices. Lincoln County shall cooperate with the Oregon State Department of Forestry to ensure that application of forest management practices are consistent with the Oregon Forest Practices Act.

(4) Lincoln County shall protect existing forest uses from encroachment of incompatible forest uses.

(5) Forest lands within designated urban growth boundaries shall be considered urbanizable upon a showing of need for such use.

(6) Lincoln County will recognize the need for ownership consolidation in maximizing the forest objectives of individual forest land owners and will encourage and cooperate in the process of land exchanges between the various owners.

(7) Lincoln County shall allow residences in association with forest uses within forest zones.

(8) Lincoln County may permit non-forest residences on single units of ownership within forest zones. The location of such residences shall be compatible with forest management activities on adjacent properties.

(9) Lands identified in the inventory as forest lands shall be designated on the comprehensive plan maps as forest lands unless lands are determined to be committed to or needed for non-forest uses.

#### **1.0070 Agricultural Lands Goals**

Agricultural lands goals:

(1) To preserve and maintain agricultural lands.

(2) To conserve and improve the existing commercial agricultural enterprise within the area.

#### **1.0075 Agricultural Lands Policies**

(1) Lincoln County shall designate, preserve and maintain agricultural land for farm use consistent with existing and future needs for agricultural products, forest and open space.

(2) Lincoln County shall convert agricultural land to urbanizable land only after considering all of the following factors:

(a) Environmental, social, economic and energy consequences.

(b) Demonstrated need consistent with LCDC Goals.

- (c) Unavailability of an alternative suitable location for the requested use.
- (d) Compatibility of the proposed use with related agricultural land.
- (e) The retention of Class I-IV soil in farm use.
- (f) The requirement for an exception to the Statewide Goals.

(3) Lincoln County shall ensure that designated agricultural lands are protected from encroachment of incompatible land use.

(4) Where rural residences can be accommodated on land within agricultural areas not suited for agriculture or commercial timber production, such residences shall be allowed if they pose no threat of conflict with prevailing farm and forest practices.

(5) Lincoln County shall allow one residence for farm purposes outright on lands designated for agricultural use when the parcel is found to be appropriate for the continuation of the existing commercial agricultural enterprises in the area.

(6) Lincoln County shall review the location of additional residences for farm helpers or family members assisting in farm operations on lands designated for agricultural use.

(7) Lincoln County shall adopt an agricultural conservation zone that shall conform to ORS chapter 215.

(8) Lincoln County shall establish lot sizes appropriate for the continuation of the existing commercial agriculture.

(9) Lincoln County shall define farm use as set out in ORS chapter 215.

(10) Lincoln County shall define agricultural lands as set out in the State-Wide Planning Goal on Agricultural Lands.

#### **1.0080 Estuarine Resource Goals**

(1) To recognize and protect the unique environmental, economic and social values of each estuary and associated wetlands.

(2) To protect, maintain, and where appropriate develop and where appropriate, restore the long term environmental, economic and social values, diversity and benefits of Lincoln County's estuaries.

#### **1.0085 Estuarine Resource Policies**

(1) Lincoln County shall work with appropriate local, state and federal agencies and other interested parties in developing overall management programs for the County's estuaries.

(2) Lincoln County's overall management plan for each estuary shall include the following policy elements:

(a) Because Lincoln County's estuaries represent an economic resource of regional importance, overall management of each estuary shall ensure adequate provision for development at a level of intensity consistent with the overall Oregon Estuary Classification and according to the following general priorities (from highest to lowest):

(A) Water dependent uses requiring an estuarine location.

(B) Water related uses which do not degrade or reduce natural estuarine resources and value.

(C) Non-dependent, non-related uses which do not alter, degrade or reduce estuarine resources or values and are compatible with existing committed uses.



(b) Because Lincoln County's estuaries support a variety of vitally important natural resource values, the overall management of each estuary shall include adequate provision for both conservation and preservation of natural resources.

(c) Because Lincoln County's estuaries represent a recreational resource of both local and statewide importance, management of each estuary shall protect recreational values and ensure public access to the estuary.

(3) Lincoln County shall establish the following kinds of estuarine management units:

(a) **Natural Management Units:** Natural management units are those areas which are needed to assure the protection of significant fish and wildlife habitats, of continued biological productivity within the estuary, and of scientific, research, and educational needs. These shall be managed to preserve the natural resources in recognition of dynamic, natural, geological and evolutionary processes. Unless exceptions are provided for, such areas shall include, at a minimum, all major tracts of salt marsh, tide flats, and sea grass and algae beds. Natural management units shall be designated in all estuaries. Permissible uses in natural areas shall be undeveloped low-intensity water-dependent recreation, research and educational observation, navigational aides, such as beacons and buoys; protection of habitat, nutrient fish, wildlife and aesthetic resources, and passive restoration measures, and where consistent with the resource capabilities of the area and the purposes of this management unit, aqua culture, communication facilities, and active restoration measures. **Management Objective:** To preserve, protect and where appropriate enhance these areas for the resource and support values and functions they provide.

(b) **Conservation Management Units:** In all estuaries except those in the overall Oregon Estuary Classification which are classed for preservation, areas shall be designated for long-term uses of renewable resources that do not require major alteration of the estuary except for the purpose of restoration. These areas shall be managed to conserve the natural resources and benefits. These shall include areas needed for maintenance and enhancement of biological productivity, recreational and aesthetic uses, and aqua culture. They shall include tracts of significant habitat smaller or of less biological importance than those in paragraph (a) of this subsection, and oyster and clam beds. Partially altered areas or estuarine areas adjacent to existing development of moderate intensity shall also be included in this classification unless otherwise needed for preservation or development consistent with the overall Oregon Estuary Classification. Permissible uses in conservation areas shall be those allowed in subparagraph (a) of this subsection, active restoration measures, aqua culture, and communication facilities. Where consistent with resource capabilities of the area and the purposes of this management unit, high-intensity water dependent recreation, maintenance dredging of existing facilities, minor navigational improvements, mining and mineral extraction, water-dependent uses requiring occupation of water surface area by means other than fill, and bridge crossing, shall be appropriate. **Management Objective:** To conserve, protect and, where appropriate, enhance renewable estuarine resources for long term uses and to manage for uses which do not substantially degrade the natural or recreational resources or require major alterations of the estuary.

(c) **Development Management Unit:** In estuaries classified in the overall Oregon Estuary Classification for development, development management units shall be designated for navigation and other identified needs for public, commercial and industrial, water dependent uses, consistent with the level of development or alteration allowed by the Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels,

sub tidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alteration of the estuary. Permissible uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses. Where consistent with the resource capabilities and the purposes of this management unit, water related and non-dependent, non-related uses not requiring fill, mining and mineral extraction, and activities identified in paragraphs (a) and (b) of this subsection, shall be appropriate. **Management Objective:** To provide for water dependent and water related development.

#### **1.0090 Coastal Shoreland Goals**

Coastal shoreland goals:

- (1) To identify coastal shore lands.
- (2) To identify appropriate uses in coastal shorelands.
- (3) To recognize the value of coastal shore lands for protection and maintenance of water quality, fish and wildlife habitat, water dependent uses, economic resources, and recreation and aesthetics.

#### **1.0095 Coastal Shoreland Policies**

(1) Lincoln County shall establish a Coastal Shorelands Boundary and determine appropriate uses within.

(2) The shoreland boundary shall be defined to include areas as follows:

- (a) Lands which are directly affected by hydraulic action of the coastal water body, including the 100 year floodplains and lands which limit and control hydraulic action;
- (b) Areas of geologic instability which may affect or may be affected by adjacent coastal waters;
- (c) Identified headlands;
- (d) Identified areas of exceptional scenic or aesthetic qualities including lands within the state park system; and

(e) Identified areas of significant shoreland and wetland biological habitats.

(3) Lincoln County shall allow coastal shoreland uses according to the following general priorities (from highest to lowest):

- (a) Uses which maintain the integrity of estuaries and coastal waters;
- (b) Water-dependent uses;
- (c) Water-related uses;
- (d) Non-dependent/non-related uses which retain flexibility of future use and do not prematurely or inalterably commit shore lands to more intensive uses.

(4) For shorelands identified in the inventory as major marshes, significant wildlife habitat, headlands, areas having exceptional aesthetic resources or historic and archaeological sites, Lincoln County shall adopt land use designations and standards which are consistent with the protection of natural values.

(5) Shorelands in rural areas other than those identified in Policy 4, above, shall be designated as appropriate for:

- (a) Farm uses;
- (b) Forest uses;
- (c) Private and public water-dependent recreation developments;
- (d) Aquaculture, where consistent with the adjacent estuarine management unit;

(e) Water-dependent and water-related commercial and industrial uses upon a finding that such uses satisfy a need which cannot be accommodated on shore lands in urban and urbanizable areas;

(f) Subdivisions and major and minor partitions upon a finding that such uses satisfy a need that cannot be accommodated at other upland locations or in urban or urbanizable areas and are compatible with the objectives of protecting wildlife habitat and riparian vegetation;

(g) Single-family residences on existing lots when compatible with objectives of protecting wildlife habitat and riparian vegetation.

(6) Lincoln County recognizes that shore land policies and estuarine policies need to be closely coordinated. Shore land uses shall be compatible with the management unit designation on contiguous estuarine areas.

(7) Lincoln County shall require the maintenance and, where appropriate, restoration of riparian vegetation in coastal shore land areas, consistent with water-dependent uses. For forest operations within the shore lands boundary, tile maintenance and restoration of riparian vegetation shall be governed by the Forest Practices Act.

(8) Lincoln County shall protect shore lands identified as dredged material disposal sites from land uses which would prevent their use for dredged material disposal.

(9) Lincoln County shall protect identified mitigation sites from land uses which would prevent their ultimate use for restoration or enhancement of the estuarine ecosystem.

(10) Lincoln County shall protect shore lands in urban or urbanizable areas which are especially suited for water-dependent development from uses which would commit those shore lands to non-water dependent uses.

(11) Policies concerning natural hazards relating to the shore land boundary shall apply to land areas adjacent to coastal lakes. Riparian vegetation policies relating to estuarine shore lands shall apply to such vegetation surrounding coastal lakes. For coastal lakes in rural areas, land use densities will be determined on the basis of carrying capacity, with particular care being taken to ensure that subsurface sewage disposal systems do not degrade water quality of the adjacent water bodies.

#### **1.0100 Beaches and Dunes Goals**

Beaches and dunes goals:

(1) To protect, conserve and, where appropriate, restore, the beaches and dunes of Lincoln County.

(2) To ensure that development will be designed to minimize adverse environmental effects.

(3) To ensure that development will be adequately protected from any geological hazards, wind erosion, undercutting, ocean flooding and storm waves.

#### **1.0105 Beaches and Dunes Policies**

(1) Lincoln County shall base land use decisions in beach and dune areas, other than older stabilized dunes, on specific findings which shall include the following:

(a) The type of use proposed and the adverse effects it might have on the site and adjacent areas;

(b) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

(c) Methods for protecting the surrounding area from any adverse effects of the development; and

(d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

(2) Lincoln County shall recognize the authority of the Division of State Lands and the Oregon Department of Transportation to regulate the placement of beach front protective structures, such as bulkheads, sea walls, rip-rap and similar protective structures. The above agencies' findings for such permits shall address and comply with Lincoln County Beach and Dune Policies 3 and 4 below, and shall address the following:

(a) Hazards, as well as benefits, to life, public and private property, and the natural environment which may be caused by the proposed use; and

(b) Temporary and permanent sand stabilization programs and the planned maintenance of new and existing vegetation; and

(c) Methods and techniques designed to minimize adverse impacts on the site and surrounding area; and

(d) The necessity for beach front protective structures.

(3) Beachfront protective structures will be designed to minimize impacts on the beach on either side of the beach zone line and on beach erosion and accretion patterns.

(4) Beachfront protective structures may be permitted only where development existed on January 1, 1977, unless an exception to Statewide Planning Goal 18, implementation requirement 5, has been adopted as part of the comprehensive plan.

(5) Lincoln County shall rely on the State Parks and Recreation Division to regulate beach sand removal.

(6) Lincoln County may allow sand removal from the dune system upon a finding that the resulting natural processes of the dune form will not adversely affect property on or off the site.

(7) Lincoln County shall cooperate with the State Parks and Recreation Division to ensure that construction of access to beach areas observes sound conservation practices and to protect existing public easements through beach and dune areas.

(8) Lincoln County shall cooperate with the State Parks and Recreation to provide adequate parking, disposal and sanitary facilities at heavily used beach access points.

(9) Lincoln County shall seek local, state and federal funds to study the availability of ground water resources in dune areas. Lincoln County shall review study recommendations and establish management standards that recognize the ground water resource potential.

(10) Lincoln County shall allow construction on or alteration of dune forms only as follows:

(a) On built and committed sand dune areas identified in the Inventory, including the Siletz and Alsea sand spits. Such development shall be designed to minimize adverse environmental effects with adequate protection from geologic hazards, wind erosion, undercutting or ocean flooding and storm waves.

(b) On older stabilized and conditionally stabilized dunes not subject to under cutting or ocean wave overtopping.

(c) On active dune forms, deflation plains and inter dune areas not subject to ocean flooding.

(d) On other inter dune areas not identified above if alteration of the dune forms will not adversely affect property on or off the site.

(11) Lincoln County shall encourage the stabilization of those active dunes that pose threat to public or private property.

(12) Lincoln County shall cooperate with the Oregon State Department of Fish and Wildlife to protect significant wildlife habitat in beach and dune areas as identified in the Lincoln County Plan Inventory and designated on Plan and Zone maps.

(13) Prior to development, Lincoln County shall require an approved revegetation and sand stabilization plan that is to be followed during and after development.

(14) Except for beach front protective structures regulated by state permitting agencies, Lincoln County shall establish development standards consistent with the recommendations of the RNKI Environmental Hazard Inventory and Department of Geology and Mineral Industries Bulletin 81.

(15) Lincoln County shall work with the State Parks and Recreation Division to prohibit vehicles from Lincoln County's identified sensitive dune areas.

(16) Lincoln County shall work with the State Parks and Recreation Division to regulate removal of driftwood.

(17) Lincoln County shall maintain maps of known geological hazards which shall be available to the public.

(18) Lincoln County shall work with the Oregon State Parks and Recreation Division to allow foredunes to be breached only to replenish sand supply in inter dune areas, or on a temporary basis in an emergency action such as fire control, cleaning up oil spills, draining farm lands, or alleviating flood hazards, and only if the breaching and restoration is consistent with sound principles of conservation.

(19) Lincoln County shall work with the Department of Environmental Quality and Water Resource Department to regulate ground water quality and to ensure ground water draw down does not lead to loss of stabilizing vegetation on dune forms or intrusion of salt water into water supplies.

(20) Lincoln County shall review all proposed actions which may result in the alteration of any beach or any active or conditionally stable dune form in the following manner:

(a) Ocean front lots: Site specific geotechnical analysis by qualified registered professional geologist or engineering geologist except when the only known or suspected hazard is coastal recession and minor slope sloughing which can be compensated for with adequate setbacks as set out in Environmental Hazard Inventory, RNKR, 1977.

(b) Sand areas: Except for beach front protective structures which are regulated by state permitting agencies, a detailed geotechnical analysis shall be required for active or conditionally stable dune forms and for areas of high ground water.

(21) Construction and alteration in beach and dune areas shall be designed and located so as to minimize vegetation removal and exposure of stable and conditionally stable areas to erosion. [1988 o.274 §1]

### **1.0108 Adoption of Bayshore Dune Management Plan**

(1) The Bayshore Dune Management Plan and Fore-dune Management Plan (Bayshore Plan) dated February 7, 2012 is hereby adopted and made a part of the Lincoln County Comprehensive Plan. The Bayshore Plan, which includes the background report and management strategy are incorporated herein as if fully set forth. Copies of the Bayshore Plan shall be placed in the Lincoln County Clerk's Office and kept in the Department of Planning and Development Offices.

(2) To the extent that provisions of the Bayshore Plan and the newly adopted provisions of the Lincoln County Code, LCC 1.1385 Foredune Management Overlay Zone, or subsequent amendments to the Bayshore Plan and/or LCC 1.1385, diverge from other provisions of this Chapter, the Bayshore Plan and LCC 1.1385 shall supersede those inconsistent provisions. [2012 o.466 §3; 2017 o.500 §2]

Note: Pursuant to Ordinance # 500, adopted by the Lincoln County Board of Commissioners on November 1, 2017, the Bayshore Dune Management Plan is modified as follows:

1. Notwithstanding any other provision of the Lincoln County Code (LCC) Chapter One, Land Use Planning and the Bayshore Foredunes Management Plan adopted by Ordinance #466 as amended by Ordinance #473 and #477 (including but not limited to LCC 1. 0108 and LCC 1.1385) the boundaries of the Management Plan planning area (Figure 2) and the Management Units in the Planning Area (Figures 3A-B) and Figures 10, 14, 20, 23 and 27 and any other references to boundaries of the planning area whether in text, figures, or appendices are hereby amended as follows:

the easterly boundary of the management units is now the west right-of-way line along NW Oceania Drive (moved from its former location on the east right-of-way line of NW Oceania Drive)

2. Any elements of the plan portraying or containing a description of the boundaries of the Dune Management Plan not specifically identified in Section 1 above shall be superseded by the change in boundaries. The Lincoln County GIS Department is hereby authorized to prepare a new official map of the boundaries of the Planning Area reflecting this change.

#### **1.0110 Open Spaces, Scenic and Historic Area Goals**

Open spaces, scenic and historic area goals:

- (1) To conserve open space in rural and urban environments.
- (2) To protect identified mineral and aggregate deposits.
- (3) To protect fish and wildlife habitats.
- (4) To evaluate the importance of preserving ecologically and scientifically significant natural areas, as identified in the inventory.
- (5) To consider the effects of proposed development on scenic areas.
- (6) To preserve and protect areas of historic, archaeological and cultural significance.

#### **1.0115 Open Spaces, Scenic and Historic Area Policies**

(1) Lincoln County shall inventory the location, quality and quantity of the following types of significant sites:

- (a) Land needed or desirable for open space;
- (b) Mineral and aggregate resources;
- (c) Energy sources;
- (d) Fish and wildlife areas and habitats;
- (e) Ecologically and scientifically significant natural areas;
- (f) Outstanding scenic views and sites;
- (g) Water areas, wetlands, watersheds and ground water resources;
- (h) Wilderness areas;
- (i) Historic areas, sites, structures and objects;
- (j) Cultural areas;
- (k) Potential and approved Oregon recreation trails; and

- (L) Potential and approved federal wild and scenic waterways and state scenic waterways.
- (2) Lincoln County shall identify conflicting uses for inventoried natural resources.
- (3) Where no conflicting uses have been identified, Lincoln County shall manage inventoried natural resources so as to retain their original character.
- (4) Where conflicting uses are identified for inventoried natural resources, Lincoln County shall determine the economic, social, environmental and energy consequences of either allowing or not allowing the conflicting use or uses.
- (5) Lincoln County shall develop programs to resolve identified conflicts with inventoried natural resources. These programs shall be based upon an evaluation of the economic, social, environmental and energy consequences of alternative courses of action. Such programs shall:
- (a) Preserve the inventoried resource;
  - (b) Allow the conflicting use or uses in full; or
  - (c) Specifically limit the conflicting use or uses through the application of clear and objective standards.
- (6) The results and conclusions of application of the procedures and requirements of the policies contained in subsections (1) through (5) of this section shall be set forth in the Goal 5 element of the Comprehensive Plan Inventory. Change to the Goal 5 Inventory element shall be accomplished through the plan amendment process.
- (7) As new information concerning the location, quality and quantity of the resources listed in the policy described in subsection (1) of this section becomes available, such information shall be incorporated into the Comprehensive Plan Inventory. Priority shall be given to resources for which inadequate information is currently available (mineral and aggregate sites, archaeological sites, recreation trails, and scenic waterways).
- (8) The adequacy of the Forest Practices Act (FPA) to protect certain Goal 5 resources is being studied by the Land Conservation and Development Commission (LCDC), Goal 5 Inventory. The findings shall be used by the County to determine if there are certain Goal 5 resources which are not adequately protected by the FPA. For such resources, programs to achieve the Goal shall be developed by the time of the next plan update.
- (9) The groundwater resource within Otter Rock Water District Wellhead Protection area, as identified in the Comprehensive Plan Inventory, has been determined to be a significant Goal 5 resource. Lincoln County shall implement and maintain appropriate land use regulations within this area which reduce the risk of groundwater contamination.
- (10) Any changes in land use designations or zoning for the area within the Otter Rock Water District Wellhead Protection Area shall comply with the requirements of Statewide Planning Goal 5 and OAR 660, Division 23. [1999 o.389 §3]

#### **1.0120 Ocean Resource Goals**

Ocean resource goals:

- (1) To understand the impacts and relationships of ocean activities to ocean resources.
- (2) To ensure proper management and protection of ocean resources.

#### **1.0125 Ocean Resource Policies**

- (1) Lincoln County shall work with all local, state and federal agencies which have planning permit or review authority over coastal land and water.

(2) Lincoln County may review proposals to determine impacts of outer continental shelf oil, gas, mineral or other fisheries development.

(3) Lincoln County shall work with state and federal agencies for development of ocean resources.

(4) Lincoln County shall work to minimize on-shore impacts of offshore development where possible.

#### **1.0130 Economic Goals**

(1) To establish an economic planning process in the county.

(2) To support and encourage the expansion of existing industrial and commercial activities in appropriate locations.

(3) To support and encourage the creation of new industrial and commercial activities in appropriate locations.

(4) To recognize the environmental and developmental constraints in expansion of industrial, commercial, and residential activities.

(5) To improve the average wage in the county.

(6) To improve the quality of employment opportunities in Lincoln County.

#### **1.0135 Economic Policies**

(1) Lincoln County shall designate suitable lands for the creation and expansion of industrial and commercial activities.

(2) Lincoln County shall monitor employment on a systematic and periodic basis as a prime tool in estimating population change and land use demand.

(3) Lincoln County shall encourage, through the possible use of incentives, the location of preferred industrial activities in areas suited to and capable of supporting those activities and land uses.

(4) Lincoln County shall encourage the development of facilities supportive of the vocational and higher educational needs of the community.

(5) Lincoln County shall work with the State of Oregon to recognize host recreation county's need for greater support than other counties for public facility improvements to continue to meet the regional recreation needs.

(6) Lincoln County shall encourage the use of local contractors.

(7) Lincoln County shall encourage labor intensive commercial and industry.

(8) Lincoln County shall work with cities, port districts and the Administrative District 4 Council of Governments in the maintenance and support of the overall economic development plan to establish clear and concise long range economic goals.

(9) Lincoln County shall work with the cities, port and special districts to promote commerce and industry.

(10) When conflicting land uses are proposed, the alternatives shall be evaluated based upon economic, social, energy, and environmental costs and benefits.

#### **1.0138 Adoption of Lincoln County Transportation System Plan**

(1) The Lincoln County Transportation System Plan, consisting of Volume 1 (Plan) and Volume 2 (Appendixes, Tables and Figures), is hereby adopted and made a part of the Lincoln County Comprehensive Plan. The Plan, Volumes 1 and 2, are incorporated herein as if fully set



forth. Copies of the Plan, Volumes 1 and 2, shall be placed in the Lincoln County Clerk's Office and kept in the Department of Planning and Development's offices.

(2) To the extent that provisions in the Lincoln County Transportation System Plan diverge from this Chapter or subsequent amendments to the Comprehensive Plan, this Chapter or subsequent amendments to the Comprehensive Plan shall supersede those inconsistent provisions. [2008 o.456 §3]

(3) Lincoln County recognizes the South Beach Transportation Overlay Zone (SBOTZ) as adopted in the City of Newport Transportation System Plan as applying to county lands within the zone boundaries. [2013 o.470 §2]

#### **1.0140 Transportation Goals**

Transportation goals:

- (1) To plan for a safe, convenient and economic transportation system.
- (2) To provide an efficient and aesthetically pleasing system of public roads.
- (3) To develop a transportation system which enhances the County's economy.
- (4) To encourage energy conserving transportation modes.
- (5) To conserve energy in transportation.

#### **1.0145 Transportation Policies**

(1) Lincoln County shall coordinate its transportation plans with state transportation plans, and the city comprehensive plans.

(2) The Lincoln County Road Committee shall recommend capital improvement plans for road construction, major road improvements and maintenance. Priorities shall be established on the basis of road condition, road capacity, traffic volume and effectiveness toward reducing accidents.

(3) Lincoln County shall review improvements to the state highway system within the county for consistency with this plan.

(4) Lincoln County shall classify roads as major and minor arterials, collectors and residential streets and designate county and public roads.

(5) Major arterials shall provide regional access between communities and areas of the county and state.

(6) Access to major arterials shall be via fully improved streets except where no alternative exists. Developments adjacent to arterials shall provide through access via collector or residential streets to adjacent developable lands.

(7) In response to applications for highway access permits for abutting properties from the State of Oregon, Lincoln County shall respond with the following condition: "This highway access permit shall be valid only as long as alternative access from a collector or local street is not available. Upon development or improvement of a collector or local street, this permit shall be terminated and the driveway shall be abandoned."

(8) Adequate setbacks from arterial and collector roads shall be required in order to provide for future purchase of additional right-of-way.

(9) Existing rights-of-way shall be used where appropriate and future needed rights-of-way shall be designated to improve the safety of vehicular circulation within the county.

(10) Lincoln County shall work to preserve existing rights-of-way that have been identified as having future potential as transportation corridors.

(11) Lincoln County shall adopt minimum standards for road construction, improvements and maintenance for county and public roads.

(12) Lincoln County shall work with road districts through inter-governmental agreements to provide programs for improvement and continual maintenance.

(13) Lincoln County shall work with existing road districts to ensure improvement of public roads to minimum county standards.

(14) Lincoln County may share in public road maintenance and improvement with abutting property owners. The County share shall be based upon benefit, road use, classification and priority of the County road capital improvement plan.

(15) A condition of final development approval shall be that public roads providing access to proposed development be improved to minimum County standards.

(16) Lincoln County shall initiate vacation or closure of county or public roads which are no longer necessary for access or which cannot be maintained as determined by the County Engineer except where such roads abut the ocean.

(17) Lincoln County may reduce county roads to public road status.

(18) Set-backs for development shall provide for the planned right-of-way width.

(19) The establishment of private road rights-of-way to accommodate land partitioning shall be to minimum county road standards except when no further partitioning or subdividing is possible.

(20) Lincoln County shall encourage the improvement of existing airports.

(21) Lincoln County shall work with citizens, the Department of Transportation Aeronautics Division, and cities to develop zones which designate surrounding land uses compatible with airports.

(22) Development of heliports, except for emergency use, shall be restricted to commercial, industrial, forest, and agricultural areas and residential areas where the approach and departure occur over areas where there is no potential for residential use.

(23) The Lincoln County Airport Advisory Committee shall advise the County on all land use matters pertinent to airport and aircraft safety.

(24) Lincoln County shall encourage:

(a) Improved transportation choices including opportunities for those who are aged or incapable due to physical or mental disorder;

(b) Establishment of a commuter airline service;

(c) Improvement and maintenance of marine facilities, where appropriate, such as docks, jetties and channels; and

(d) Designation and improvement of pedestrian and bicycle routes.

(25) Lincoln County shall promote the expansion of the railway system capability.

(26) Lincoln County shall review proposals to locate high voltage electrical transmission lines and high volume natural gas or oil pipelines. The review shall take into consideration land uses along and adjacent to these transmission corridors, weighing public benefit, environmental safety and the economics of alternative proposals.

(27) Transmission lines and pipelines serving and linking residential, commercial, and industrial users shall be located along common corridors where feasible.

(28) Lincoln County shall encourage the licensing of bicycles by State of Oregon to increase revenues for bike way facilities.

(29) Lincoln County shall encourage the Oregon Department of Transportation to widen and improve valley access highways.

(30) Lincoln County shall require designation of car pool parking areas as part of access management plan for intersections near major collectors.

(31) Permanent access to that portion of NE Harney Street between NE 32<sup>nd</sup> Street and NE 36<sup>th</sup> Street shall be limited to lands within the City of Newport Urban Growth Boundary. Access to lands outside the Urban Growth Boundary shall be limited to temporary access for forest management purposes.

(32) Lincoln County shall support programs providing transportation choices and reduction of single-occupancy vehicle trips.

(33) Lincoln County shall work to improve mass transit and inter-city transit links. [1998 o.379 § 2; 2008 o.456 §5]

(34) Lincoln County supports optimizing the transportation system in Newport's South Beach area between the Yaquina Bay Bridge and SE 62nd Street through improvements to US 101 and the local transportation system as identified in the City of Newport's Transportation System Plan (TSP). The capacity of the Yaquina Bay Bridge is expected to continue to be the major constraint in the operation of the transportation system south of the bridge, and funding for a new or expanded facility is not likely in the foreseeable future. [2013 o.470 § 3]

(35) Lincoln County supports adoption of alternative mobility standards by the Oregon Transportation Commission on US 101 at the future signalized intersections of Southeast 35th Street, Southeast 40th Street and Southeast 50th Street/South Beach State Park to accommodate planned community development in Newport's South Beach area. These standards will allow a higher level of congestion than would be acceptable without the alternative standards. The alternative standards will support economic development and reduce the costs of total transportation system improvements associated with development in South Beach. [2013 o.470 § 3]

(36) Lincoln County shall participate in monitoring the transportation impacts of development in South Beach by noticing the City of development proposals outside City limits, within the City of Newport's adopted South Beach Transportation Overlay Zone (SBTOZ). The County shall coordinate with the City of Newport through the development approval process to ensure that County-approved trips are recorded in the City's SBTOZ Trip Budget Program. Documentation of compliance with the SBTOZ Trip Budget program, as adopted in the City of Newport TSP, will be required prior to County development approval. [2013 o.470 § 3]

(37) Lincoln County will use the City of Newport's adopted TSP to identify necessary and appropriate improvements to the transportation system in Newport's South Beach area. [2013 o.470 § 3]

(38) Lincoln County, in coordination with the City of Newport, shall continue to engage Oregon Department of Transportation (ODOT) in conversations regarding future project planning and funding that would lead to improvements to, and possibly replacement of, the Yaquina Bay Bridge. The County is supportive of finding long-term solutions sufficient to address existing capacity and structural limitations that affect the bridge's ability to carry vehicles and pedestrians. [2013 o.470 § 3]

### **1.0150 Energy Goals**

Energy goals:

(1) To conserve energy.

(2) To manage and control land uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles.

### **1.0155 Energy Policies**

(1) Lincoln County shall consider and employ methods of conserving energy in all public buildings and facilities.

(2) Lincoln County shall actively seek various funding sources for development of alternative energy facilities.

(3) Lincoln County shall encourage residents to utilize federal, state and private energy conservation programs such as weatherization and home rehabilitation.

(4) Lincoln County shall encourage the use of planned developments where appropriate to decrease the amount of energy expended for development.

(5) Lincoln County shall develop standards for solar and wind easements which ensure access to these resources for structures which could rely on these energy sources.

(6) Lincoln County shall review proposals for on-shore and offshore location of major energy production or storage facilities for consistency with the Comprehensive Plan.

(7) Lincoln County shall encourage the establishment and public awareness of an energy conservation and alternative energy resource library.

(8) Lincoln County shall encourage alternative sources of energy and alternative means of construction to conserve energy.

(9) Lincoln County shall encourage subdivision and planned unit development plat design which optimize the potential for solar and wind power.

### **1.0160 Housing Goals**

Housing goals:

(1) To assist in providing housing.

(2) To provide opportunities for a variety of housing choices, including low and moderate income housing to meet the needs, desires, and financial capabilities of all Lincoln County residents.

(3) To make housing more efficient.

### **1.0165 Housing Policies**

(1) Lincoln County shall cooperate with interested cities in creating a county wide housing task force made up of citizens and policy makers, with a professional staff capability which if funds are available shall:

(a) Make known the scope and content of existing energy conservation and housing rehabilitation programs and encourage the use of these programs by assisting public and private groups and individuals in obtaining loan and grant monies; and

(b) Develop a plan for housing assistance which shall:

(A) Increase the amount of decent and affordable housing, including rentals;

(B) Increase the amount of lower-cost rental housing available to the elderly; and

(C) Decrease the proportion of their income which the elderly spend for housing.

(2) Lincoln County shall make the provisions of the Residential Landlord and Tenant Act (RLTA), ORS chapter 90, available to the public.

(3) Lincoln County shall designate suitable land area to meet rural residential needs.

### **1.0170 Recreation Goals**

Recreational goals:

- (1) To provide for recreation facilities for both residents and visitors in Lincoln County.
- (2) To maintain the region as a tourist recreation area.

### **1.0175 Recreation Policies**

(1) Public park areas with direct access to highways shall be designated for regional use. Lincoln County shall work with the State Parks Division and the Highway Division to improve access to regional park area.

(2) Lincoln County shall encourage the State of Oregon to develop state owned land located near or along the oceanfront with good public access for recreational use.

(3) Lincoln County shall ensure that all public beach accesses are clearly marked. Access areas shall be evaluated for improvements for proper parking and beach trails as part of the County's yearly budget process.

(4) Lincoln County shall work with private land owners, local agencies and the state to provide improved river access for fishing and recreation.

(5) Lincoln County shall concentrate its park personnel, funding and development in the noncoastal areas with a high-priority for facilities for county residents.

(6) Proposed oceanfront developments shall dedicate areas for public beach accesses in low bank areas consistent with county standards.

(7) Lincoln County shall work with local citizens as well as the State Parks Division to designate and improve park areas for community park use.

(8) Lincoln County shall consider the relationship of transportation to recreation in planning.

(9) Lincoln County shall diversify recreation opportunities within the County and shall include opportunities and facilities for the physically handicapped where appropriate.

(10) Lincoln County shall work with citizens, and local and state agencies to develop a system of trails using public lands and rights-of-way.

(11) Lincoln County shall coordinate its recreational planning and programming efforts with the Statewide Comprehensive Outdoor Recreation Plan and the private sector and others engaged in planning and providing recreational facilities and opportunities and utilize existing facilities prior to construction of new facilities.

(12) Lincoln County shall petition the State of Oregon to assist in obtaining public recreational facilities and other improvement funds for host recreation counties such as Lincoln County.

(13) Lincoln County shall review and coordinate the development of all parks.

(14) Subject to County and State standards recreation parks shall be compatible uses in all areas.

(15) Lincoln County shall encourage outdoor recreation activities which are compatible with the primary land uses.

### **1.0180 Public Facilities Goals**

Public facilities goals:

(1) To maintain a respect for human needs and individual freedom while exercising those controls which are in the best interests of the total county population.

(2) To promote, on an equitable basis, the highest level of services the citizens are willing to support.

(3) To achieve intergovernmental harmony and improved public service through closer cooperation with other units of government operating in the County.

(4) To encourage the public, quasi-public and private county services and related facilities which maintain and insure the safety, health and welfare.

### **1.0185 Public Facilities Policies**

(1) Lincoln County, with the cooperation of others shall prepare a program, units of government, of coordination, and where possible, facility sharing to maximize the use of available public resources of both the County and other units of government.

(2) Lincoln County shall encourage a quality system of public, semi-public and private facilities services that includes:

(a) Adequate fire and policies protection service and facilities;

(b) Convenient locations for facilities used frequently by citizens;

(c) Solid waste disposal facilities which meet existing and future needs;

(d) Recycling facilities in accordance with identified needs; and

(e) Properly located sanitary landfills.

(3) Lincoln County shall work with and encourage the Lincoln County School District in the provision of educational services for the citizens of the County. Lincoln County shall:

(a) Encourage the development of physical facilities which offer an atmosphere conducive to learning and development. This includes the replacement, improvement and expansion of facilities to accommodate present and future student needs. Such facilities should be conveniently located, and well designed, or facilities related to the activities and needs of the County.

(b) Encourage the provision of adequate site facilities which are useful both to students and the general County. Coordinate educational facility site development with city and county recreation and community programs to enhance the potential advantages of shared use.

(c) Encourage the development of programs relating to basic education, adult continuing education, special education, and vocational training.

(4) Lincoln County shall encourage the development of a system of health facilities which is located with regard to population distribution.

(5) Lincoln County shall encourage the provision of general hospital facilities to meet present and future health needs, developed in coordination with local hospital districts.

(6) Lincoln County shall encourage the development of specialized medical and health care programs to meet the needs of the County's population.

(7) Lincoln County shall coordinate and promote a standardized street address numbering system.

(8) The overall land use classification system shall include the following categories:

(a) **Rural Community Centers and Rural Service Centers:**

(A) Rural Community Centers and Service Rural Centers shall be defined on the basis of population, a history of settlement, the existence of commercial/industrial facilities, adequate public services and facilities and permanent commitment to residential land use, consistent with the requirements of OAR Chapter 660, Division 22.

(B) Rural Community Centers shall be delimited by Rural Community Boundaries.

(C) Those public and private services and facilities considered appropriate for Rural Community Centers and Rural Service Center designation shall include but not be limited to community water systems, sanitary sewerage (or approved subsurface or alternative waste disposal systems), rural fire protection, rural police protection, energy, communications and emergency services.

(D) Residential density within Rural Community Centers shall ensure that cumulative development:

(i) Will not result in public health hazards or adverse environmental impacts that violate state and federal water quality regulations; and

(ii) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

(E) Subdivisions shall be encouraged within Rural Community Centers.

**(b) Dispersed Residential:**

(A) Dispersed Residential areas are committed to residential use and shall be defined on the basis of population and as areas having a historic land use pattern of low density settlement with few if any public services and facilities either existing or planned.

(B) Those public services and facilities considered appropriate for Dispersed Residential areas shall be limited to existing services and facilities and those services and facility improvements that are needed for the maintenance of the existing low density residential uses.

(C) Water systems shall be individual or approved community water systems. Sewerage shall be by means of individual on-site subsurface disposal, community drain fields or spray irrigation of effluent disposal systems. Dispersed Residential areas shall be served by rural fire protection districts where available. Where rural fire protection districts are not established, special performance standards shall be applied to ensure adequate protection of the surrounding natural resources.

(9) Lincoln County shall review the siting of all major proposed public utility facilities, such as power substations and transmission lines.

(10) Lincoln County shall encourage the State of Oregon to assist the County in obtaining public facility and other improvement funds for host recreation counties such as Lincoln County.

(11) Forest and agricultural lands may be designated for the siting of public facility use with the following findings:

(a) There is a need for a new public facility in the area;

(b) Alternative sites for the proposed facility were examined and found to be less suitable;

(c) Social, environmental, economic and energy consequences of locating a new facility on the agricultural or forest lands were identified and considered before the site was chosen; and

(d) The facility use is found to be compatible with other adjacent forest or agricultural uses.

(12) Future school sites shall be reviewed by the County to ensure compatibility with surrounding land uses.

(13) All existing school sites shall be designated for school use.

(14) Lincoln County shall rely on the Lincoln County School District for the provision of public education.

(15) Lincoln County shall work with the Lincoln County School District in planning and implementation of needed facilities and improvements. Facilities and improvements needed for public education are as set out in the Comprehensive Building Plan of the Lincoln County School District as approved May 1979, and amended December 16, 1980.

(16) Lincoln County in coordination with affected service districts, shall determine the type, level, and extent of sewer and water facilities necessary to support planned development in Rural Community Centers and Rural Service Centers by the first plan update.

(17) Lincoln County supports the Big Rock Creek Dam project as a source of water for Lincoln County.

(18) Lincoln County shall work with public water systems (OAR 333-42-200 to 250) to identify improvements necessary to provide an adequate water supply in accordance with the Oregon Drinking Water Quality Act.

(19) Lincoln County shall encourage the aggregation of water systems. The Lincoln County Water Facilities Development Plan, HGE, 1974, should be updated as set out in the Inventory to coordinate facility development with plan designations.

(20) Lincoln County shall require certification of an adequate water supply prior to final approval in all development including source of supply, reservoir capacity and line size consistent with OAR chapter 333, as updated.

(21) Lincoln County shall review building permits for an adequate water supply.

(22) Rural fire protection districts shall be encouraged to expand service boundaries to include lands designated for residential use. [2004 o.430 §1]

### **1.0190 Plan Designations**

The purpose of plan designations is to define and set down on maps what the citizens and property owners of Lincoln County consider to be appropriate uses of the land. These designations are the conclusions wrought from the consideration of facts and information presented and evaluated through the process of developing this comprehensive plan. The following plan designations are set out on the Lincoln County Comprehensive Plan Maps.

(1) **Forest Lands:** Forest lands represent nearly 90 percent of Lincoln County, and are its major resource. These are mainly held in large ownership patterns and covered by commercial stands of Douglas fir, true fir, hemlock, cedar, and spruce. Uses such as raising and harvesting of the forest crop and existing recreation facilities are primary. Secondary uses such as new recreation facilities, public and private utilities, and dwellings may be included by county review.

(2) **Agricultural Lands:** Agricultural lands represent nearly 2 percent of the lands in Lincoln County. These ownerships lie along the river and creek valleys and are mainly used for grazing and small gardens with some commercial agriculture. The primary use of these properties is intended to be agricultural to maintain their current resource value. Uses such as agriculture, forestry, dwellings necessary for farm use and existing public recreation facilities are primary. Secondary uses such as farm help residences, quarrying, new recreation facilities, and similar uses may be included by County review.

(3) **Dispersed Residential:** Dispersed residential areas are located on marine terraces and valley floors. Residential use densities shall be as necessary for on-site sewer disposal and water supply. Uses such as forestry, farming and rural residential subdivisions, and existing public recreation facilities, quarrying, sanitary landfills, government uses and similar uses may be included by County review.



(4) **Rural Community Centers:** Rural Community Center is an overlay designation intended to identify and establish the boundaries of unincorporated communities pursuant to OAR 660, Division 22. Rural community centers are existing service communities where small lots have been platted, commercial services have developed and community facilities are located. These are areas where utility systems may be present or would be appropriate in the future to solve identified problems. These factors indicate a need for a certain level of residential growth to accomplish and pay for needed improvements. The Rural Community Center designation may also be applied to unincorporated communities where an exception to Goal 14 has been authorized. Plan designations within Rural Community Centers may provide for uses such as residential, public uses and facilities, and commercial and industrial activities limited to those which are existing or are small scale and low impact, or are uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area. In communities where an exception to Goal 14 has been authorized, commercial and industrial uses of any scale and intensity may be provided for, consistent with the acknowledged exception.

(5) **Rural Service Center:** Rural service centers are areas where commercial or industrial uses have developed which provide goods and services to the surrounding rural areas or to persons traveling through the area, and also include some residential development. Commercial and industrial activities should be limited to those which are existing or necessary for providing goods and services to the surrounding rural area or to persons traveling through the area, or which are small scale and low impact.

(6) **Suburban Residential:** Building and facilities must be in place at the time of adoption of this plan or be inside of an established Urban Growth Boundary to acquire this designation. If a small residential lot lies along an improved road between two lots with buildings it is also considered committed. Water must be available either by individual or community system. These represent the minimum; if more facilities are present then the area is further justified as built and committed. Primary uses are single-family residential, multi-family residential where urban facilities and services are available, and existing public recreation facilities. Secondary uses such as community facilities, new public recreation facilities, government uses and similar uses may be included by County review.

(7) **General Commercial:** This area is provided to accommodate the normal range of business activities and meet the day-to-day needs of the community. Uses such as retail store, repair shop, barber shop, beauty shop, motel, community hall are primary. Secondary uses such as service stations or drive-ins and outdoor amusement centers may be included by County review.

(8) **Industrial:** This area is provided to accommodate the more intensive and large scale commercial enterprises and industrial uses. Uses such as implement sales, storage or repairs, lumber or building materials sales and storage, and tire sales and repair are primary. Uses which require special standards such as quarrying, pulp mill, gas or petroleum manufacturing, airport, and auto wrecking may be included by County review.

(9) **Water Dependent:** The water dependent designation shall apply to coastal shore lands in urbanizable areas which are especially suited for water-dependent uses. In order to protect these valuable shore land areas, uses shall be limited to commercial, industrial or public uses which can be carried out only on, in, or adjacent to water areas because they require access to the water body for water-borne transportation, recreation, energy production, or source of water.

(10) **Water Dependent/Water Related:** The water dependent/water related designation is intended to recognize the unique values of certain coastal shore land areas consistent with the

priority of uses set forth in the coastal shore lands policy element. This designation shall apply to shore land areas which may be suitable for a mixture of water-dependent and water-related uses. Uses which are consistent with the designation of the adjacent coastal water body and are water-dependent or water-related, as defined in the Lincoln County Estuary Management Plan, are primary.

(11) **Coastal Shorelands:** Coastal shore lands is an overlay designation which applies to areas within the Coastal Shorelands Boundary, as defined in Coastal Shorelands policy element. Within this designation when such uses are found to be consistent with the additional policies of this designation.

(12) **Estuarine Management Units:** The estuarine management unit designation applies to estuarine areas below the head of tide and includes estuarine waters, tidelands and submerged lands up to Mean Higher High Water (MHHW) and tidal marshes inland to the line of non-aquatic vegetation. This designation is assigned in order to recognize and protect the unique environmental, economic and social values of each of the County's estuaries and associated wetlands. The estuarine management unit designation is further defined into "natural," "conservation," and "development" areas as specified in the Estuarine Resources policy element. Uses are as set forth in the Lincoln County Estuary Management Plan. [2004 o.430 §1]

## ZONING

### 1.1102 Interpretation

The provisions of this chapter shall be held to be minimum requirements. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive, or that imposing the higher standards, shall govern.

### 1.1110 Rules of Construction

(1) For the purposes of this chapter, all words, terms and expressions contained herein shall be interpreted in accordance with the following rules of construction, unless the context requires otherwise:

- (a) The particular controls the general;
- (b) The word "shall" is mandatory, and the word "may" is permissive;
- (c) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular;
- (d) The words "used for" or "occupied for" include the words "intended for," "designed for," "arranged to be used for," "erected for," "constructed for," "reconstructed for," "repaired for," "moved for," "structurally altered for" or "extended for the purpose of;"
- (e) The word "person" includes a "firm," "association," "organization," "partnership," "trust," "company" or "corporation," as well as an "individual;" and
- (f) Any word or term not defined herein shall be used with a meaning of common standard use. Any words, terms, or phrases not defined herein shall be construed according common, ordinary, and accepted meaning.

(2) The Board shall have the authority and duty to interpret and enforce the provisions of this chapter.

### 1.1115 Definitions

As used in this Chapter:

- (1) "**Access**" means the way or means by which pedestrians or vehicles enter and leave property.
- (2) "**Accessory structure or accessory use**" means a structure or use incidental and subordinate to the main use of a property and located on the same lot as the main use.
- (3)(a) "**Accessory home occupation**" means an occupation or business conducted within a residence and meeting the following criteria:
  - (A) No persons other than residents of the dwelling are employed;
  - (B) No more than 5 persons are employed;
  - (C) The occupation or business is conducted entirely within the residence or residential accessory structure;
  - (D) No more than 600 square feet of floor area is devoted to the business or occupation;
  - (E) There is no outward appearance of the occupation or business other than an accessory sign permitted by LCC 1.1405 (3)(e)(A);
  - (F) Client or customer visits are limited to no more than 5 per day;
  - (G) Only incidental on-site retail sales are conducted;

(H) There is no outside storage of equipment, goods or commodities associated with the occupation or business; and

(I) Shipping or delivery of products or supplies is limited to small parcel services provided by United States Postal Service, United Parcel Service, FedEx, or other similar services customarily providing delivery to residential addresses.

(b) Accessory home occupations are accessory to any permitted residential use and are not subject to conditional use review.

(4) "**Alley**" means a minor way for secondary access to properties which abut other streets.

(5) "**Agricultural land**" means land of predominantly Class I, II, III and IV soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Also, lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands.

(6) "**Areas of shallow flooding**" means areas where the base flood depth is between one to three feet, a clearly defined channel does not exist and the path of flooding is not determinable. Areas of shallow flooding are identified on the FIRM as zone "A-O."

(7) "**Areas of special flood hazard**" means land in the floodplain where a one percent or greater chance of flooding in any given year occurs.

(8) "**Automobile wrecking yard**" means any property used for the dismantling or wrecking of used motor vehicles, machinery, or trailers, or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers, or their parts.

(9) "**Base flood**" means a flood having a one percent chance of being equaled or exceeded in any given year.

(10) "**Bed and breakfast inn**" means a structure designed for and occupied as a single-family residence in which no more than two sleeping rooms are provided on a daily or weekly basis for the use of no more than a total of six travelers or transients at any one time for a charge or fee paid, or to be paid, for the rental or use of these facilities.

(11) "**Block**" means an area of land within a subdivision which may be bounded on all sides by streets, railroad rights-of-way, unsubdivided land, water courses, or any combination thereof.

(12) "**Boathouse**" means a facility attached to a floating device for the purpose of sheltering a boat or boats and generally enclosed on the sides and top.

(13) "**Board**" means the Lincoln County Board of Commissioners.

(14) "**Breakaway walls**" means walls which are not part of the structural support of the building and which are designed to break away under flood conditions without damage to the structural integrity of the building or any building to which they might be carried by flood waters.

(15) "**Build**" means to create by assembling basic elements, such as foundations, floors, walls, roofs, plumbing and wiring systems, by following step-by-step construction procedures.

(16) "**Building**" means a structure built or assembled for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(17) "**Clinic**" means a building utilized by persons licensed by the State of Oregon to treat or analyze medical or surgical needs of humans or animals.

(18) "**Coastal flood zone**" means areas subject to high velocity ocean waters, including but not limited to storm surge or tsunamis. Coastal flood zones are identified on FIRM maps as V zone.

(19) "**Commission**" means the Lincoln County Planning Commission.

(20) "**Common property**" means a lot or lots, together with the improvements thereon, the use and enjoyment of which are shared by owners and occupants of individual building sites in a Planned Unit Subdivision or standard subdivision.

(21) "**Community center**" means a facility owned and operated by a governmental agency or a non-profit community organization, provided that the primary purpose of the facility is for recreation, social welfare, community improvement, or public assembly, and further provided that no permanent commercial eating or drinking facilities shall be operated on the premises.

(22) "**Comprehensive Plan**" means the adopted comprehensive plan for Lincoln County as defined in ORS 197.015(4).

(23) "**Comprehensive Plan Inventory**" means written and mapped information which comprises the factual base for the Lincoln County Comprehensive Plan and which is adopted by resolution of the Board.

(24) "**County**" means the County of Lincoln, State of Oregon.

(25) "**Cross section**" means a profile of the ground surface perpendicular to the center line of a stream or tidal estuary.

(26) "**Development within areas of special flood hazard**" means any man-made change or improvement involving buildings, structures, mining, dredging, filling, grading, paving, excavation or drilling that alters in any way the flood plain.

(27) "**Director**" means the Lincoln County Planning Director or the director's duly authorized representatives.

(28) "**Dock**" means a floating moorage facility constructed perpendicular or parallel to the shoreline, or a fixed facility designed or designated for the loading or unloading of trucks or railroad cars.

(29) "**Dwelling unit**" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, sanitation and only one cooking area.

(a) A "**single family dwelling**" means a structure of which all habitable portions thereof are connected structurally and comprise one dwelling unit, including but not limited to factory built dwellings, mobile homes and site built dwellings.

(b) A "**two family dwelling**" means a structure of which all habitable portions thereof are connected structurally and comprise two dwelling units including but not limited to factory built dwellings, mobile homes and site built dwellings.

(c) A "**multi-family dwelling**" means a structure of which all habitable portions thereof are connected structurally and comprise three or more dwelling units, including, but not limited to, factory built dwellings, mobile homes and site built dwellings.

(30) "**Easement**" means a right of usage of real property granted for a specific purpose by an owner to specific persons, firms, corporations, or the public.

(31) "**Factory built dwelling**" means a dwelling unit built substantially or entirely at a place other than the residential site, meeting County and State building code requirements, and including, but not limited to, prefabricated or modular homes, but excluding mobile homes.

(32) "**Family**" means an individual or two or more persons related by blood or marriage or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living together in a dwelling unit.

(33) "**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 by the feeding, breeding management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultural Christmas trees as defined in ORS chapter 215.

(34) "**Fence**" (sight obscuring) consists of either a continuous fence, wall, evergreen planting, or combination thereof, constructed or planted so as to effectively screen a particular use from view.

(35) "**FIRM**" means the Flood Insurance Rate Maps issued by the Federal Insurance Administration and adopted by Lincoln County, that delineate both the area of special flood hazard and risk premium zones.

(36) "**Flag lot**" means a lot, the major portion of which has access to a public road by means narrow strip of land called the "staff."

(37) "**Floodplain**" means the area adjoining a stream, estuary, or ocean that is subject to inundation by the base flood discharge.

(38) "**Floodway**" means the normal stream channel and that adjoining area needed to convey the waters of a base flood while causing less than one foot increase in flood elevation.

(39) "**Floodway fringe**" means the area of the flood plain lying outside of the floodway.

(40) "**Floodway map**" means the floodway boundary and floodway maps issued by the Federal Insurance Administration which delineate the regulatory floodway and floodway fringe boundaries for the base flood.

(41) "**Floor area**" means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, but not including:

- (a) Attic space providing headroom of less than seven feet.
- (b) Basement, if the floor above is less than six feet above grade.
- (c) Uncovered steps or fire escapes.
- (d) Private garages, carports, or porches.
- (e) Accessory water towers or cooling towers.
- (f) Accessory off-street parking or loading spaces.

(42) "**Ground level grade**" means the average elevation of the finished ground elevation at the centers of all walls of a building.

(43) "**Habitable floor**" means any floor usable for working, sleeping, eating, cooking, recreation, or other living purpose.

(44) "**Health Department**" means the County Health Officer and the County Health Officer's duly designated representatives.

(45) "**Height of building**" means the vertical distance from grade to the highest point of a roof.

(46) "**Home occupation**" means an occupation or profession carried on within a dwelling, or a residential accessory structure, by a resident of the dwelling, where such occupation or profession is secondary to the main use of the property as a residence and which is not an accessory home occupation.

(47) "**Home owner's association**" means an incorporated, non-profit corporation to operate under recorded land agreement through which:

(a) Each lot owner in a Planned Unit Subdivision or other described land area is automatically a member; and

(b) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.

(48) "**Hospital**" means an establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care with nursing service on a continuous basis.

(49) "**Junk yard**" means any property utilized for breaking up, dismantling, sorting, storing, distributing, buying, or selling of any scrap, waste material, junk, or used equipment or machinery of any nature.

(50) "**Kennel**" means a lot or building which provides for the keeping of four or more dogs, cats, or animals, at least four months of age, where such animals are kept commercially for board, propagation, training, or sale.

(51) "**Livestock**" means domestic animals and fowl of types customarily raised or kept on farms for profit or other purposes. This definition does not include household pets such as dogs and cats.

(52) "**Lodge**" means a structure or group of related structures wherein transient eating or sleeping accommodations are provided in connection with outdoor recreation activities.

(53) "**Lot**," as used in LCC 1.1101 through 1.1999, but excepting LCC 1.1371 to 1.1375, means an area of land with fixed boundaries, used or intended to be used by a single use and its accessory uses and not divided by any public road or alley. "Lot," as used in LCC 1.3210 through 1.3270, means a unit of land created by a division of land.

(a) A "**corner lot**" is a lot abutting on two or more streets, other than an alley, at their intersections.

(b) An "**interior lot**" is a lot other than a corner lot.

(c) A "**lot area**" is the total horizontal area within the lot lines of a lot exclusive of public roads.

(d) A "**lot depth**" is the average horizontal distance between the front lot line and the rear lot line.

(e) A "**lot width**" is the average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

(54) "**Lot line**" is the property line bounding a lot.

(a) A "**front lot line**" is the property line separating the lot from the street, other than an alley. In the case of a corner lot, the shortest property line along a street, other than an alley; or, in a case where the lot does not front directly upon a public street, that lot line toward which most houses in the immediate area face.

(b) A "**rear lot line**" is a property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line ten feet in length, within the lot, parallel to and at a maximum distance from the front lot line.

(c) A "**side lot line**" is any property line not a front or rear lot line.

(55) "**Manufactured dwelling**" has the meaning given that term in ORS 446.003.

(56) "**Major partition**" means a partition of land wherein one or more of the parcels created does not have direct frontage on an existing public road, excepting that partitions creating parcel, solely for the purpose of forest use, farm use or mining operations shall not be considered major partitions.

(57) "**Marina**" means a commercial boat launch, moorage or similar facility which may include dry or wet boat storage, boat houses and related commercial activities.

(58) "**Mean sea level (NGVD)**" means the average height of the sea at all stages of tide.

(59) "**Minor partition**" means a partition of land wherein all of the parcels created have direct frontage on an existing public road or are created solely for the purpose of forest use, farm use, or mining operations.

(60) "**Mobile home**" means a dwelling unit or units, designed for long-term occupancy; designed to be transported after fabrication on its own wheels; providing plumbing or electrical connections for attachment to outside systems; and having a mobile home license or "X" number

(a) A "**single wide mobile home**" is a mobile home which is constructed and transported to its site as a single frame unit. A single wide may have extension or tilt out areas, but remains as a single frame unit after set-up.

(b) A "**multi-wide mobile home**" is a mobile home which is constructed and transported to its site as two or more frame units which are structurally connected on-site to form one or more dwelling units.

(61) "**Mobile home park**" means a lot providing water, sewage disposal and electrical hook-ups for two (2) or more mobile homes occupied for living or sleeping purposes, regardless of whether a charge is made for such accommodations.

(62) "**New construction**," as used in LCC 1.1386 through 1.1394 and LCC 1.1810(6), means structures for which the start of construction commenced on or after September 3, 1980, or new additions to the exterior of existing structures for which the start of construction commenced on or after September 3, 1980.

(63) "**Nonconforming use**" means the use of a structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the use requirements for the use zone in which it is located.

(64) "**Outdoor recreation activity**" includes fishing, camping, swimming, clam digging, hunting, boating, hiking, bicycling, horseback riding and similar outdoor activities engaged in for leisure and recreation.

(65) "**Outdoor recreation development**" includes those public or private structural or other improvements customarily found in connection with outdoor recreation activities. Such improvements may include picnic parks or organizational camps as defined in ORS chapter 446, and similar types of facilities. Such development may also include recreation parks as defined in ORS Chapter 446, provided that only minimal levels of improvements are provided. Outdoor recreation development does not include high intensity recreational development such as marinas or recreational vehicle parks providing full hook-ups or commercial services. Outdoor recreation development does not include commercial amusement uses such as miniature golf courses, go-cart tracks and similar uses.

(66) "**Parcel**" means a unit of land that is created by partitioning land.



(67) "**Parking space**" means an off-street enclosed or unenclosed surfaced area of not less than 20 feet by eight feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, connected with a street or alley which affords ingress and egress for automobiles.

(68) "**Partition**" means either an act of partitioning land or an area or tract of land partitioned as defined in this chapter.

(69) "**Partition land**" means to divide an area or land into two or three parcels within a calendar year. "Partition land" does not include:

(a) A division or 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;

(b) An adjustment of a property line by the relocation of a common boundary where an additional parcel is not created and where the existing unit of land reduced in size is not reduced below the minimum lot size established by the applicable use zone;

(c) The division of land resulting from the recording of a subdivision or condominium plat; or

(d) A sale or grant to a public agency or public body for state highway, county road, city street or other right-of-way purposes, if the road or right-of-way complies with the comprehensive plan and ORS 215.283(2)(p) through (r). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

(70) "**Performance agreement**" means a bond executed by a surety company licensed in the State of Oregon, or other security acceptable to the Board, to insure the completion of the conditions of approval of any land use action.

(71) "**Person**" means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

(72) "**Pier**" means a fixed moorage facility constructed outward from the shoreline.

(73) "**Planned Unit Subdivision**" means a land in which the individual building sites may be reduced in size but are compensated by area used in common for recreational or other open space purposes. Planned Unit Subdivisions involving dwelling or commercial units may incorporate detached, semi-detached, attached, single-story, or multi-storied units or any combination of the aforementioned. Such projects may also involve religious, cultural, recreational and commercial uses and purposes.

(74) "**Planning Division**" means the Lincoln County Planning Director and the director's duly designated representatives.

(75) "**Plat**" and "**replat**" mean a final diagram, drawing, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

(76) "**Professional office**" means an office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors, or persons engaged in similar occupations.

(77) "**Recreational vehicle**" and "**R.V.**" mean a vacation trailer or other wheeled mobile unit, with or without motive power, which is designed for temporary human occupancy and

licensed as either a motor home, recreational trailer, or camper by the Oregon Motor Vehicles Division, or similar units licensed by another state.

(78) "**Recreational vehicle park**" means a park intended, designed or utilized for temporary occupancy by recreational vehicles or other similar portable devices, and accompanied by other accessory uses as needed.

(79) "**Reserve strip**" means a strip of land usually one foot in width, across the end of a street or alley which shall be under the ownership of the County to insure street extensions where needed.

(80) "**Right-of-way**" means a strip of land within which is located a passageway, as conveyed for a specific purpose.

(81) "**Road**" and "**street**" mean a public or private way created to provide vehicular access to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide access to such land in conjunction with its use for forestry, mining, or agricultural purposes.

(a) A "**public road**" is a road dedicated for public use.

(b) A "**private road**" is a road created by easement.

(c) An "**arterial highway**" and "**major highway**" are streets designed to carry traffic from one community to another, to carry traffic to and from major traffic generators and to carry through traffic.

(d) A "**collector street**" and "**secondary street**" are streets designed to carry traffic between minor streets and the arterial system, to function as primary traffic carriers within a neighborhood, to carry traffic to local traffic generators, and in commercial and industrial areas, provide access to commercial and industrial properties.

(e) A "**minor street**" is a street designed to provide access to abutting residential property with only incidental service to through traffic.

(f) A "**cul-de-sac**" and "**dead end street**" are minor streets with only one outlet which provides a vehicular turn-around.

(82) "**Sign**" has the meaning provided in LCC 1.1405.

(83) "**Skirt**" means a durable all-weather material having a finished exterior surface surrounding a mobile home and effectively screening the under-carriage from view.

(84) "**Solid waste**" has the meaning given that term in LCC 2.1005(14).

(85) "**Solid waste disposal site**" has the meaning given that term in LCC 2.1005(5).

(86) "**Step-backwater analysis**" means an engineering analysis developed by the Army Corps of Engineers to evaluate hydrostatic and hydrodynamic forces and titled HEC-2 Water Surface Profiles, Generalized Computer Profile.

(87) "**Street**" has the same meaning as "road."

(88) "**Structural alteration**" means any change to the supporting members of a building including foundations, bearing walls, or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

(89) "**Structure**" means something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure. A "structure," as used in LCC 1.1395 (floodplain), means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as mobile home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include

building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

(90) "**Subdivide land**" means to divide an area or tract of land into four or more lots within a calendar year when such an area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of a year.

(91) "**Subdivision**" means an area or tract of land divided into four or more lots within a calendar year.

(92) "**Substantial improvement**" means any repair, reconstruction, or improvement of a structure which exceeds 50 percent of the true cash value of the structure.

(93) "**Tentative plan**" means a diagram including any writings showing the general design of a proposed partition, together with other information the proposed partition may require.

(94) "**Transfer station**" means a fixed or mobile facility, normally used as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and disposal site, including, but not limited to a large hopper, railroad gondola or barge.

(95) "**Use**" means the purpose for which a structure is designed, arranged or intended or for which land is maintained or occupied.

(96) "**Wharf**" means a fixed moorage parallel to the shoreline continuously thereto.

(97) "**Yard**" means an open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this ordinance.

(a) A "**front yard**" is a yard between side lot lines and measured horizontally at right angles to the front lot 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.

(b) A "**rear yard**" is a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line, or the mean higher high water line or ordinary high water line when applicable, to the nearest part of a building.

(c) A "**side yard**" is a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of a building.

(d) A "**street side yard**" is a yard on a corner lot that is adjacent to a street between the front yard and the rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building. [1985 o.231 §1; 1997 o.369 §1; 2006 o.438 §1; 2009 o.461 §1]

### **1.1120 Conformance to Chapter Requirements**

(1) All state, county, and local officials, departments and employees vested with authority to issue permits, licenses, certificates shall adhere to and require conformance with the provisions of this chapter.

(2) No land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, located, moved, extended, enlarged, structurally altered, or used or occupied, except in conformity with this code.

(3) No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of this code.

### **1.1125 Violation**

(1) It shall be unlawful for any person to violate any provision of this chapter, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply

with any such provision except as variation may be allowed under this chapter. Violations of this chapter shall be prosecuted, remedies pursued, and penalties assessed pursuant to LCC chapter 10.

(2) Any use which is established, operated, erected, moved, altered, enlarged, or maintained contrary to this chapter shall be and is hereby declared to be unlawful and a public nuisance, and the Board may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent and temporarily or permanently enjoin, abate, or remove the violation. Abatement may be pursued pursuant to LCC chapter 10.

#### **1.1130 Inspection and Right of Entry**

Whenever any official, department, or employee of the county shall have cause to suspect a violation of any provision of this chapter or when necessary to investigate an application for or revocation of any county approval under any of the procedures prescribed in this chapter, officials responsible for enforcement or administration of this chapter, or their duly authorized representative, may enter on any site or into any structure for the purpose of investigation, provided they do so in a reasonable manner. No secured building may be entered without consent of owner or occupant. No owner, occupant, or agent thereof shall, after reasonable notice and opportunity to comply, refuse such entry.

#### **1.1135 Severability**

Each section, sentence, clause, and phrase hereto is declared severable. If any section, sentence, clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this chapter.

## ADMINISTRATION

### 1.1201 Planning Commission Membership

The requirement for membership, qualifications, voting and participation for the Lincoln County Planning Commission shall be as follows:

(1) **Membership:** The Lincoln County Planning Commission shall consist of 13 members appointed by the Lincoln County Board of Commissioners.

(2) **Terms and Categories of Membership:**

(a) Of the 13 members of the Planning Commission, nine commissioners shall be regular members, three commissioners shall be alternate members and one commissioner shall be an ex-officio member.

(b) The terms of regular and alternate members shall be four years. The term of the ex-officio member shall be one year.

(3) **Qualifications:** All Planning Commission members shall be citizens of Lincoln County and the ex-officio shall be a high school senior student.

(4) **Voting and Participation in Decision Making:** Only regular members of the Lincoln County Planning Commission shall vote on matters before the Commission unless a regular member or members are not present. If nine regular members are not present, alternate members shall participate after appointment by the chairperson and have full authority to vote as if a regular member. In no case shall more than nine regular or alternate members vote on a decision before the Commission. The ex-officio member shall be allowed to participate in the decision making process of the Commission but may not vote on any official matter before the Commission.

(5) **Removal from the Planning Commission:** Members of the Lincoln County Planning Commission shall only be removed for cause as set forth in the bylaws adopted by resolution of the Planning Commission.

(6) **Application:** Except as otherwise provided for in this section, the provisions of ORS chapter 215 shall apply to the membership and operation of the Lincoln County Planning Commission.

### 1.1205 Application Procedures

Petitions, applications, and appeals provided for in this chapter shall be made on forms prescribed by the division. Applications shall be accompanied by plans, specifications, and such other information as specified on the application form. An application shall be deemed complete 30 days after receipt by the division, unless the applicant receives prior written notice from the division that the application is incomplete. An applicant may apply at one time for all approvals and amendments required by this chapter for a development project. County action on a consolidated application is subject to the time limitations provided in ORS 215.428. [1995 o.255 §1]

### 1.1210 Review Procedures

The review of applications received under the provisions of this chapter shall be conducted according to the following procedures:

(1) **Procedure for action by the division on ministerial applications not subject to notification requirements:**

(a) The property owner or authorized agent shall submit an application to the division.

(b) Upon determination that the application is complete, the division may refer the application to affected cities, districts, local, state or federal agencies for comments.

(c) Within 10 days of determining an application complete, or such longer period as mutually agreed to by the division and the applicant, the division shall approve, deny or, at the director's discretion, refer the application to the Planning Commission for consideration.

(d) The applicant shall be notified in writing of the division's action.

(e) All actions of the division may be appealed to the Planning Commission or other hearings body designated by the Board of Commissioners pursuant to LCC 1.1267.

**(2) Procedure for action by the division on applications for permits as defined in ORS 215.402(4):**

(a) The property owner or authorized agent shall submit an application to the division.

(b) Upon determination that the application is complete, the division may refer the application to affected cities, districts, and local, state or federal agencies for comments, and shall refer the application to the Oregon Department of Transportation and other public agencies providing transportation facilities and services that may be impacted by the application.

(c) Within 30 days of determining an application complete, or such longer period as mutually agreed to by the division and the applicant, the division shall approve, deny or, at the director's discretion, refer the application to the Planning Commission for consideration at a public hearing.

(d) Notice of a decision of the division to approve or deny an application shall:

(A) Be provided to the applicant and the owners of record of property on the most recent tax assessment roll of Lincoln County:

(i) Within 500 feet of the boundaries of the subject property in A-C and T-C zones.

(ii) Within 250 feet of the subject property in all other zones.

(B) Be provided to any neighborhood or community organization recognized by the Board of Commissioners and whose boundaries include the subject property;

(C) Be provided to the Oregon Department of Transportation if the Oregon Department of Transportation has responded to the agency referral provided in accordance with paragraph (b) of subsection (2) of this section;

(D) Explain the nature of the decision and the use or uses which could be authorized;

(E) List the applicable criteria from this chapter that apply to the subject decision;

(F) Set forth the street address or other easily understood information identifying the location of the subject property;

(G) State that a copy of the application, all documents relied upon by the applicant, and the applicable criteria are available for inspection at the division office at no cost and can be provided at a reasonable cost;

(H) State that a copy of the division's staff report and record of decision is available for inspection at no cost and can be provided at a reasonable cost;

(I) Provide the name and telephone number of the division staff person to contact for additional information; and

(J) Provide an explanation of the procedure and deadline for appealing the decision to the Planning Commission or designated hearings body for a public hearing.

**(3) Procedure for action on applications or appeals subject to public hearing requirements:**

(a) The property owner, agent or other party shall submit an application or appeal to the division.

(b) Within five days of determining the application or appeal complete, the division shall schedule the matter for public hearing before the Planning Commission or designated hearings body.

(c) Upon determination that the application or appeal is complete, the division may refer the application to affected cities, districts, and local, state or federal agencies for comments, and shall refer the application to the Oregon Department of Transportation and other public agencies providing transportation facilities and services that may be impacted by the application.

(d) Notice for, and conduct of, public hearings provided for in this section shall be in accordance with LCC 1.1250 and 1.1255.

(e) Decisions of the Planning Commission or designated hearings body may be appealed to the Board of Commissioners pursuant to LCC 1.1268. [1995 o.255 §2; 2008 o.456 § 7]

### **1.1215 Effective Date of Decision**

The effective date of a decision of the Division is the date of the letter notifying the applicant of the Division's action. The effective date of a decision of the Planning Commission is the date of adoption of findings of fact. The effective date of a decision of the Board is the date of the recording of the final order and findings of fact.

### **1.1220 Fees**

(1) For the purpose of defraying the cost of processing applications, fees shall be paid to the Planning Division upon the filing of an application.

(2) A fee schedule for applications provided for in this chapter shall be set by order of the Board of Commissioners after review and recommendation by the Planning Commission. An annual review of the fee schedule shall occur during the month of January, with recommendations for changes made by the Department of Planning and Development. The Planning Commission shall consider the proposed changes at a public hearing and, upon conclusion of the hearing, shall make a recommendation regarding the proposed changes to the Board of Commissioners. [1991 o.300 § 1; 1993 o.313 § 1]

### **1.1225 Amendments**

The purpose of LCC 1.1225 to 1.1235 is to describe general requirements and criteria to be considered in reviewing an application for an amendment to the provisions of this chapter. An amendment may be made to the text of the Lincoln County Comprehensive Plan (LCC 1.0001 to 1.0190), Zoning and Land Division Regulations (LCC 1.1101 to 1.3270), the Comprehensive Plan and Zoning Maps, or to the related land use ordinances incorporated into this chapter by reference. An amendment may be accomplished in either a legislative or quasi-judicial manner as follows:

(1) Legislative amendments may be made only for the establishment of policy. Such an amendment may be initiated only by the Board or the Commission. A person may petition the Board or the Commission to initiate such a legislative amendment but may not initiate the amendment by making direct application. Such amendments shall be made only after a public hearing has been held pursuant to LCC 1.1250.

(2) Quasi-judicial amendments may be made only for the application of established policy to specific properties in the county. Such amendments may be initiated by the Board, the

Commission, or by the application of an owner of land or agent thereof. An application for an amendment by an owner or agent shall be made in accordance with the application procedure specified in LCC 1.1205. All quasi-judicial amendments shall be subject to the public hearing requirements of LCC 1.1250 and 1.1255. [1995 o.255 §3]

### **1.1230 Legislative Amendments**

(1) A legislative amendment shall be made only by the Board after review and recommendation by the Commission and after public hearing held pursuant to LCC 1.1250. Proceedings initiated by the Board shall be by resolution and shall be referred to the Commission for public hearing. The Division shall set the date for the hearing and provide for notice pursuant to LCC 1.1250. The Commission shall make recommendations to the Board upon completion of the hearing.

(2) Proceedings initiated by the Commission shall be by resolution directing the Planning Director to set the date of the public hearing before the Commission and provide for notice as provided in LCC 1.1250. The Commission shall make a recommendation to the Board upon completion of the hearing.

(3) Findings required to be made by the Board and the Commission for legislative amendments are as follows:

(a) Establish that the amendment will be consistent with the Comprehensive Plan goals and policies.

(b) Establish that there is a public need for the requested change and that the public need will be met by the change.

(c) Establish that the amendment will be consistent with all other provisions of this Chapter and in conformance with the Statewide Planning Goals and all other applicable statutes and regulations.

### **1.1235 Quasi-Judicial Amendments**

A quasi-judicial amendment to the Comprehensive Plan and Zoning Maps may be authorized provided that the proposal satisfies all applicable requirements of this Chapter and also provided that the applicant, in a quasi-judicial hearing, demonstrates that the change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals and that:

(1) There has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone;

(2) Zoning previously adopted for the area was in error; or

(3) There is a public need for the change being sought.

### **1.1240 Findings**

Findings made by the decision-making body in justification of any action authorized pursuant to this chapter shall be made in writing and shall be provided to the applicant and to parties establishing testimony on the record of any hearing. Findings shall be made which are consistent and in conformance with the applicable regulations of this chapter. The division shall make a record of any public hearing before the Planning Commission and assist in drafting findings upon request by the Commission. [1995 o.255 §4]



### **1.1245 Intent to Rezone; Purpose and Procedure**

It is the purpose and intent of this Section to provide additional procedures for small tract zone map amendments to insure the public interest is considered as certain developments occur. These provisions may be invoked at any time during zone-change hearings and appeal process.

#### **(1) Resolution of Intent to Rezone:**

If, after consideration of the findings and recommendations of the Planning Commission, the Board determines that the public interest will be best served by this rezoning or any portion thereof, the Board may indicate its approval in concept of the rezoning by the adoption of a "resolution of intent to rezone" said property. This resolution may include any conditions, stipulations or limitations which the Board feels necessary to insure the public interest.

#### **(2) Resolution of Intent Binding:**

The adoption of this resolution of Intent to Rezone by the governing body shall make this a binding commitment on the County.

#### **(3) Site Development and Operation:**

Other than for residential development, property proposed to be developed under a resolution of intent to rezone shall be managed to insure compliance with the following conditions:

- (a) That storage of merchandise and supplies be contained entirely within a building;
- (b) That the proposed use continuously meet State D.E.Q. standards for air and water quality and noise emissions;
- (c) That vehicle parking and maneuvering areas be hard surfaced and maintained dust free;
- (d) That on-site drainage be designated to protect adjoining properties and public rights-of-way from increased storm runoff; and
- (e) Any other conditions that the Board feels necessary to protect the public interest.

#### **(4) Site Plan:**

The Board may require under a resolution of intent to rezone a site plan which shall be binding upon the property. Upon approval of the Board, property having an approved site plan under these provisions shall be plainly marked as "subject to approved site plan" on the official zoning map of Lincoln County. Any approved site plan may be amended or a variance therefrom obtained, or the property may be released from the restrictions of such site plan by resolution of the Board on recommendation from the Planning Commission after a public hearing as set forth in LCC 1.1250. No other changes shall be made constituting a departure from the approved site plan except by amendment or variance as herein provided unless the property has been released from the site plan.

#### **(5) Site Plan Composition:**

Where a site plan is required pursuant to this Section, it shall include:

- (a) Location of existing property boundaries, existing and proposed buildings, structures, accesses, off-street parking and loading spaces and landscaping;
- (b) Topography, existing and proposed;
- (c) Mechanical roof facilities if subject property is so oriented as to become part of the view from adjacent properties; and
- (d) Architectural perspective, layout and all elevations drawn without exaggeration, except where noted including locations, area and design of signs and all landscaping.

#### **(6) Change of Zone:**

The fulfillment of all conditions, stipulations and limitations contained in the resolution of intent to rezone on the part of the applicant, shall be required prior to the governing body effecting

the ordinance change. Upon completion of compliance action by the applicant, the Board shall enact the ordinance changing the zone.

**(7) Resolution of Intent Void upon Failure to Comply:**

The failure of the applicant to substantially meet any or all conditions, stipulations or limitations contained in a resolution of intent to rezone, including the time limit placed in the resolution, shall render said resolution null and void, unless an extension is granted by the Board upon recommendation of the Planning Commission.

**1.1250 Notice of Public Hearings**

**(1) Legislative Hearings:**

Notice of hearings for legislative amendments shall consist of a statement specifying the date, time, place and general subject of the hearing published in a newspaper of general circulation in the county at least 10 days prior to the hearing. In addition, notice shall be provided in accordance with ORS 215.503 and 215.513, unless such notice is not required under ORS 215.508.

**(2) Quasi-Judicial Hearings:**

Notice of quasi-judicial hearings for the consideration of applications and appeals provided for in this chapter shall:

(a) Be provided in writing to the applicant and to the owners of record of property on the most recent tax assessment roll of Lincoln County:

(A) Within 500 feet of the boundaries of the subject property in A-C and T-C zones.

(B) Within 250 feet of the subject property in all other zones.

(b) Be provided to any neighborhood or community organization recognized by the Board of Commissioners and whose boundaries include the subject property;

(c) Explain the nature of the decision and the use or uses which could be authorized;

(d) List the applicable criteria from this chapter that apply to the subject application;

(e) Set forth the street address or other easily understood information identifying the location of the subject property;

(f) State the date, time and location of the hearing;

(g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at the division office at no cost and can be provided at a reasonable cost;

(h) State that a copy of the division's staff report is available for inspection at no cost and can be provided at a reasonable cost seven days prior to the hearing;

(i) Provide the name and telephone number of the division staff person to contact for additional information; and

(j) Include a general explanation of the requirements for submission of testimony and the conduct of hearings;

(k) State that failure to raise an issue in the hearing, either in person or in writing, or failure to provide statements or evidence sufficient to afford the hearings body an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue; and

(L) Be mailed at least 20 days prior to the hearing.

(3) The failure of a property owner to receive notice as provided for in this section shall not invalidate the subject hearing proceeding provided that the division can demonstrate by affidavit that such notice was given. [1995 o.255 §5; 1997 o.368 §1]

### **1.1252 Notice of Exception to Statewide Planning Goals**

Actions involving the consideration of exceptions to the Statewide Planning Goals shall be subject to the notice and hearing requirements of LCC 1.1250 and 1.1255. In addition, the required notice of public hearing shall specifically note the exceptions to be considered and shall summarize the issues in an understandable manner. [1995 o.255 §6]

### **1.1255 Conduct of Quasi-Judicial Public Hearings**

Any quasi-judicial public hearing required by or provided for in this chapter shall be conducted in accordance with the following requirements:

#### **(1) Staff Report:**

At least seven days prior to the hearing, the division shall provide to the hearings body and make available to the public for inspection or purchase a report detailing the nature of the request and the applicable criteria of this chapter.

#### **(2) Application Materials:**

All application materials, documents or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided to the division and made available to the public.

#### **(3) Pre-Hearing Statement:**

At the commencement of the hearing, a statement shall be made by the hearings body or staff to those in attendance that:

(a) Lists that applicable substantive criteria;

(b) States that testimony and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in this chapter the party believes to apply to the subject request; and

(c) States that failure to raise an issue accompanied by statements or evidence sufficient to afford the hearings body and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.

#### **(4) Presentation of Testimony:**

Unless otherwise provided for by the hearings body, the order of presentation of testimony shall be as follows:

(a) Staff report.

(b) Presentation by the applicant or, in the case of an appeal of a prior decision, the appellant.

(c) Additional testimony by other parties in support of the application or appeal.

(d) Testimony by opponents or, in the case of an appeal, the respondent.

(e) Applicant's or, in the case of an appeal, appellant's, rebuttal arguments.

#### **(5) Continuances:**

The hearings body may continue any hearing as deemed necessary to receive additional arguments or testimony or for further consideration of any evidence or testimony. A continuance may be provided for by the hearing body on its own motion or may be requested by a party. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of ORS 215.248. If the hearings body grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is presented at the

continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or testimony for the purpose of responding to the new written evidence. No additional notice need be given of the continued hearing.

**(6) Holding Open the Hearing Record:**

Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The hearings body shall grant such a request by continuing the hearing pursuant to subsection (5) of this section or leaving the record open for additional written evidence or testimony. If the record is left open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the division for an opportunity to respond to new evidence or testimony submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record pursuant to subsection (7) of this section.

**(7) Reopening the Hearing Record:**

The hearings body may, on its own motion, or upon request of a party, reopen the record of any hearing previously concluded. When a hearing record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony, or criteria for decision making which apply to the subject application or appeal.

**(8) Time Limitations of ORS 215.428:**

Any continuance or extension of the record shall be subject to the time limitations of ORS 215.428 unless the continuance or extension is requested or agreed to by the applicant.

**(9) Final Arguments:**

Unless waived by the applicant, the hearings body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.

**(10) Definitions:**

For purposes of this section:

(a) "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.

(b) "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to a decision by the hearings body. [1995 o.255 §7; 1997 o.368 §2]

**1.1260** [repealed 1995 o.255 §10]

**1.1265 Appeals**

The hearing body may retain authority to dismiss an appeal for failure to follow the requirements of this chapter.

**1.1267 Appeals of Decisions of Planning Division**

Where it is alleged that there is an error in any procedure or decision of the division, an appeal may be made to the Commission or such other hearings body as may be designated by order

of the Board. An appeal of a ministerial decision of the division made pursuant to LCC 1.1210(1) shall be filed within 10 days of the effective date of the decision. An appeal of a decision of the division on a permit made pursuant to LCC 1.1210(2) shall be filed within 15 days of the effective date of the decision. In the event that the final day for the filing of an appeal falls on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be extended through the next working day. An appeal of a division decision shall be filed with the division and shall be accompanied by a written statement of the grounds for the appeal and any required filing fee. In the event that the party filing the appeal prevails at the initial hearing or upon subsequent appeal, the fee for the initial appeal of the division decision shall be refunded. Fees required for the filing of appeals of decisions of the division shall not apply to the Department of Land Conservation and Development nor to neighborhood or community groups recognized by the Board and whose boundaries include the property subject to the decision. Upon receipt of an appeal, the division shall schedule a public hearing before the Commission or other hearings body as designated by order of the Board. Public notice of the hearing shall be in accordance with LCC 1.1250. [1995 o.255 §8]

#### **1.1268 Appeals of Commission or Hearing Body Decisions**

Where it is alleged that there is an error in any procedure or decision made by the Commission or hearings body, an appeal therefrom may be made to the Board. Such an appeal shall be filed with the division within 15 days of the subject decision of the Commission or hearings body. In the event that the subject decision falls on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be extended through the next working day. An appeal of a Commission or hearings body decision subject to review by the Board pursuant to this section shall be filed on a form prescribed by the division and shall be accompanied by any required filing fee. When an appeal is filed, within 10 days of such filing, the division shall provide to the Board the record of the proceedings and decision of the Commission or hearings body. The Board shall hold a public hearing on the appeal. The decision of the Board on an appeal shall be recorded within 45 days of receiving the record of the subject decision, unless a longer period of time is stipulated to by the parties. [1995 o.255 §9]

#### **1.1270 Board Review**

Review by the Board at a public hearing shall be accomplished in accordance with its own adopted rules of procedure and the requirements of this chapter. The Board may continue its hearing to gather additional evidence or to consider the application more completely pursuant to this chapter.

#### **1.1275 Review on Record**

Unless otherwise provided by the Board under LCC 1.1280, the review of the decision of the Commission by the Board shall be confined to the record of the proceeding, which shall include:

- (1) All materials, pleading, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered by the commission as evidence;
- (2) All materials submitted by the division with respect to the application;
- (3) The transcript or tape of the public hearing of the commission;
- (4) The findings and action of the commission and the notice of review; and

(5) Argument confined to the record by the parties or their legal representatives at the time of review before the Board.

**1.1280 De Novo Hearing**

(1) The Board may, at its option, whether or not upon a motion of a party, hold a *de novo* hearing or admit additional testimony and other evidence, if it is satisfied that the testimony or other evidence could not have been presented upon initial hearing and action. In deciding this admission, the Board shall consider:

- (a) Prejudice to parties.
- (b) Convenience of locating the evidence at the time of initial hearing.
- (c) Surprise to opposing parties.
- (d) When notice was given to other parties as to the attempt to admit.
- (e) The competency, relevancy, and materiality of the proposed testimony and other evidence.

(2) Upon a decision to admit additional testimony or evidence or to hear the entire matter *de novo*, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters as provided in the Board's rules of procedure.

**1.1285 Board Action**

(1) The Board may affirm, modify or reverse all or part of the action of the commission or may remand the matter for additional review or information.

(2) The Board may, on its own motion, review any decision of the Division or the Commission pursuant to the review procedures in LCC 1.1270 to 1.1280. Such motion shall be made within 15 days of the effective date of the decision to be reviewed.

## ZONES

### 1.1301 Classification of Zones

For the purposes of LCC 1.1301 through 1.1399 the following zones are hereby established in the County:

	<u>Abrev/Desig</u>	<u>Map/Desig</u>
<b>(1) Residential Zones:</b>		
(a) Residential R-1	R-1	R-1
(b) Residential R-1-A	R-1-A	R-1-A
(c) Residential R-2	R-2	R-2
(d) Residential R-3	R-3	R-3
(e) Residential R-4	R-4	R-4
<b>(2) Rural Residential Zones:</b>		
(a) Rural Residential RR1-2	RR-2	RR-2
(b) Rural Residential RR-5	RR-5	RR-5
<b>(3) Commercial Zones:</b>		
(a) Tourist Commercial C-T	C-T	C-T
(b) Retail Commercial C-1	C-1	C-1
(c) General Commercial C-2	C-2	C-2
<b>(4) Industrial Zones:</b>		
(a) Planned Industrial I-P	I-P	I-P
<b>(5) Marine Zones:</b>		
(a) Marine Waterway M-W	M-W	M-W
(b) Planned Marine M-P	M-P	M-P
<b>(6) Resource Zones:</b>		
(a) Agricultural Conservation A-C	A-C	A-C
(b) Timber Conservation T-C	T-C	T-C
<b>(7) Public Facilities:</b>		
(a) Public Facilities P-F	P-F	P-F
<b>(8) Special Zones:</b>		
(a) Planned Development P-D	P-D	P-D
(b) Coastal Shorelands Overlay C-S	C-S	C-S
(c) Dredge Material Disposal Overlay DMDS	DMDS	DMDS
<b>(9) Flood Plain Management:</b>		
(a) Floodway Overlay F-W	F-W	F-W
(b) Flood Fringe Overlay F-F	F-F	F-F
(c) Coastal Flood Overlay V	V	V
(d) Shallow Flooding Overlay A-O	A-O	A-O

[2000 o.396 §3]

### **1.1303 Location of Zones**

(1) The boundaries for the zones listed in LCC 1.1301 through 1.1399 are indicated on maps entitled "Lincoln County Comprehensive Plan and Zoning Maps," originals of which are on file in the office of the Lincoln County Clerk. Said maps are hereby incorporated into and made a part of this chapter.

(2) Zone boundaries, zone modifications, additions or reclassifications may be made at subsequent times and shall be made by amendment to this chapter, in accordance with the provisions of this chapter.

### **1.1310 Residential Zone R-1**

In an R-1 zone, the following regulations shall apply:

#### **(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

- (a) A one-family dwelling unit excluding single wide mobile homes;
- (b) Duplex on a corner lot each unit fronting on a separate street;
- (c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year;
- (d) Farm and forest use: Livestock and primary processing or forest products are prohibited;
- (e) Beach front protective structures.

#### **(2) Conditional Use Permitted:**

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999:

- (a) Cemetery;
- (b) Church, non-profit religious or philanthropic use;
- (c) Community center;
- (d) Day nursery, nursery school-kindergarten, day care center, or similar facility;
- (e) Governmental structure or use of land;
- (f) Home occupation;
- (g) Hospital, nursing home, retirement home or similar facility;
- (h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility;
- (i) Mobile home park;
- (j) Private, non-commercial recreation club, such as archery, swimming or tennis;
- (k) Private school;
- (L) Public park, playground, swimming pool or similar recreation facility;
- (m) Public or private utility facility;
- (n) Radio or television transmitter or tower;
- (o) Temporary real estate office;
- (p) Excavating, filling, dredging or wetland drainage;
- (q) Single-wide mobile home;
- (r) Recreational vehicle park;
- (s) Keeping of livestock;



- (t) Pilings, piers, docks, and similar in-water structures;
- (u) Heliports;
- (v) Transfer stations;
- (w) Bed and breakfast inns.

(3) **Standards:**

Except as provided in LCC 1.1400 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

(a) **Lot Size and Dimensions:**

The minimum lot size and dimensions shall be as follows:

(A) The minimum lot area shall be 6,000 square feet for a single family dwelling unit and 10,000 square feet for a duplex when a lot is served by both a public or community water supply system and public or community sewage disposal system and is within a Rural Community Boundary or Urban Growth Boundary.

(B) The minimum lot area shall be 15,000 square feet per dwelling unit when a lot is served by either a public or community water source, or public or community sewage disposal system and is within a Rural Community Boundary.

(C) The minimum lot area per dwelling unit shall be 2 acres when a lot is not served by either a public or community sewage disposal or water supply system or is outside of Rural Community Boundary.

(D) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger.

(E) Within urban growth boundaries where a division will not be to planned urban densities, the minimum lot size shall be 5 acres. A finding that the lot configuration and location of dwellings will not preclude extension of sewer, water or roads for future urbanization will be required prior to approval. Comments from the affected city will be required as part of all applications.

(F) Within urban growth boundaries, a division to planned urban densities may be allowed when an agreement for future services is signed by affected city and developer and recorded with the deed.

(b) **Yards:**

The minimum yard requirements shall be as follows:

(A) The front yard shall be a minimum of 20 feet.

(B) Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is greater.

(C) The street side yard shall be a minimum of 20 feet and may be decreased at the rate of one foot per additional two feet of setback from the front lot line, except that such setback shall not be less than 10 feet.

(D) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either five feet or one for each three feet of building height, whichever requirement is the greater.

(c) **Special Setbacks:**

(A) No structure shall be located closer than 30 feet from the right-of-way of any State Highway. No structure shall be located closer than 30 feet from the right-of-way of any collector or arterial street which has a right-of-way width of less than 60 feet.

(d) **Building Height:**

No building shall exceed a height of 30 feet.

**(e) Lot Coverage:**

Buildings shall not occupy more than 30 percent of the total lot area. [1986 o.231 §1; 2000 o.396 §1]

**1.1315 Residential Zone R-1-A**

In an R-1-A zone the following regulations shall apply:

**(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the R-1 zone, but excluding duplexes on corner lots.

**(2) Conditional Uses Permitted:**

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use permitted as a conditional use in the R-1 zone, excluding single-wide manufactured dwellings and bed and breakfast inns.

**(3) Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999, the following standards shall apply:

**(a) Dimensional Standards:**

Standards for lot size and dimensions, yards, special setbacks, building height and lot coverage for the R-1 zone shall apply.

**(b) Standards for Manufactured Dwellings:**

Manufactured dwellings placed in the R-1-A zone shall be subject to the following standards:

(A) The manufactured dwelling shall be multi-wide and shall enclose a floor area of not less than 1000 square feet.

(B) The manufactured dwelling shall be placed on a permanent foundation, fully enclosed at the perimeter.

(C) The manufactured dwelling shall have a roof with a nominal pitch of three feet in height for each twelve feet in width.

(D) The manufactured dwelling shall have no unpainted or uncoated metal siding.

(E) The manufactured dwelling shall be certified by the manufacturer to have an exterior envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings under the state building code as defined in ORS 455.010. Evidence demonstrating that the manufactured dwelling meets "Super Good Cents" energy efficiency standards is deemed to satisfy this requirement without further certification from the manufacturer. [1985 o.231 §1; 1994 o.331 §1; 1994 o.339 §1]

**1.1320 Residential Zone R-2**

In an R-2 zone the following regulations shall apply:

**(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the R-1 zone.

(b) Two-family dwelling.

**(2) Conditional Uses Permitted:**

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

- (a) A use permitted as a conditional use in the R-1 zone.
- (b) Recreational vehicle on an individual lot.

**(3) Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

**(a) Lot Size and Dimensions:**

The minimum lot size and dimensions shall be as follows:

- (A) Standards for single family dwelling units shall be the same as in the R-1 zone.
- (B) The minimum lot area shall be 10,000 square feet for a two-family dwelling when a lot is served by both a public or community water supply system, and public or community sewage disposal system.

(C) The minimum lot area per dwelling unit shall be 15,000 square feet when a lot is served by either a public or community water supply system, or a public or community sewage disposal system.

(D) The minimum lot area per dwelling unit shall be two acres when a lot is not served by either a public or community sewage disposal or water supply system.

(E) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger.

**(b) Yard, Lot Coverage, Building Height, Special Setbacks:**

The yard, lot coverage, building height and special setbacks shall be the same as required in the R-1 zone.

**1.1330 Residential Zone R-3**

In an R-3 zone the following regulations shall apply:

**(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

- (a) A use permitted outright in the R-2 zone.
- (b) Multi-family dwelling.

**(2) Conditional Uses Permitted:**

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

- (a) A use permitted as a conditional use in the R-2 zone.
- (b) Mobile home park.

(3) **Standards:** Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999, the following standards shall apply:

**(a) Lot Size and Dimensions:**

The minimum lot sizes and dimensions shall be as follows:

- (A) Lot size requirements for a single family dwelling shall be the same as in the R-1 zone.
- (B) For all other dwellings, the minimum lot area per dwelling unit shall be as follows:
  - (i) The minimum lot area per dwelling unit shall be 5,000 square feet when a lot is served by both a public or community water supply system and sewage disposal system;

(ii) The minimum lot area per dwelling unit shall be 15,000 square feet when a lot is served by either a public or community water supply system, or a public or community sewage system.

(iii) The minimum lot area per dwelling unit shall be two acres when a lot is not served by either public or community sewage or water supply system.

(C) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger.

**(b) Lot Coverage:**

Buildings shall not occupy more than 35 percent of the total lot area.

**(c) Yard, Building Height, Special Setbacks:**

The yard, building height and special setbacks requirements which apply in the R-1 zone shall apply.

**1.1340 Residential Zone R-4**

In an R-4 zone the following regulations shall apply:

**(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.7599, and 1.1901 to 1.1999:

(a) A use permitted outright in the R-3 zone.

**(2) Conditional Uses Permitted:**

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999.

(a) A use permitted as a conditional use in the R-3 zone.

(b) Clinic.

(c) Club, lodge, or fraternal organization.

(d) Hotel, motel, or resort, when served by a public or community sewer system, with accessory commercial uses provided that:

(A) They are located within the main building or buildings.

(B) They are limited to gift shops, eating and drinking establishments, and similar facilities.

(C) They do not exceed ten percent of the total floor area of the main use.

(e) Private museum, art gallery, or similar facility.

(f) Professional office.

**(3) Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999 the following standards shall apply:

**(a) Lot Size and Dimensions:**

The minimum lot size and dimensions shall be as follows:

(A) Standards for single family dwelling units shall be the same as in the R-1 zone.

(B) The minimum lot area per dwelling unit shall be 2,500 square feet when a lot is served by both a public or community water supply system and sewage disposal system.

(C) The minimum lot area per dwelling unit shall be 15,000 square feet when a lot is served by either a public or community water supply system, or a public or community sewage disposal system.

(D) The minimum lot area per dwelling unit shall be at least 2 acres when a lot is not served by either a public or community sewage or water supply system.

(E) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger.

(F) Hotels, motels or resorts outside of Urban Growth Boundaries or acknowledged Goal 14 exception areas shall be limited to no more than 35 units.

(b) **Yards, Special Setbacks:**

Yards and special setbacks shall be the same as required in the R-1 zone.

(c) **Building Height:**

No building shall exceed a height of 35 feet.

(d) **Lot Coverage:**

Buildings shall not occupy more than 40 percent of the total lot area. [2004 o.430 §3]

**1.1345 Rural Residential Zone RR-2**

In the RR-2 zone the following regulations shall apply:

(1) **Use Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

(a) One single-family dwelling unit, including single-wide mobile home.

(b) Farm and forest use.

(c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes, during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year.

(d) Beachfront protective structures.

(2) **Conditional Uses Permitted:**

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999:

(a) Cemetery.

(b) Church, non-profit religious or philanthropic center.

(c) Community center.

(d) Day nursery, nursery school-kindergarten, day care center, or similar facility.

(e) Governmental structure or use.

(f) Home occupation.

(g) Nursing home, retirement home or similar facility.

(h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility.

(i) Private school.

(j) Public or private utility facility.

(k) Radio or television transmitter or tower.

(L) Recreational vehicle park.

(m) Transfer station.

(n) Excavating, filling, dredging or wetland drainage.

(o) Recreational vehicle on an individual lot.

(p) Aquaculture facilities.

(q) Mining.

(r) Boarding of horses for profit.

(s) Pilings, piers, docks, and similar in-water structures.

(t) Heliports.

(u) Bed and breakfast inns.

(3) **Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999 the following standards shall apply:

(a) **Lot Size:**

The minimum lot size shall be two acres per dwelling unit.

(b) **Yards, Special Setbacks:**

Yards and special setbacks shall be the same as required in the R-1 zone.

(c) **Height:**

No structure shall exceed 30 feet in height.

(d) **Lot Width to Depth Ratio:**

Lots shall have an average width to depth ratio not in excess of 1 to 3 1/2. [1985 o.231 §1; 2000 o.396 §2]

**1.1355 Rural Residential Zone RR-5**

In the RR-5 zone the following regulations shall apply

(1) **Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) One single-family dwelling unit.

(b) Farm and forest use.

(c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes, during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year.

(d) Beachfront protective structures.

(2) **Conditional Uses Permitted:**

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) Cemetery.

(b) Church, non-profit religious or philanthropic center.

(c) Community center.

(d) Day nursery, nursery school-kindergarten, day care center, or similar facility.

(e) Governmental structure or use.

(f) Home occupation.

(g) Nursing home, retirement home or similar facility.

(h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility.

(i) Private school.

(j) Public or private utility facility.

(k) Radio or television transmitter or tower.

(L) Transfer station.

(m) Excavating, filling, dredging or wetland drainage.

(n) Recreational vehicle on an individual lot.

(o) Aquaculture facilities.

- (p) Mining.
- (q) Boarding of horses for profit.
- (r) Pilings, piers, docks, and similar in-water structures.
- (s) Heliports.
- (t) Recreational vehicle park.
- (u) Bed and Breakfast Inns.

(3) **Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

(a) **Lot Size:**

The minimum lot size shall be 5 acres.

(b) **Yards, Special Setbacks:**

Yards and special setbacks shall be the same as required in an R-1 zone.

(c) **Height:**

No structure shall exceed 30 feet in height.

(d) **Lot Width to Depth Ratio:**

Lots shall have an average width to depth ratio not in excess of 1 to 3 1/2. [1985 o.231 §1]

**1.1357 Rural Residential Zone RR-10**

In the RR-10 zone the following regulations shall apply

(1) **Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) One single-family dwelling unit.

(b) Farm and forest use.

(c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes, during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year.

(d) Beachfront protective structures.

(2) **Conditional Uses Permitted:**

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) Cemetery.

(b) Church, non-profit religious or philanthropic center.

(c) Community center.

(d) Day nursery, nursery school-kindergarten, day care center, or similar facility.

(e) Governmental structure or use.

(f) Home occupation.

(g) Nursing home, retirement home or similar facility.

(h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility.

(i) Private school.

(j) Public or private utility facility.

(k) Radio or television transmitter or tower.

(L) Transfer station.

- (m) Excavating, filling, dredging or wetland drainage.
- (n) Recreational vehicle on an individual lot.
- (o) Aquaculture facilities.
- (p) Mining.
- (q) Boarding of horses for profit.
- (r) Pilings, piers, docks, and similar in-water structures.
- (s) Heliports.
- (t) Recreational vehicle park.
- (u) Bed and Breakfast Inns.

(3) **Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

(a) **Lot Size:**

The minimum lot size shall be 10 acres.

(b) **Yards, Special Setbacks:**

Yards and special setbacks shall be the same as required in an R-1 zone.

(c) **Height:**

No structure shall exceed 30 feet in height.

(d) **Lot Width to Depth Ratio:**

Lots shall have an average width to depth ratio not in excess of 1 to 6. [2006 o.439 §2]

**1.1360 Tourist Commercial Zone C-T**

In a C-T zone the following regulations shall apply:

(1) **Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

- (a) A use permitted outright in the R-4 zone.
  - (b) Automobile service station, including minor repair provided it is conducted entirely within an enclosed building.
  - (c) Barber or beauty shop.
  - (d) Boat launching or moorage facility, marina, boat charter service.
  - (e) Car wash.
  - (f) Clinic.
  - (g) Club, lodge, or fraternal organization.
  - (h) Food store.
  - (i) Gift shop.
  - (j) Hotel, motel, or resort, when served by a public or community sewer system.
  - (k) Indoor commercial amusement or recreation establishment such as bowling alley, theater, or pool hall.
  - (L) Laundromat.
  - (m) Office.
  - (n) Private museum, art gallery, or similar use.
  - (o) Restaurant, bar, or tavern.
  - (p) Retail sale of sporting goods, or bait.
- (2) **Conditional Uses Permitted:**



The following uses and their accessory uses may be permitted, subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

- (a) A use permitted as a conditional use in the R-4 zone.
- (b) Recreational vehicle park.
- (c) Outdoor recreation development.
- (d) Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.
- (e) Automobile repair garage provided all repair shall be conducted entirely within an enclosed building.
- (f) Signs, advertising.
- (g) Heliport.
- (h) Pilings, piers, docks, and similar in water structures.
- (i) Mini-storage.

**(3) Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

- (a) Residential uses shall be subject to lot size, dimension, coverage, yard, and building height and special setback standards of the R-4 zone.
- (b) All yards abutting a lot in a residential zone shall be a minimum of ten (10) feet.
- (c) No structure shall be located closer than 30 feet from the right-of-way of any state highway, nor 30 feet from the right-of-way of any collector or arterial street.
- (d) No building shall exceed a height of 35 feet.
- (e) Outdoor storage shall be screened with a sight-obscuring fence.
- (f) Non-residential uses outside of Urban Growth Boundaries or acknowledged Goal 14 exception areas shall be limited to a building or buildings not exceeding 4,000 square feet of floor space.
- (g) Non-residential uses outside of Urban Growth Boundaries, acknowledged Goal 14 exception areas, Rural Community Centers, or Rural Service Centers shall be limited to a building or buildings not exceeding 3,500 square feet of floor space.
- (h) Notwithstanding paragraphs (f) and (g) of this subsection, any conforming use existing as of the effective date of this amendment may be expanded in floor area up to thirty percent, provided other applicable dimensional standards are met.
- (i) Hotels, motels or resorts within Rural Community Centers or Rural Service Centers not subject to an acknowledged Goal 14 exception shall be limited to no more than 35 units. Hotels, motels or resorts outside of Urban Growth Boundaries, Goal 14 exception areas, Rural Community Centers, or Rural Service Centers shall be limited to no more than 25 units. [2004 o.430 §4]

**1.1361 Retail Commercial Zone C-1**

In a C-1 zone the following regulations shall apply:

**(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

- (a) A use permitted outright in the R-4 zone.

(b) Retail store or shop such as food store, drug store, apparel store, hardware store, furniture store, or similar establishment.

(c) Repair shop for the type of goods offered for sale in those retail trade establishments permitted in a C-1 zone provided, all repair and storage shall occur entirely within an enclosed building.

(d) Personal or business service establishment such as barber or beauty shop, laundry or dry cleaning establishment, tailor shop, or similar establishment.

(e) Clinic.

(f) Financial institution.

(g) Club, lodge, or fraternal organization.

(h) Hotel, when served by a public or community sewer system.

(i) Indoor commercial amusement or recreation establishment such as bowling alley, theater, or pool hall.

(j) Mortuary.

(k) Newspaper office, print shop.

(L) Office.

(m) Private museum, art gallery, or similar facility.

(n) Restaurant, bar, or tavern.

(o) Beachfront protective structures.

**(2) Conditional Uses Permitted:**

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use permitted as a conditional use in the R-4 zone.

(b) Recreational vehicle park.

(c) Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.

(d) A use permitted outright or a conditional use permitted in the C-1 zone with drive-in service facilities such as an automobile service station or a drive-in restaurant.

(e) Signs, advertising.

(f) Heliport.

(g) Pilings, piers, docks, and similar in water structures.

(h) Mini-storage.

**(3) Standards:**

Except as provided in LCC 1.140 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 all standards which apply in the C-T zone shall apply in the C-1 zone. [2004 o.430 §5]

### **1.1362 General Commercial Zone C-2**

In a C-2 zone the following regulations shall apply:

(1) Uses Permitted Outright: The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the C-1 zone.

(b) Automobile, truck, or trailer sales, service, storage, rental, or repair.

(c) Boat launching or moorage facility, marine boat charter service.

- (d) Boat or marine equipment sales, service, storage, rental, or repair.
  - (e) Cabinet or similar woodworking shop.
  - (f) Cold storage or ice processing plant.
  - (g) Feed or seed store.
  - (h) Implement, machinery, or heavy equipment sales, service, storage, or rental.
  - (i) Laboratory for experiment or research.
  - (j) Lumber or building materials sales and storage.
  - (k) Machine, welding, sheet metal, or similar metal working shop.
  - (L) Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.
  - (m) Plumbing, heating, electrical, or paint contractors' storage, repair, or sales shop.
  - (n) Processing, packing, or storage of food or beverage, excluding those products involving distillation, fermentation, rendering of fats or oils or slaughtering.
  - (o) Tire sales, repair, retreading, or vulcanizing.
  - (p) Truck terminal, freight depot.
  - (q) Upholstery shop.
  - (r) Warehouse or storage area.
  - (s) Wholesale establishment.
- (2) Conditional Uses Permitted:**

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

- (a) A use permitted as a conditional use in the C-1 zone.
  - (b) Animal hospital.
  - (c) Heliport.
  - (d) Pilings, piers, docks, and similar in water structures.
  - (e) Mini-storage.
- (3) Standards:**

Except as provided in this subsection and in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the standards which apply in the C-1 zone shall apply.

- (a) All yards abutting a lot in a residential zone shall be a minimum of 20 feet.
- (b) Outdoor storage abutting or facing a street or highway or a lot. in a residential zone shall be screened with a sight-obscuring fence

### **1.1364 Planned Industrial Zone I-P**

In an I-P zone the following regulations shall apply:

**(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

- (a) Farm use.
  - (b) Forestry, including the management, production, and harvesting of forest products and of related natural resources in forest areas and including rock extraction and processing for use in forest access roads.
  - (c) Residence for caretaker or night watchman.
  - (d) Beachfront protective structures.
- (2) Conditional Uses Permitted:**

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use involving manufacture, research, repair, assembly, processing, fabricating, packing, distribution, warehousing, wholesaling, mini-storage, or storage provided that the use does not create a public nuisance, noise, smoke, odor, or dust, or because it constitutes a fire, explosion, or other physical hazard.

(b) Heliports and related uses.

(c) Animal hospital.

(d) Automobile, truck, or trailer sales, service, storage, rental, or repair.

(e) Automobile speedway, race track.

(f) Automobile wrecking yard, junk yard.

(g) Boat launching or moorage facility, marina, boat charter service.

(h) Boat or marine equipment sales, service, storage, rental, or repair.

(i) Extraction and processing of rock, sand, gravel, or other earth product.

(j) Feed or seed store.

(k) Governmental structure or use of land.

(L) Implement, machinery, heavy equipment sales, service, storage, rental or repair.

(m) Lumber or building materials sales and storage.

(n) Newspaper office, printing shop.

(o) Plumbing, heating, electrical, or paint contractors' storage, repair, or sales shop.

(p) Public park, playground, golf course, or similar recreation area.

(q) Public utility facility.

(r) Radio or television transmitter or tower.

(s) Restaurant, bar, or tavern.

(t) Solid waste transfer station.

(u) Solid waste debris site or facility complying with LCC 2.1035 (8). A conditional use permit issued pursuant to this paragraph shall be reviewed for compliance by the Planning Division every three years on or about each three year anniversary from the date of issuance. The compliance review shall include, but is not limited to, a site visit and a review of any complaints received. The Planning Division shall refer any non-compliance to the Commission for possible initiation of proceedings to revoke the conditional use permit in accordance with LCC 1.1605. Every conditional use permit issued pursuant to this paragraph shall contain the following statement: NOTICE: This conditional use permit is subject to a mandatory compliance review every three years from the date of issuance.

(v) Tire sales, repair, retreading, or vulcanizing.

(w) Signs, advertising.

(x) Bank and similar lending institutions.

(y) Theater/performing arts center.

(z) Pilings, piers, docks, and similar in-water structures.

**(3) Prohibited Uses:**

The following uses are prohibited:

(a) Cement, lime gypsum, or plaster of Paris manufacturer.

(b) Explosives storage or manufacture.

(c) Fertilizer manufacture.

(d) Gas manufacture.

- (e) Glue manufacture.
- (f) Petroleum or petroleum refining.
- (g) Pulp mill.
- (h) Rendering plant.
- (i) Smelting or refining of metallic ore.
- (j) Other uses similar to the above.

**(4) Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

- (a) All yards abutting a lot in a residential zone shall be a minimum of 20 feet.
- (b) No structure shall be located closer than 30 feet from the right-of-way of any State highway or any collector or arterial street.
- (c) No building height limitation for nonresidential structures.
- (d) Outdoor storage abutting or facing a street or highway or a lot in a residential zone shall be screened with a sight-obscuring fence.
- (e) Except as otherwise allowed by ORS Chapter 197, uses in the I-P zone outside of Urban Growth Boundaries shall be limited to a building or buildings not exceeding 40,000 square feet of floor space.
- (f) Notwithstanding paragraph (e) of this subsection, any conforming use existing as of the effective date of this amendment may be expanded in floor area up to thirty percent, provided other applicable dimensional standards are met.

**(5) Special Standards:**

The following procedure shall apply to all conditional uses. The Planning Division or the Planning Commission shall seek to determine whether:

- (a) A proposed use is suitable for the property in question, considering the long-range industrial potential for the zone, and further considering that piece-meal development of the zone may limit the possibility for meeting this potential.
- (b) Setbacks of buildings, parking and loading areas, and storage areas or development should be increased or decreased. For properties within Urban Growth Boundaries, the setbacks may be based on the standards used for industrial properties within the city limits.
- (c) Special landscaping, screening, and/or fencing requirements are appropriate.
- (d) Any additional conditions need to be met to insure compatibility of the proposed use with existing and future development in the surrounding area. [1998 o.375 §2; 2004 o.430 §6; 2015 o.481 §1]

**1.1367 Marine Waterway Zone M-W**

In an M-W zone the following regulations shall apply:

**(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

- (a) A permitted use as specified in the Lincoln County Estuary Management Plan, Lincoln County Ordinance number 184, which is hereby incorporated into this chapter by reference.
- (b) Beachfront protective structures

**(2) Conditional Uses Permitted:**

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A conditional use as specified in the Lincoln County Estuary Management Plan, Lincoln County Ordinance number 184.

(3) **Special Standards:**

In taking action on a conditional use application, the Planning Division or the Planning Commission shall seek to determine whether:

(a) The use is compatible with the management objective and policies of the management unit classification.

(b) The use complies with all policies specific to the individual management unit.

(c) Any additional conditions are needed to insure compatibility of the area's proposed use with existing and future development in the surrounding area.

**1.1368 Planned Marine Zone M-P:**

In an M-P zone the following regulations shall apply:

(1) **Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the adjacent M-W zone.

(2) **Conditional Uses Permitted:**

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A conditional use permitted in the adjacent M-W zone.

(3) **Standards:**

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

(a) **Yards:**

All yards abutting a lot in a residential zone shall be a minimum of 20 feet.

(b) **Setbacks:**

No structure shall be located closer than 30 feet from the right-of-way of any State Highway or any collector or arterial street.

(c) **Height:**

No building in the M-P zone shall exceed a height of 45 feet.

(d) **Fencing:**

Outdoor storage abutting or facing a street or highway or a lot in a residential zone shall be screened with a sight obscuring fence.

**1.1371 Definitions for LCC 1.1372 to 1.1375**

As used in LCC 1.1372 to 1.1375:

(1)(a) "High value farmland" means:

(A) Land in a tract composed predominantly of soils that are classified capability Class II, whether irrigated or not irrigated;

(B) Tracts of land growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 3, 1993. As used in this subparagraph,

"specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa; or

(C) Tracts which include land used in conjunction with a dairy operation on January 1, 1993, and which are composed predominantly of the following soils in Class III and Class IV, or a combination of the following soils and soils described in subparagraph (A) of this paragraph:

(i) Subclassification IIIw (Brenner and Chitwood).

(ii) Subclassification IVe (Winema).

(iii) Subclassification IVw (Coquille).

(b) Soil classes and ratings used in this subsection are those of the Soil Conservation Service in its most recent publication for that class or rating prior to November 3, 1993.

(2) "Lot" means a unit of land created by subdividing land as defined in ORS 92.010.

(3)(a) "Parcel" means a unit of land not created solely to establish a separate tax account and:

(A) Created by partitioning land as defined in ORS 92.010;

(B) In compliance with all applicable planning, zoning, partitioning and subdivision ordinances and regulations; or

(C) Created by deed or land sales contract if there were no applicable planning, zoning, partitioning, or subdivision ordinances or regulations. As used in this subparagraph, "created by" means a unit of land specifically described in the deed or land sales contract, or a remnant unit of land resulting from such deed or land sales contract.

(b) As used in this subsection, a lot or parcel remains a discrete lot or parcel notwithstanding that it has been conveyed or described separately as two or more units of land in a single recorded deed or land sales contract.

(4) "Tract" means one or more contiguous lots or parcels under the same ownership. [1994 o.247 §2; 2000 o.397 §1; 2002 o.416 §1]

### **1.1373 Agricultural Conservation Zone A-C**

In an A-C zone, the following regulations shall apply:

#### **(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

(a) Farm use as defined in ORS 215.203.

(b) Other buildings customarily provided in conjunction with farm use.

(c) Propagation and harvesting of a forest product.

(d) Creation, restoration and enhancement of wetlands.

(e) A winery as defined in ORS 215.452.

(f) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.

(g) Climbing and passing lanes within a highway right of way existing as of July 1, 1987.

(h) Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of structures would occur, and no new land parcels would be created.

(i) Temporary public road and highway detours that will be abandoned and restored to original condition when no longer needed.

(j) Minor betterment of existing public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(k) Alteration, restoration or replacement of a lawfully established dwelling subject to subsection 4(i) of this section.

(L) Fire service facilities providing rural fire protection services.

(m) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

(n) Onsite filming and activities accessory to onsite filming for 45 days or less within a one year period as provided for in ORS 215.306.

(o) Firearms training facility in existence on September 9, 1995.

**(2) Conditional Uses Permitted:**

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) One single family dwelling customarily provided in conjunction with farm use, subject to subsections (4)(g) and (5) of this section.

(b) One single family dwelling not provided in conjunction with farm use, subject to subsections (4)(g) and (6) of this section.

(c) One single family dwelling, subject to subsection (4)(g), on a tract of record, meeting the following qualifications as outlined below. The director shall notify the County Assessor of any decision to permit a dwelling under this subsection:

(A) The lot or parcel on which the dwelling is to be sited was lawfully created and was acquired by the present owner prior to January 1, 1985, or by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

(B) The tract upon which the dwelling is to be sited does not include another dwelling.

(C) The lot or parcel upon which the dwelling is to be sited is not on high value farmland except as provided in paragraphs (K) and (L) in this subsection.

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

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

(F) If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

(G) As used in subparagraph (A) of this paragraph, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner, or a business entity owned by any one or combination of these family members.

(H) When the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the



limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

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

(J) Notwithstanding the requirements of LCC 1.373(2)(c)(C), a single-family dwelling may be sited on high-value farmland if:

(i) It meets the other requirements of LCC 1.373(2)(a) and LCC 1.373(2)(b).

(ii) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a).

(iii) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

(iv) The dwelling will comply with the provisions of LCC 1.1630(1).

(v) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in LCC 1.373(6).

(K) Notwithstanding the requirements of LCC 1.373(2)(c)(C), a single-family dwelling may be sited on high-value farmland if:

(i) It meets the other requirements of LCC 1.373(2)(a) and LCC 1.373(2)(b);

(ii) The tract on which the dwelling will be sited is identified in OAR 660-033-0020(8)(c) or (d); Not high-value farmland defined in LCC 1.1371(1); and twenty-one acres or less in size; and

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

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

(v) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary: "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract. "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

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

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

(d) A farm help dwelling, subject to LCC 1.630(25) and subsection (4)(g) of this section.

(e) An accessory farm dwelling for year-round and seasonal farm workers subject to provisions of ORS 215.278 and LCC 1.1373(4)(g).

(f) Utility facilities necessary for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height. A facility is necessary if it must be situated in an A-C zone in order for the service to be provided.

(g) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property and is listed on the National Register of Historic Places subject to subsection (4)(g).

(h) Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a producing vineyard of 40 acres or more which is planted as of the date that the application for asphalt production is filed.

(i) Dog training classes or testing trials subject to ORS 215.283(l)(x).

(j) A winery subject to ORS 215.452.

(k) Land application of reclaimed or process water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU zone subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251.

(l) Utility facility service lines and accessory facilities or structures that end of the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.

(m) Minor betterment of existing public road and highway related facilities such as maintenance yards, weight stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(n) A site for the take off and landing of model aircraft as provided for in ORS 215.283(1)(t).

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

(p) Churches and cemeteries in conjunction with churches, subject to subsection 4(f).

(3) **Additional Conditional Uses Permitted that are Subject to OAR 660-33-0130(5):**

The following uses and their accessory uses may be permitted subject to applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) Propagation, cultivation, maintenance, and harvesting of aquatic species or insect species that are not under the jurisdiction of the State Fish and Wildlife Commission.

(b) Residential home as defined in ORS 197.660 in an existing dwelling, subject to subsection (4)(g).

(c) Commercial activities in conjunction with farm use including the processing of farm crops into biofuel, but excluding activities in conjunction with a marijuana crop and subject to subsection (4)(commercial uses).

(d) Home occupation subject to LCC 1.1630(6).

(e) Dog kennels, except that such uses are prohibited on high value farmland.

(f) Operations for the production of geothermal resources and oil and gas as defined in ORS 520.005.

(g) Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to ORS 215.298.

(h) Personal use airports and heliports, including associated hangars and maintenance and service facilities, subject to LCC 1.1630(24).

(i) Private parks, playgrounds, hunting and fishing preserves and campgrounds, subject to LCC 1.1630(23). Such uses are prohibited on high value farmland, except that existing private parks on high value farmland may be expanded subject to paragraph (h) of subsection (4) of this section.

(j) Public Parks and playgrounds, subject to LCC 1.163(23) limited to those uses specified under OAR 660-034-0035 or OAR 660-034-0040, whichever is applicable.

(k) Community centers owned by a governmental agency or nonprofit community organization and operated primarily by and for residents of the local rural community, subject to subsection (4)(f) of this section. Community centers may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and education counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(l) Golf courses, subject to subsections (4)(f) and (4)(h) of this section, except that such uses are prohibited on high value farmland as defined in LCC 1.1371(1).

(m) Transmission towers over 200 feet in height.

(n) Commercial utility facilities for the purpose of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

(o) A site for the disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS

459.245, including the equipment, facilities, and buildings necessary for its operation. This use is not permitted on high value farmland except as provided for in subsection (4)(h).

(p) Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.

(q) Reconstruction or modification of public roads and highways involving the removal or displacement of structures, but not resulting in the creation of new land parcels.

(r) Improvement of public roads 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.

(s) Operations for the extraction and bottling of water.

(t) A medical hardship dwelling, subject to LCC 1.630 (28).

(u) Primary processing of forest products, subject to LCC 1.630(27).

(v) Public or private schools, including all buildings essential to the operation of a school. No such use may be authorized within three miles of an urban growth boundary as provided for in subsection (4)(f) of this section, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. Further, no such use may be authorized on high value farmland, except that existing public or private schools on high value farmland may be expanded subject to subsection (4)(h) of this section.

(w) Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a producing vineyard of 40 acres or more which is planted as of the date that the application for asphalt production is filed.

(x) Parking of up to seven log trucks.

#### **(4) Use Standards**

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

(b) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in subsection (1) of this section. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section mean timber grown upon a tract where the primary processing facility is located.

(c) To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to

demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.

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

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

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

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

(f) For uses subject to the following three-mile setback standard:

(A) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(B) Any enclosed structures or group of enclosed structures described in subsection (f)(A) within a tract must be separated by at least one-half mile. For purposes of this Subsection, "tract" means a tract that is in existence as of June 17, 2010.

(C) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this ordinance.

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

(h) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of subsection (3)(L) and LCC 1.630(26).

(i) Standards for the alteration, restoration or replacement of a lawfully-established dwelling:

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

- i. Intact exterior walls and roof structure;
- ii. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- iii. Interior wiring for interior lights;
- iv. A heating system; and

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

vi. Notwithstanding subsection i(A)(v), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

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

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

(B) For replacement of a lawfully established dwelling under subsection (1)(k):

(i) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

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

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

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

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

(iii) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Director places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

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

(i) The siting standards of subsection D(iii) apply when a dwelling qualifies for replacement because the dwelling:

1. Formerly had the features described in subsection (4)(i)(A);

2. Was removed from the tax roll as described in subsection 4(i)(B); or

3. Had a permit that expired as described under subsection (4)(D)(iii).

(ii) The replacement dwelling must be sited on the same lot or parcel:

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

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

(iii) Replacement dwellings that currently have the features described in subsection 4(i)(A) and that have been on the tax roll as described in subsection 4(i)(A)(v) may be sited on any part of the same lot or parcel.

(D) A replacement dwelling permit that is issued under (1)(k):

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

1. Formerly had the features described in subsection 4(i)(A); or

2. Was removed from the tax roll as described in subsection 4(i)(B);

(ii) Is not subject to the time to act limits of ORS 215.417; and

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

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

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

(j) A farm stand may be approved if:

(A) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

**(5) Requirements for Dwellings Customarily Provided in Conjunction with Farm Use:**

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

(A) The parcel on which the dwelling will be located is at least 160 acres;

(B) The subject tract is currently employed for farm use, as defined in ORS 215.203;

(C) 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

(D) Except for an accessory farm dwelling, there is no other dwelling on the subject tract.

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

(A) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:

(i) At least \$22,500 in gross annual income from the sale of farm products; or

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

(iii) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may be used.

(B) Except for an accessory farm dwelling, there is no other dwelling on the subject tract; and

(C) The dwelling will be occupied by a person or persons who produced the commodities which generated the grossed income described in subparagraph (A) of this paragraph; and

(D) In determining the gross income required by subsection 5(b)(A):

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

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

(iii) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may be used.

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

(A) The subject tract is 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 which includes all tracts wholly or partially within one mile from the perimeter of the subject tract;

(B) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subparagraph (A) of this paragraph;

(C) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subparagraph (B) of this paragraph;

(D) The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;

(E) Except for the seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract; and

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

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

(H) In determining the gross sales capability required by subsection (c):

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

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

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



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

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

(A) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years.

(B) There is no other dwelling on the subject tract; and

(C) The dwelling will be occupied by a person or persons who produced the commodities which generated the gross income described in subparagraph (A) of this paragraph.

(D) In determining the gross income required by subsection (5)(b)(A):

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

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

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

(f) A dwelling customarily provided in conjunction with farm use shall be located on a lawfully created lot or parcel.

(g) Additional Farm Income Standards:

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

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

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

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

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

(h) Commercial Dairy Farm Standards:

A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by subsection (A) above, subject to the following requirements:

(A) The subject tract will be employed as a commercial dairy as defined in subsection (G);

(B) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;

(C) Except for an accessory farm dwelling, there is no other dwelling on the subject tract;

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

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

(F) The Oregon Department of Agriculture has approved the following:

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

(ii) A Producer License for the sale of dairy products under ORS 621.072.

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

(i) Relocated Farm Operations.

A dwelling may be considered customarily provided in conjunction with farm use if:

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

(B) The subject lot or parcel on which the dwelling will be located is:

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

(ii) At least the size of the applicable minimum lot size under section (9);

(C) Except for an accessory farm dwelling, there is no other dwelling on the subject tract;

(D) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (A), and

(E) In determining the gross income required by subsection (A):

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

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

**(6) Requirements for Dwellings Not Provided in Conjunction With Farm Use:**

Dwellings not provided in conjunction with farm use may be authorized upon findings that:

(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) Non-farm dwelling suitability standards.

(A) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall

not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

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

(C) If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

(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 land use pattern in the area, the director or commission shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying standards set forth in OAR 660-033-0130(4)(a)(D). If the application involves the creation of a new parcel for the nonfarm dwelling, the director or commission shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying standards set forth in OAR 660-033-0130(4)(a)(D) ; and

(d) The dwelling will be located on a lawfully created lot or parcel.

(e) If a single-family dwelling is established on a lot or parcel as set forth in subsection (2)(c), no additional dwelling may later be sited under the provisions of this Section.

**(7) Requirements for Conditional Uses Subject To OAR 660-33-130(5):**

Approval of uses subject to the requirements of this subsection requires findings that such uses:

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

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

**(8) Additional Tax Payment Requirements:**

Any conditional use approval for a non-farm use in the A-C zone shall require as a condition that, prior to final permit approval, verification be provided from the Lincoln County Assessor that any additional taxes imposed on the change in use have been paid.

**(9) Lot Size Standards:**

(a) The minimum lot size shall be 80 acres.

(b) Land divisions creating parcels of less than 80 acres may be permitted for non-farm uses authorized in accordance with subsection (2) or (3) of this section, except residential uses. Such new parcels shall be the minimum size needed to accommodate the authorized use. No new parcels for non-farm uses may be created until after the subject use has been authorized in accordance with subsections (2) or (3) of this section.

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

(A) The remaining lot or parcel not containing the dwelling meets the minimum 80 acre parcel size of the A-C zone; or

(B) The remaining lot or parcel not containing the dwelling is consolidated with an adjoining lot or parcel which together meet the 80 acre minimum parcel size of the A-C zone; or

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

(d) New parcels created for dwellings not in conjunction with farm use shall be a minimum of two acres.

**(10) Dimensional Standards:**

(a) The front yard shall be a minimum of 20 feet.

(b) Each side yard shall be a minimum of five feet, or one foot for each three feet of building height, whichever is greater.

(c) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either five feet, or one foot for each three feet of building height, whichever is greater.

(d) No structure shall be located closer than 30 feet from the right of way of any state highway, and no structure shall be located closer than 30 feet from the right of way of any arterial or collector street which has a right of way width of less than 60 feet.

(e) No dwelling or residential accessory structure shall exceed a height of 30 feet. [1994 o.247 §3; 2000 o.377 §2; 2001 o.416 §2; 2017 o.499 §1]

**1.1375 Timber Conservation Zone T-C**

In a T-C zone the following regulations shall apply:

**(1) Uses Permitted Outright:**

The following uses and their accessory uses are permitted outright, subject to applicable siting criteria, other applicable provisions of this section, and applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.

(b) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.

(c) Physical alterations to the land auxiliary to forest practices, including but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

(d) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(e) Farm use as defined in ORS 215.203.

(f) Local distribution lines, such as electric, telephone and natural gas, and accessory equipment, such as electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals, or equipment which provides service hookups, including water service hookups.

(g) Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.

(h) Temporary forest labor camps limited to the duration of the forest operation requiring the use.

(i) Exploration for, and production of, geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS chapters 517 and 520.

(j) Caretaker residences for public parks and fish hatcheries.

(k) Private hunting and fishing operations without any accommodations.

(l) Exploration for mineral and aggregate resources as defined in ORS chapter 517.

(m) Towers and fire stations for forest fire protection.

(n) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans, including public road and highway projects as described in ORS 215.213(1)(l) through (o) and ORS 215.283(1)(k) through (n).

(o) Water intake facilities, canals and distribution lines for farm irrigation and ponds.

(p) Uninhabitable structures accessory to fish and wildlife enhancement.

(q) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact interior 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 or interior lights;

(D) Has a heating system; and

(E) In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.

**(2) Conditional Uses Permitted:**

The following uses may be permitted subject to provisions of subsection (3) of this section and applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) Permanent facility for the primary processing of forest products.

(b) Permanent logging equipment repair and storage.

(c) Log scaling and weigh stations.

(d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

(e) Private parks and campgrounds.

(f) Public parks, limited to those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted under paragraph (i) of subsection (1) of this section, such

as compressors, separators and storage serving multiple wells, and mining and processing of aggregate and mineral resources as defined in ORS chapter 517.

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

(i) Fire stations for rural fire protection.

(j) Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4;

(k) Aids to navigation and aviation.

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

(m) Reservoirs and water impoundments.

(n) Firearms training facility.

(o) Cemeteries.

(p) Private seasonal accommodations for fee hunting operation, subject to subsections (3), (6) and (7) of this section and the following requirements:

(A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code.

(B) Only minor incidental and accessory retail sales are permitted.

(C) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

(q) New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines, such as gas, oil and geothermal, with rights-of-way 50 feet wide or less in width.

(r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

(s) Home occupations.

(t) Medical hardship dwelling.

(u) Expansion of existing airports.

(v) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and ORS 215.283(2)(p) through (r).

(w) Private accommodations for fishing occupied on a temporary basis, subject to subsections (3), (6) and (7) of this section, and the following requirements:

(A) Accommodations limited to no more than 15 guest rooms, as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

(D) Accommodations must be located within 1/4 mile of fish bearing Class I waters.

(x) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

(y) One single-family dwelling on a tract meeting the following qualifications:

(A) The lot or parcel on which the dwelling is to be sited was lawfully created and was acquired by the present owner prior to January 1, 1985, or by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985. As used in this subparagraph, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister,

sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner, or a business entity owned by any one or combination of these family members.

(B) The tract upon which the dwelling is to be sited does not include another dwelling.

(C) If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

(D) The tract is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species.

(E) The tract is located within 1,500 feet of a maintained public road as defined in ORS 368.001 that is either paved or surfaced with rock, but not including United States Forest Service and Bureau of Land Management roads.

(F) If the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as major big game range, the siting of the dwelling shall be consistent with the limitations on density set forth in the comprehensive plan for the protection of the major big game range.

(G) If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

(z) One single family template dwelling, subject to the provisions of subsection (5) of this section.

(aa) One single family dwelling on a tract of 160 or more contiguous acres and located on a lawfully created lot or parcel or at least 200 acres in one ownership that are not contiguous but are within Lincoln County, Lane County, Benton County, Polk County or Tillamook County and are zoned for forest use. A deed restriction shall be filed pursuant to subsection (6)(h) of this section for all parcels that are used to meet the acreage requirements of this subsection.

(bb) Youth camp as provided for in LCC 1.1630(33).

(cc) Storage structures for emergency supplies to serve communities and households that are located in tsunami inundation zones identified on the applicable Tsunami Inundation Map (TIM) published by the Oregon Department of Geology and Mineral Industries, as provided for in LCC 1.1630(34).

**(3) Limitations on Conditional Uses:**

The Planning Director or Commission shall determine whether a use other than a dwelling authorized by subsection (2) of this section meets the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture, and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard, significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(c) For uses authorized pursuant to paragraphs (e), (m), (s), (t) and (w) of subsection (2) of this section, a written statement is recorded with the deed or written contract with the county or its equivalent executed by the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and rules.

**(4) Lot Size Standards:**

(a) The minimum lot size shall be 80 acres.

(b) Land divisions creating parcels less than 80 acres in size may be approved:

(A) For uses which have been authorized in accordance with paragraphs (i) and (j) of subsection (1) and paragraphs (a) through (n) of subsection (2) of this section. Such parcels shall be the minimum size necessary to accommodate the authorized use.

(B) To allow the establishment of a parcel for an existing dwelling, subject to the following requirements:

(i) The parcel established shall be not larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

(ii) The dwelling was lawfully established prior to June 1, 1995;

(iii) The remaining parcel, not containing the dwelling, is 80 acres or more in size or is consolidated with another parcel, and together the parcels are 80 acres or more in size;

(iv) The remaining parcel, not containing the dwelling, is not entitled to a dwelling; and

(v) The applicant landowner records in the deed records of the county a restriction applicable to the remaining parcel not containing the dwelling which prohibits the placement of any new dwellings on the parcel, and is irrevocable unless a statement is signed by the director indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to forest land; and

(vi) The applicant landowner records in the deed records of the county a statement declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(C) To allow the division of a lot or parcel if:

(i) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(ii) Each dwelling currently complies with the criteria for a replacement dwelling under LCC 1.1375(1)(q);

(iii) None of the dwellings was approved under a statute, administrative rule or land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel;

(iv) At least one dwelling is located on each lot or parcel created;

(v) Not more than one of the lots or parcels created is less than two acres or greater than five acres in size; and

(vi) The landowner of a lot or parcel created under this subparagraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded in the county deed records. A restriction imposed under this subparagraph shall be irrevocable unless a statement of release is signed by the director indicating that the land use regulations applicable to the subject lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(D) To facilitate a forest practice as defined in ORS 527.620, provided that there are unique, property specific characteristics present on the subject property that require an amount of land smaller than 80 acres in order to conduct the forest practice. The resultant parcels:

(i) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to facilitate an exchange of lands involving a governmental agency, or to allow transactions where at least one participant is a person with a cumulative ownership of at least 2,000 acres of



forest land;

(ii) Are not eligible for the siting of a new dwelling;

(iii) May not be counted for purposes of authorizing a template dwelling pursuant to subsection (5) of this section; and

(iv) May not be used to justify re-designation or rezoning of any land zoned T-C or A-C.

(E) To allow a division to create two parcels if the 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 one of the resulting parcels, subject to the following:

(i) A parcel created by a division authorized by this subsection that is not purchased by a provider of public parks or open space or not-for-profit land conservation organization that contains a dwelling shall be large enough to support continued residential use.

(ii) A parcel created by a division authorized by this subsection that is not purchased by a provider of public parks or open space or not-for-profit land conservation organization that does not contain a dwelling is eligible for the siting of a dwelling as may be authorized under subsection (2) of this section.

(iii) For the parcel purchased by the provider of public parks or open space or not-for-profit land conservation organization, the purchaser shall record in the deed records of Lincoln County an irrevocable deed restriction prohibiting the siting of a dwelling on the parcel or development of the parcel for any purpose other than park or conservation use, and prohibiting the owner or successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed ORS 30.936 or 30.937.

(iv) If a division of land authorized under this subsection results in the disqualification of a parcel for special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay the additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before final approval of the land division.

(F) For division of a lot or parcel that is partially within an acknowledged urban growth boundary where one of the parcels created is bounded by and outside of the urban growth boundary, provided that:

(i) If the parcel includes a dwelling, the parcel shall be large enough to support continued residential use;

(ii) If the parcel does not contain a dwelling, it is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(iii) The parcel may not be considered in approving or denying an application for any other dwelling;

(iv) The parcel may not be considered in approving a re-designation or rezoning of forest lands, except to allow a public park, open space or other natural resource use; and

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

(c) The director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under the restrictions imposed by subparagraph (v) of subparagraph (B) of paragraph (b) of this subsection and of parcels that do not qualify for division under the

restrictions imposed under subparagraph (vi) of subparagraph (C) of this subsection. The record shall be readily available to the public for inspection.

(d) A landowner allowed a land division under subsection (b) of this section shall sign a statement that shall be recorded in the deed records of Lincoln County, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(e) Property line adjustments that result in the separation of a temporary hardship dwelling or any accessory structure or land area devoted to a home occupation from the parcel containing the primary dwelling are prohibited.

**(5) Template Dwellings:**

(a) Tracts Not Abutting a Public Road or Perennial Stream and Tracts of Less Than 60 Acres Which Abut a Perennial Stream:

A template dwelling may be approved on a tract which does not abut a road or perennial stream, or which abuts a perennial stream and is less than 60 acres in size, and meets the following qualifications:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the subject tract; and

(B) At least three dwellings existed on January 1, 1993, anywhere on the other lots or parcels described in subparagraph (A) of this paragraph.

(b) Tracts of Less Than 60 Acres Which Abut a Public Road:

A non-forest dwelling to be sited on a tract which is less than 60 acres in size and which abuts a road that existed on January 1, 1993, shall meet the following qualifications:

(A) All or part of 11 other lots or parcels that existed on January 1, 1993, are within either a 160 acre square centered on the subject tract or a 160 acre rectangle 1/4 mile wide and one mile long, centered on the subject tract and, to the maximum extent possible, aligned with the road; and

(B) At least three other dwellings existed on January 1, 1993, on the other lots or parcels described in subparagraph (A) of this paragraph.

(c) Tracts of 60 Acres or Greater Which Abut a Public Road or Perennial Stream:

A template dwelling may be approved on a tract which is 60 acres or greater in size and which abuts a road or perennial stream and meets the following qualifications:

(A) All or part of 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre rectangle 1/4 mile wide and one mile long centered on the subject tract and, to the maximum extent possible, aligned with the road or stream;

(B) At least three other dwellings existed on January 1, 1993, on the other lots or parcels described in subparagraph (A) of this paragraph. At least one of the three dwellings shall be on the same side of road or stream as the subject tract, and shall be either partially or wholly within the 160 acre rectangle or within 1/4 mile of the edge of the subject tract but not outside the length of the 160 acre rectangle; and

(C) If a road crosses the subject tract, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

(d) Lots or parcels within urban growth boundaries shall not be counted toward satisfying the qualification requirements for any dwelling permitted under this subsection.

(e) No dwelling may be permitted under this subsection on any tract which includes a dwelling.

(f) If the lot or parcel upon which a dwelling permitted under this subsection is to be sited is part of a tract, no additional dwellings may be permitted on any other lot or parcel within the tract. Deed restrictions shall be established pursuant to and in accordance with subsection (6) of this section.

(g) All dwellings permitted under this subsection shall be located on a lawfully created lot or parcel.

**(6) General Requirements for All Dwellings:**

In addition to the other applicable requirements of this chapter and this section, all dwellings authorized in the T-C zone shall be subject to the following conditions:

(a) The director shall notify the county assessor of any decision to approve a dwelling in the T-C zone.

(b) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

(c) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved.

(d) The property owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules.

(e) Upon notification by the assessor the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax.

(f) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules, OAR chapter 629. For purposes of this subsection, evidence of a domestic water supply means:

(A) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;

(B) A water use permit issued by the Water Resources Department for the use described in the application; or

(C) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

(g) If road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

(h) For dwellings which are approved on a tract consisting of more than one lot or parcel, the applicant shall provide copies of covenants and restrictions which:

(A) Are set forth on a form prescribed by the division and recorded in the deed records of the county;

(B) Prohibit the location of any additional dwellings on any lot or parcel which is a part of the tract; and

(C) Are irrevocable, unless a statement of release is signed by the director and the Director of the Department of Land Conservation and Development.

(i) Enforcement of the covenants and restrictions required by this section may be undertaken by the Department of Land Conservation and Development or by Lincoln County.

(j) Failure to follow the covenants and restrictions requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants and restrictions.

(k) The director shall maintain a copy of the covenants and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants and restrictions. This map or other record shall be available to the public in the division office.

(L) Upon authorization of a dwelling in the T-C zone, the landowner shall execute and record in the deed records of Lincoln County a document binding on 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 30.396 or 30.397.

**(7) Siting and Fire Protection Standards for Dwellings:**

The following siting fire protection standards shall apply to all new dwellings:

(a) Dwellings and structures shall be sited on the subject lot or parcel so that:

(A) They have the least impact on nearby or adjoining forest lands;

(B) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(C) The amount of forest land used to site access roads, service corridors, the dwelling and structures is minimized; and

(D) The risks associated with wildfire are minimized. The division or commission may impose conditions on any dwelling approval which are deemed necessary to ensure conformance with the standards contained in this paragraph, including, but not limited to, requiring increased setbacks from adjoining properties, siting on that portion of a property least suitable for growing trees, or clustering near existing dwellings or roads.

(b) Dwellings shall have fire retardant roofs rated Class A in accordance with UL 790 or ASTM E108.

(c) Dwellings shall be sited on slopes of 40 percent or less.

(d) A primary fire break no less than 30 feet wide shall be provided and maintained. The primary firebreak may include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.

(e) A secondary firebreak cleared of all dead fuels shall be provided and maintained. The size of the secondary firebreak shall be:

(A) On slopes of less than 10 percent, 50 feet beyond the primary firebreak.

(B) On slopes of 11 to 25 percent, 75 feet beyond the primary firebreak.

- (C) On slopes of 26 to 40 percent, 100 feet beyond the primary firebreak.
- (D) On slopes greater than 40 percent, 150 feet beyond the primary firebreak.
- (f) All chimneys shall be equipped with a spark arrester.
- (g) If a dwelling is to be located on a parcel that is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included in the nearest such district.
- (h) If a dwelling is to be located on a lot or parcel that is not within a fire protection district, either:
  - (A) The applicant shall provide evidence that residential fire protection is provided to the property by contract and that such contracted service is comparable to that generally provided by fire protection districts in the rural areas of the county; or
  - (B) On site fire protection means are provided. Such means shall consist of:
    - (i) Fire sprinkling system or systems;
    - (ii) On-site water storage and pumping equipment. Such a water supply shall consist of a swimming pool, pond, lake or similar body of water and at all times contains at least 4,000 gallons or a stream with a minimum flow of one CFS. Road access shall be provided to within 15 feet of the water's edge for fire fighting equipment and shall provide a turnaround for fire fighting equipment; or
    - (iii) Other methods which provide at least a comparable level of protection to that contained in subparagraphs (i) and (ii) of this subparagraph, and which are reasonable given site conditions.

**(8) Fire Safety Design Standards for Roads:**

The following standards apply to all roads and driveways which access uses permitted under subsection (1) of this section or approved under subsection (2) of this section, except for private roads accessing only commercial forest uses:

- (a) Width: Access roads serving three or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance. Access roads serving more than three dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance.
- (b) Construction: Access roads must be improved with an all weather surface. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 pounds. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 pound GVW standard shall be provided by a professional engineer, registered in Oregon.
- (c) Vertical Clearance: Access roads shall have an unobstructed vertical clearance of not less than 13.5 feet.
- (d) Turnarounds: Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.
- (e) Turnouts: Access roads greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts shall be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.
- (f) Road Grade: Road grades shall not exceed 12 percent, except that a maximum of 15 percent may be permitted on pitches less than 200 feet long. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make

these standards impractical and where the local fire protection district states that their fire fighting equipment can negotiate the proposed road grades.

(g) The applicant shall provide an as-built certification stamped by a licensed professional engineer registered in the State of Oregon verifying that road safety design standards set forth in this section have been met.

**(9) Dimensional Standards:**

(a) The front yard shall be a minimum of 20 feet.

(b) Each side yard shall be a minimum of five feet, or one foot for each three feet of building height, whichever is greater.

(c) The rear yard shall be a minimum of 10 feet, except for that on a corner lot the rear yard shall be a minimum of either five feet, or one foot for each three feet of building height, whichever is greater.

(d) No structure shall be located closer than 30 feet from the right of way of any state highway, and no structure shall be located closer than 30 feet from the right of way of any arterial or collector street which has a right of way width of less than 60 feet.

(e) No dwelling or residential accessory structure shall exceed a height of 30 feet. [1994 o.347 §4; 2000 o.397 §3; 2001 o.408 §1; 2001 o.416 §3; 2017 o.499 §1]

**1.1377 Public Facilities Zone P-F**

In a P-F zone, the following regulations shall apply:

**(1) Uses Permitted Outright**

The following existing uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) Public parks and playgrounds, swimming pools, golf courses or similar recreation facility intended for use by the public.

(b) Public schools and associated facilities.

(c) Hospitals.

(d) Government use.

(e) Solid waste disposal site.

(f) Beach front protective structures.

**(2) Conditional Uses Permitted**

Expansion of existing facilities that would substantially increase overall capacity or the conversion of one outright use to another may be permitted when authorized in accordance with the provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999.

(a) Public park and playground, golf course, swimming pool or similar recreation facility.

(b) Public schools and associated facilities.

(c) Hospitals.

(d) Government use.

(e) Solid waste disposal site.

(f) Conversion of one outright use to another outright use.

**1.1379 Public Park Master Plan Zone PMP**

**(1) Purpose:**

The purpose of the PMP Zone is to facilitate the development, maintenance and enhancement of state and local public parks. The PMP zone is intended to provide for the

implementation of state park master plans adopted by the Oregon Parks and Recreation Department pursuant to OAR chapter 736, division 18, and ORS 390.180, and local park master plans adopted by the Lincoln County Board of Commissioners pursuant to OAR chapter 660, division 34.

**(2) Uses Permitted Outright:**

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

(a) All land uses, facilities and improvements set forth in the applicable state park master plan adopted by the Oregon Parks and Recreation Department pursuant to OAR chapter 736, division 18, and ORS 390.180, including “minor variations” of such uses as defined in OAR 736-018-0040.

(b) All land uses, facilities and improvements set forth in the applicable local park master plan adopted by the Lincoln County Board of Commissioners pursuant to OAR chapter 660, division 34. [2016 o.486 §1]

**1.1380 Planned Development (PD)**

**(1) Purpose:**

The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design and development through the application of flexible land development standards. Application of the planned development procedure is intended to:

(a) Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical and natural resource values and constraints present on a particular site;

(b) Permit greater flexibility in the siting of buildings and other physical improvements and in the mixing of housing types and other compatible non-residential uses in order to accomplish desirable design objectives; and

(c) Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the comprehensive plan.

**(2) General Requirements:**

The following requirements shall govern planned developments:

(a) A planned development may be established in any zone other than a T-C zone or an A-C zone.

(b) Notwithstanding the provisions of the applicable use zone or zones, on land subject to an approved planned development, only those uses, structures and other forms of development which have been set forth and authorized in a preliminary development plan approved in accordance with the provisions of this section may be established.

(c) A planned development may include any uses permitted outright or conditionally in any zone, except that uses permitted only in an I-P, or M-P zone shall not be permitted in an R-1, R-2, R-3, R-4, C-1, C-2, C-T, or M-W zone.

(d) Overall residential density shall be as provided for in the applicable use zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other nonresidential uses.

(e) No building shall exceed a height of 45 feet.

(f) For a planned development in a residential zone, the total land area devoted to

industrial and commercial uses, including required off street parking, other than hotel, motels, trailer parks, resorts, and similar accommodations, shall not exceed five percent of the total land area of the development. Any commercial and industrial uses shall be directly related in purpose and function to the remainder of the planned development.

(g) In a residential zone, where commercial or industrial uses are being developed in conjunction with residential uses, construction of the commercial or industrial uses shall not be initiated until 25 percent of the residential units have been developed.

(h) Yards, setbacks, lot area, lot coverage and similar dimensional requirements may be reduced, adjusted or otherwise modified consistent with the design objectives of the proposed development.

(i) In the event of a conflict between any applicable use zone provision and the allowances, limitations or requirements of an approved preliminary plan, the approved preliminary plan shall control.

**(3) Preliminary Plan:**

The initial step in the establishment of a planned development shall be the submission of a preliminary plan, which shall be reviewed and acted upon in accordance with the provisions of this section:

(a) Preliminary Plan Review Procedure: The procedure for application and review of a preliminary plan of a planned development shall be as set forth in LCC 1.1210 (3).

(b) Content of the Preliminary Plan: Application for preliminary plan approval of a planned development shall include, in addition to the forms prescribed by the division, a preliminary plan consisting of the following:

(A) A site plan map or maps depicting all proposed residential and nonresidential land uses, including typical architectural detail, and also including location of all proposed lot or parcel boundaries, if the proposal involves a division of land, all proposed roads and pedestrian access, location of significant natural features such as wetlands, stream courses, environmental hazards, and fish and wildlife habitat areas, location of any proposed open space, recreation areas or other common elements, and approximate topography with contour intervals of not more than 10 feet.

(B) A written narrative describing the character of the proposed development, the manner in which it has been designed to conform to the purpose of the planned development procedure, including detailed discussion of how the proposal conforms to the requirements of paragraph (c) of this subsection, proposed methods of providing sewer, water and other utility services, the method proposed for ownership and maintenance of private common areas, buildings, structures, roads or other facilities, proposed covenants, restrictions and bylaws of any homeowners association, and the proposed time schedule of development, including plans for phasing, if any.

(C) Other maps or narrative materials needed to determine compliance with any applicable provisions of this chapter, as determined by the division.

(c) Preliminary Plan Approval Criteria: Approval by the planning commission of a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:

(A) All of the applicable general requirements in LCC 1.1450(2) are met;

(B) The proposed development will not be inconsistent with the comprehensive plan provisions or zoning objectives for the area;

(C) The proposed development will provide the following amenities or protections at a



higher level than would otherwise be provided under conventional land development procedures: Protection of significant natural and cultural features and resources, such as historical, scientific and cultural resources, fish and wildlife habitats, stream corridors, riparian areas, and wetlands; maintenance, enhancement or establishment of natural vegetation, especially indigenous plant communities; protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as suitably located open space, recreation facilities, and other public and common facilities, and also includes pedestrian oriented development which reduces reliance on automobile travel, provision of solar access or similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards.

(D) In acting to approve a preliminary plan, the commission may impose any conditions or limitations it finds necessary to achieve compliance with any provisions of this chapter.

(d) Time Limit on Preliminary Plan Approval: Approval of a preliminary plan in accordance with this section is valid for a period of two years, unless a longer period of time is specifically authorized by the commission.

(e) Time Extension on Preliminary Plan Approval: Approval of a preliminary plan of a planned development may be extended beyond the two year or other approved period upon request. Requests for time extensions shall be made to the division on a form prescribed by the division. Requests for time extensions shall be considered and acted upon in accordance with LCC 1.1210(1). In considering a request for a time extension, the director or commission may consider to what extent any required improvements have been constructed or completed, whether there have been any changes in circumstances or in applicable code or statutory requirements which could have affected the original approval, and whether additional conditions or requirements could be imposed on the preliminary plan approval which would satisfactorily address any deficiencies resulting from changed circumstances or code or statutory requirements. In granting a request for a time extension, the director or the commission may impose such additional conditions or requirements as are considered appropriate. A time extension shall be for a period of one year. Not more than three time extensions of a preliminary plan approval may be granted.

**(4) Final Plan:**

Upon completion of all conditions and requirements of a preliminary plan of a planned development, application may be made for final plan approval, in accordance with the provisions of this section:

(a) Final Plan Review Procedure: The procedure for application and review of a request for final plan approval of a planned development shall be as set forth in LCC 1.1210(1).

(b) Certifications Required for Final Plan Approval: Requests for final plan approval of a planned development shall be accompanied by the following certifications:

(A) A copy of all covenants and restrictions.

(B) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association.

(C) The certification, performance agreement or statement regarding the availability of water and sewerage services.

(D) As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement.

(E) If the planned development involves a division of land, the certifications required by

LCC 1.1337(7).

(F) Other certifications required as a condition of the preliminary plan approval.

(c) Final Plan Approval Criteria: The director or commission shall approve a final plan of a planned development, provided that:

(A) The submitted final plan is in substantial conformance with the approved preliminary plan; and

(B) All of the certifications required by paragraph (b) of this subsection have been submitted in proper form. [1997 o.367 § 1]

### **1.1381 Coastal Shorelands (CS) Overlay Zone**

#### **(1) Purpose**

The purpose of the Coastal Shorelands Overlay Zone is to recognize the value of coastal shore lands for the protection and maintenance of water quality, fish and wildlife habitat, water dependent uses, economic resources, recreation and aesthetics. The C-S zone, in conjunction with various underlying zones, implements the Coastal Shorelands policies contained in the Lincoln County Comprehensive Plan.

#### **(2) Application**

The provisions of the C-S zone shall apply to all areas identified as within the Coastal Shorelands boundary on the Lincoln County Comprehensive Plan and zoning maps. The provisions of the C-S zone are to be applied in conjunction with the provisions of the underlying zone. Where the provisions of the C-S zone and the underlying zones conflict, the more restrictive provisions shall apply.

#### **(3) Permitted**

In a C-S overlay zone any of the outright or conditional uses authorized in the underlying zone may be permitted, subject to the applicable provisions of LCC 1.1400 to 1.1499, 1.1500 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 and the additional provisions of this overlay zone.

#### **(4) Procedure**

Applicants requesting approval for land use actions within the areas subject to the provisions of the C-S zone shall submit, along with any application, a detailed site plan and/or written statement demonstrating how the proposed activities will conform to each of the applicable standards contained in the C-S zone. Planning Division or Planning Commission review of such applications shall proceed in accordance with the applicable provisions of this chapter.

#### **(5) Standards**

The following standards will be applied in reviewing an application for a land use action in the C-S zone:

##### **(a) Riparian Vegetation**

(A) Permanent removal of riparian vegetation shall be permitted only in conjunction with a use which requires direct access to water.

(B) Except as provided in subparagraph (A) of this paragraph, no development which would result in a permanent destruction of vegetation within the riparian vegetation boundary as defined in the Comprehensive Plan Inventory may be permitted.

(C) Temporary removal of riparian vegetation may be permitted subject to a revegetation plan approved by the County which specifies:

(i) Temporary stabilization methods; and

(ii) The method and timing of permanent revegetation with native species.

**(b) Significant Wildlife Habitat and Major Marshes**

(A) No residential, commercial, or industrial development shall be permitted in major marshes or significant wildlife habitat as identified in the Comprehensive Plan Inventory.

(B) Fill or removal activities shall not be permitted in major marshes as identified in the Comprehensive Plan Inventory except that fill or removal may be permitted for maintenance, restoration or repair of existing public roads or highways, public utility transmission lines, or similar public facilities, if:

(i) The amount of fill and removal is limited to that necessary to reasonably accomplish the use; and

(ii) Project impacts, taken as a whole, including any required mitigation, are found to be consistent with the maintenance of the identified natural values of the site.

(C) Development proposed adjacent to a major marsh or significant wildlife habitat shall be located no closer than 50 feet from the marsh or habitat area.

(D) Low intensity structural developments such as hiking trails, platforms for wildlife viewing or similar types of educational, scientific or recreational uses may be permitted under the following conditions:

(i) Such development shall not act as a barrier to fish or wildlife species.

(ii) Such development shall not result in major disturbances or displacement of fish or wildlife species.

(iii) Such development shall not alter a water course.

(iv) Such development shall not result in a permanent destruction of wetland vegetation.

**(c) Coastal Headlands and Exceptional Aesthetic Resources:**

(A) Development on coastal headlands or in areas of exceptional aesthetic quality shall not substantially alter the scenic character of the area.

(B) Development on coastal headlands shall not substantially alter the natural vegetative cover.

**(d) Historic and Archaeological Sites:**

(A) Development on identified archaeological sites shall be conducted in a manner so as to minimize site disturbances and prevent irreversible loss of archeological resources.

(B) Development on historic sites, as identified in the Comprehensive Plan Inventory, shall not diminish the value of such sites historic resources.

(C) Alterations to identified structures shall be conducted in a manner so as to maintain the historic value of such structures.

**(e) Land Divisions:**

Subdivisions and major or minor partitions may be permitted on lands outside of urban growth boundaries only upon findings that:

(A) Such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas; and

(B) Such uses will be consistent with the provisions of this section to protect significant habitats and riparian vegetation.

**(f) Shoreland Stabilization:**

(A) Shoreline stabilization procedures shall be confined to those areas where:

(i) Active erosion is occurring which threatens existing uses or structures; or

(ii) New development or redevelopment of water dependent or water related uses requires protection for maintaining the integrity of upland structures or facilities.

(B) The following, in order, are the preferred methods of shoreline stabilization:

- (i) Vegetative or other non-structural.
- (ii) Vegetated rip rap.
- (iii) Unvegetated rip rap.
- (iv) Bulkheads or sea walls.

Structural shoreline stabilization methods shall be permitted only where a higher priority method is not feasible.

(C) Materials to be used must be clean and of a non-erodible quality that will allow long-term stability and minimize maintenance. Materials which could create water quality problems or which will rapidly deteriorate are not permitted.

(D) Minor modification of the bankline profile may be permitted on a case-by-case basis. These alterations shall not be for the purpose of gaining additional upland area.

(E) Shoreline stabilization structures shall be designed and located so as to minimize impacts on aquatic life and habitat, circulation and flushing characteristics, and patterns of erosion and accretion. [1993 o.316 § 1]

### **1.1384 Dredged Material Disposal Site (DMDS) Overlay Zone**

#### **(1) Purpose:**

The purpose of the DMDS Overlay Zone is to protect dredged material disposal sites from incompatible development prior to their being needed for disposal of dredged spoils.

#### **(2) Permitted Uses:**

In a DMDS Overlay Zone, any of the outright or conditional uses authorized in the underlying zone may be allowed, subject to the applicable provisions and standards of this chapter and the additional provisions of this section.

#### **(3) Standards:**

Any outright or conditional use in a DMDS Overlay Zone shall conform to the following standards:

- (a) The proposed use will not prevent future use of the site for dredged material disposal; or
- (b) Alternative disposal sites or methods of disposal are available to accommodate projected dredged needs as set forth in the Lincoln County Dredged Material Disposal Plan, Lincoln County Ordinance # 182, hereby incorporated into this chapter by reference.

#### **(4) Procedure:**

In a DMDS Overlay Zone, the Lincoln County Planning Commission, Planning Director, and Building Official, shall not approve a land development or building permit which would prevent future use of a site for dredged material disposal until:

- (a) All affected Port Districts established pursuant to ORS chapter 777 have been notified of the proposed development permit by return receipt mail;
- (b) A period of 90 days has elapsed from the delivery date of the notice set forth above; and
- (c) The County has determined that adequate alternative disposal sites or methods of disposal are available to accommodate projected dredged needs as set forth in the Lincoln County Dredged Material Disposal Plan, Ordinance # 182.

#### **(5) Zoning Maps:**

The dredged material disposal sites, as provided for in the Lincoln County Dredged Material Disposal Plan, Ordinance # 182, shall be recorded on the official zoning maps of Lincoln County as provided in Section II of this Ordinance # 209.

### **1.1385 Foredune Management Overlay Zone**

#### **(1) Purpose:**

The purpose of the Foredune Management Overlay Zone is to implement the management strategy, monitoring and maintenance program and other components as specified in the Bayshore Dune and Foredune Management Plan (Bayshore Plan) adopted under LCC 1.0108. The overall objectives of the foredune management strategy for Bayshore, located on the Alsea Spit, listed in order of descending priority are:

- (a) To maintain or improve on the ability of the foredune to protect properties from ocean flooding and wave erosion;
- (b) To minimize the inundation of improvements by accumulation of wind-blown sand;
- (c) To maintain and improve public access to the beach; and
- (d) To maintain, or restore ocean views.

#### **(2) Applicability:**

The provisions of this section shall apply to the area delineated in Figure 2 of the Bayshore Plan, encompassing seven (7) Management Units located along the seaward edge of the Alsea Spit and one Management Unit (MU8) at the tip of the spit fronting on the Alsea Bay.

#### **(3) Definitions:**

As used in this section:

- (a) “Dune nourishment” means augmentation of the natural sediment supply within a foredune area.
- (b) “Foredune grading” means alteration of the foredune area through sand transfer or removal of sand by mechanical means in order to accomplish view grading and/or preventative grading.
- (c) “Infrastructure grading” means removal of sand which is physically inundating roadways, beach accesses, septic systems, and underground utilities, thereby causing damage, impeding vehicular and pedestrian movements, and otherwise interfering with service provision and operations related to the impacted infrastructure systems.
- (d) “Management Unit” means a discrete segment of foredune area identified, described and numbered as a Management Unit in the Bayshore Plan.
- (e) “Preventative grading” means the removal of sand which threatens to inundate a structure from the immediate vicinity of the structure.
- (f) “Qualified Professional” means either an Oregon Registered Geologist or Certified Engineering Geologist, with experience working on Pacific Northwest beaches.
- (g) “Remedial grading” means removal of sand from a developed lot which is physically inundating a structure and causing damage or preventing access to the structure, or removal of sand from a vacant lot which is threatening to inundate adjoining lots.
- (h) “Sand Removal” means the mechanical movement of sand to alternative disposal areas outside the Foredune Management Area.
- (i) “Sand Transfer” means the mechanical or natural movement of sand within and between management units.
- (j) “View grading” means grading of dune areas for the purpose of restoring, obtaining, or maintaining views from existing structures.

#### **(4) Uses:**

In areas subject to the provisions of this section, all uses permitted under the provisions of the underlying zone are permitted, subject to the additional requirements and limitations of this section. Notwithstanding any contrary provisions of LCC 1.1930, the following activities are also permitted, subject to the requirements and limitations of this section:

- (a) Fore-dune grading.
- (b) Infrastructure grading.
- (c) Remedial grading on individual developed or vacant lots.
- (d) Dune nourishment.
- (e) Vegetation planting, stabilization and maintenance.
- (f) Sand fencing.
- (g) Sand transfer.

**(5) Prohibited Uses:**

The following uses and activities are prohibited in the Fore-dune Management Overlay Zone:

(a) Sand removal, except transfers between and within Management Units consistent with the Bayshore Plan: Management Strategy.

(b) Dune grading below the elevations established in the Bayshore Plan: Management Strategy.

**(6) Dune Grading Permit Required:**

(a) In the Fore-dune Management Overlay Zone, no fore-dune grading may be undertaken unless a Fore-dune Grading Permit has been obtained from Lincoln County.

(b) In the Fore-dune Management Overlay Zone, no remedial grading, or infrastructure grading may be undertaken unless a Remedial/Infrastructure Grading Permit has been obtained from Lincoln County.

**(7) Fore-dune Grading Permits:**

(a) Procedure:

(A) Application, review, decision and appeals for Fore-dune Grading Permits shall be conducted in the manner provided for in LCC 1.1210(2). In acting to approve an application for a Fore-dune Grading Permit, the Planning Division or the Planning Commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan.

(B) Fore-dune Grading Permits shall be valid for a period five (5) years from the date of issuance.

(C) Fore-dune Grading Permits may be renewed as follows:

(i) Prior to the expiration of the permit, the permittee shall submit a written request to the Planning Division for renewal of the permit. Such a request may be accompanied by a report prepared by a Qualified Professional as defined in Section 1.1385(3)(f) who establishes, based on current conditions, that the grading, restoration and maintenance activities authorized by the permit are consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan. If not prepared by a Qualified Professional as defined in Section 1.1385(3)(f), the permittee shall submit a certification that the grading, restoration and maintenance activities authorized by the permit are consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan, acknowledge that the certification was not

prepared by a Qualified Professional as defined in Section 1.1385(3)(f) and acknowledge that the permittee assumes responsibility for actions taken pursuant to the permit.

(ii) Review, decision and appeal for requests for renewal of Fore-dune Grading Permits shall be undertaken in accordance with LCC 1.1210(2). In acting upon a request for renewal of a Fore-dune Grading Permit, the Planning Division or the Planning Commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Fore-dune Management Plan.

(iii) If beach and fore-dune conditions change to such an extent during the permit period that renewal of an existing fore-dune grading permit is not appropriate, then a new permit application, including a new grading plan and permit conditions, is required. The Qualified Professional as defined in Section 1.1385(3)(f) may make this determination in the report specified in (i) above. [2014 o.473 §2]

(b) Fore-dune Grading Plan

Applications for Fore-dune Grading Permits shall be accompanied by a Fore-dune Grading Plan. Fore-dune Grading Plans may be prepared by a Qualified Professional as defined in Section 1.1385(3)(f) or the permittee who shall submit a certification that the grading, restoration and maintenance activities authorized by the permit are consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan, acknowledge that the certification was not prepared by a Qualified Professional as defined in Section 1.1385(3)(f) and acknowledge that the permittee assumes responsibility for actions taken pursuant to the permit. Fore-dune Grading Plans shall contain at least the following information, set forth in sufficient detail to establish that the proposed grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan:

(A) Narrative describing the proposed work;

(B) Plan view and elevations expressed in NAVD 88 of existing conditions in the work area;

(C) Plan view and elevations expressed in NAVD 88 of proposed modifications in the work area, demonstrating general consistency with grading profiles for the Management Unit(s) in which the work is to be performed;

(D) Identification of needed remedial and/or infrastructure grading within the project area and a description of how such grading will be integrated into the proposed work;

(E) Surveyed profiles for subarea grading designs sufficient to establish a baseline for monitoring;

(F) Revegetation plans consistent with the specific Management Unit recommendations;

(G) Monitoring and maintenance plan for the work area consistent with the requirements of this section;

(H) Identification of the person(s) responsible for supervising the project; and

(I) Identification of sand disposal area(s).

(c) Fore-dune Grading Permit Decision Criteria:

A decision to approve a Fore-dune Grading Permit shall be based on the following findings:

(A) The proposed grading, restoration, monitoring and maintenance plan encompasses an entire Management Unit or a contiguous segment of not less than 400 feet, as measured along the statutory vegetation line;

(B) The proposed grading will not reduce the height of any foredune below four feet above the V-zone Base Flood Elevation;

(C) The plan incorporates, to the extent practicable, all needed remedial and infrastructure grading within the project area; and

(D) The proposed grading, restoration, monitoring and maintenance plan is consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan.

(d) Foredune Grading Permit Conditions

In addition to any conditions imposed pursuant to sub-section (7)(a)(A), all Foredune Grading Permits shall be subject to the following conditions:

(A) Sand removal is prohibited. Transfers between and within Management Units is permitted in accordance with the approved Foredune Grading Plan;

(B) No foredune shall be reduced in height to less than four feet above the V-zone Base Flood Elevation;

(C) Except as provided for in subsection (D) grading shall be conducted only between February 1 and April 1, or between October 1 and October 31;

(D) Grading may be conducted at any time if it is determined that adequate temporary stabilization measures can be provided prior to permanent revegetation provided for in subsection (E).

(E) Upon completion of authorized grading activities, any required temporary stabilization shall be established. Permanent revegetation shall be accomplished in accordance with the approved Foredune Grading Plan;

(F) Within 30 days of completion of the initial grading and revegetation, the permittee shall submit to the director a written statement from a qualified professional as defined in Section 1.1385(3)(f) or the permittee that the project has been completed in conformance with the provisions of the Foredune Grading Plan;

(G) Within one year of completion of the initial grading and revegetation, and annually thereafter during the time within which the permit remains valid, the permittee shall submit a monitoring report prepared by a qualified professional defined in Section 1.1385(3)(f) or the permittee that shall include:

(i) Profiles of the project area;

(ii) Photographic documentation of the current condition of the project area;

(iii) Recommendations for any vegetation maintenance needs, including repair of vegetation, replanting of blow out areas, and fertilization;

(iv) Recommendations for any needed shaping of the foreslope and/or maintenance grading of the foredune crest;

(v) Recommendations for any remedial or infrastructure grading;

(vi) Recommendations for the placement of sand fencing; and

(vii) Specified time frames for performing recommended maintenance activities;

(H) All maintenance activities and treatments recommended in the annual monitoring report required by this subsection shall be completed by the permittee within the time frames set forth in the report.

(8) **Remedial/Infrastructure Grading Permits:**



Pursuant to Section 7(c)(C) of this Section, where practicable, all remedial and infrastructure grading shall be established as part of a foredune grading permit. In cases where needed remedial and infrastructure grading cannot be accomplished as part of a foredune grading permit, such grading may be permitted in accordance with this subsection.

(a) Procedure:

(A) Application, review, decision and appeals for Remedial/Infrastructure Grading Permits shall be conducted in the manner provided for in LCC 1.1210(1). In acting to approve an application for a Remedial/Infrastructure Grading Permit, the Planning Director or the Planning Commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan.

(B) Remedial/Infrastructure Grading Permits for remedial grading shall authorize grading on a single lot or parcel only, except for infrastructure grading within dedicated road right of ways which may be authorized for all or any portion of a road right of way.

(C) Remedial/Infrastructure Grading Permits shall be valid for a period one year from the date of issuance.

(D) Remedial/Infrastructure Grading Permits may be renewed prior to the date of expiration upon written request of the permittee and a determination by the Planning Division that all applicable conditions have been complied with.

(b) Remedial/Infrastructure Grading Permit Conditions

In addition to any conditions imposed pursuant to sub-section (8)(a)(A), all Remedial/Infrastructure Grading Permits shall be subject to the following conditions:

(A) All remedial and infrastructure grading activities shall be performed in a manner that avoids alteration of the existing height of the foredune and does not significantly damage existing vegetation;

(B) All sand removed from a property during remedial grading shall be moved up and over the foredune seaward of the building and shall be accomplished in a manner that minimizes disturbance to existing dune height, vegetation, and the beach;

(C) Only one disposal access shall be allowed on the property for the purpose of pushing sand up and over the foredune seaward of the structure. The access shall be limited to the minimum width necessary to accommodate the equipment being used and in no case wider than 8 feet. Upon completion of the project, the access shall be re-contoured to the height of the existing adjacent dune;

(D) On properties where the foredune has been previously lowered below the undisturbed foredune height on the rear (seaward) yard, the foredune shall be allowed to build up and no grading is allowed;

(E) Permanent stabilization of any portion of the foredune disturbed by remedial sand removal activities shall be accomplished through planting, fertilization, and maintenance of European beachgrass. Beach grass shall be planted at a spacing of 18 inches and carried out between November 1 and April 1. After initial planting and fertilization, stabilization shall include follow-up fertilization. Planting shall also include the re-contoured area used for the disposal access road. Documentation of revegetation efforts shall be provided to the Planning & Development Department within 10 days after planting has been completed;

(F) Remedial grading adjacent to structures shall be limited to the following:

(i) Rear yard: (Rear yard is the yard seaward of the structure). Sand may be removed to the level of the top of the sill of the foundation within 10 feet of the building, or the base of an existing deck. From the 10-foot line, all grading shall slope upward to where it intersects the ground surface of the existing dune at a ratio of 2:1 (horizontal:vertical).

(ii) Side yards: Sand may be removed to the level of the top sill of the foundation within 10 feet of the building (if possible). From the 10-foot line, sand grading shall slope upward at a ratio of 2:1.

(iii) Front yard: All sand that is landward of the building may be removed down to the sill level of the foundation, provided removal does not create slopes of more than 2:1 with adjacent properties. Grading may not lower the front yard below the level of adjacent streets or roads except to clear sidewalks or driveways; and

(G) Remedial grading on vacant lots shall conform to the following requirements:

(i) Vacant lots shall, at a minimum, be graded to alleviate sand sloughing hazards to adjoining properties by grading the slopes of the vacant lots so they do not exceed gradients of 2:1 (horizontal:vertical). Such minimal grading is expected to require regular maintenance to maintain a maximum slope of 2:1.

(ii) Vacant lots should optimally be graded to elevations that are similar to adjoining lots but in no case shall be lowered below an elevation which is 4 feet above the BFE for the relevant management unit.

(iii) A site-specific plan should be prepared specifying where the sand will be placed on the beach or lower seaward side of the foredune.

(iv) Vegetation Stabilization: Graded areas shall be stabilized with vegetation after completion of grading as indicated below:

1. Planting and fertilization for vacant lots and associated disposal areas shall be carried out during rainy months between November 1 and April 1 in accordance with specifications in the Bayshore Plan, except that approved disposal areas within the typical tidal range need not be vegetated.

2. Barriers should be constructed around graded vacant lots to prevent trampling of the planted areas. [2012 o.466 §5; 2014 o.473 §2; 2014 o.477 §2]

**1.1386 through 1.1394** [repealed 1987 o.255 §1]

### **1.1395 Flood Hazard Overlay Zone**

#### **(1) Purposes:**

The purposes of the Flood Hazard Zone are to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas, all in accordance with LCDC Statewide Planning Goal 7 and Lincoln County Comprehensive Plan Natural Hazard Policies. The regulation of uses within this zone is intended to:

- (a) Protect human life and health;
- (b) Protect property and structures;
- (c) Minimize public costs for flood control projects;
- (d) Minimize public costs of rescue and relief efforts associated with flooding;
- (e) Minimize business interruptions due to flooding;
- (f) Minimize damage to public facilities and utilities including water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood hazard areas;

(g) Maintain a stable tax base by providing for appropriate use and development of areas of flood hazard;

(h) Make the designation of property subject to flood hazards a matter of public record; and

(i) Qualify Lincoln County for participation in the National Flood Insurance Program.

**(2) Area Affected:**

The provisions of this section shall apply to all areas of special flood hazard [as] identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Lincoln County and Incorporated Areas” dated December 18, 2009, with accompanying Flood Insurance Rate Maps (FIRM). “The Flood Insurance Study for Lincoln County and Incorporated Areas” and the accompanying FIRM dated December 18, 2009 are hereby adopted by reference and made a part of this section.

**(3) Uses:**

In areas subject to the provisions of this section, all uses permitted under the provisions of the underlying zone may be permitted, subject to the additional requirements and limitations of this section. Notwithstanding the provisions of the underlying zone, the nonpermanent placement of a recreational vehicle on an individual lot between April 15 and October 15, subject to the provisions of subsection (13) of this section, shall be permitted as an outright use in areas subject to the provisions of this section.

**(4) Permits:**

(a) No structure or manufactured dwelling shall be erected, located, altered, improved or enlarged, and no other new development, including but not limited to grading, mining, excavation and filling, shall occur on lands within any area of special flood hazard unless a Floodplain Development Permit specifically authorizing the proposal has been obtained from Lincoln County.

(b) Application, review and appeals for Floodplain Development Permits shall be initiated and conducted in the manner provided for in LCC 1.1210, and shall also include evaluation to determine that all necessary permits have been obtained from all federal, state, and local governmental agencies from which prior approval is required.

**(5) County Records:**

(a) The Director shall obtain and maintain on file the actual elevation (in relation to NAVD 88) of the lowest floor, including basement, of all new or substantially improved structures in areas subject to the provisions of this section. In zones V and V1-30 the actual elevation of the lowest horizontal structural member, excluding pilings or columns, shall be obtained and maintained on file.

(b) For all new or substantially improved floodproofed structures in areas subject to the provisions of this section, the Director shall obtain and maintain on file the actual elevation[,] (in relation to NAVD 88)[,] of the flood proofing, and shall also maintain the flood proofing certifications required pursuant to subparagraph (C) of paragraph (c) of subsection (6) of this section.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, there shall be no requirement to obtain and maintain on file the actual elevation of the lowest floor, or of flood proofing measures, for new or substantially improved structures in areas where specific base flood elevations are not known.

**(6) Development Standards for FIRM Zones A, AE and A-0:**

The following standards shall apply to all new construction, substantial improvement or other development in areas within FIRM Zones A, A1-30 and A-0:

(a) All new construction and substantial improvement, including manufactured dwellings, shall be anchored to prevent flotation, collapse, and lateral movement of the structure, and shall be constructed with flood resistant materials, utilizing methods and practices to minimize flood damage.

(b) All new and substantially improved residential structures shall have the lowest floor, including the basement, elevated to at least one foot above the base flood elevation. All new and substantially improved manufactured dwellings shall have the lowest floor, including the basement, elevated to at least eighteen (18) inches above the base flood elevation. In FIRM Zone A-0, the base flood elevation shall be defined as 12 inches above the highest adjacent grade. Except as otherwise provided in paragraph (c) of subsection (5) of this section, elevation of the lowest floor shall be documented with a survey certified by a State of Oregon Registered Professional Engineer or Professional Land Surveyor. For purposes of this section, an unfinished garage used solely for parking or storage, either attached or detached, may be considered a nonresidential structure.

(c) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation, with proper documentation as set forth in paragraph (b) of this subsection or, together with attendant utility and sanitary facilities, shall:

(A) The structure and uses therein shall be of types which have a low flood damage potential, such as unfinished garages and pole buildings used solely for parking and storage, and unfinished storage buildings;

(B) Have structural components capable of withstanding hydrostatic and hydrodynamic loads, effects of buoyancy, flood depths pressures, velocities and other factors associated with the base flood; and

(C) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.

(d) Notwithstanding the provisions of paragraph (c) of this subsection, nonresidential structures utilizing flood proofing methods which permit the entry of floodwaters may be authorized, provided the following requirements are met:

(A) The structure and uses therein shall be of types which have a low flood damage potential, such as pole buildings used for parking and storage, and unfinished storage buildings;

(B) The contents and interior finish materials of the structure shall be of types which are neither hazardous nor vulnerable to loss under conditions of flooding;

(C) The structure shall have structural components capable of withstanding hydrostatic and hydrodynamic loads, effects of buoyancy, flood depths, pressures, velocities and other factors associated with the base flood;

(D) The structure shall be designed to allow for the automatic entry and exit of floodwaters in accordance with paragraph (g) of this subsection; and

(E) The owner shall be provided notice by the Planning Division that placement of a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 per \$100.00 of insurance coverage.

(e) All manufactured dwellings shall be placed on a permanent foundation and shall be anchored to resist flotation, collapse and lateral movement by providing tie downs and anchoring as specified in the Oregon Manufactured Dwelling and Park Specialty Code.

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

(g) For all new construction and substantial improvements that are elevated, fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria: 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Fully enclosed areas below the lowest floor of elevated buildings are usable solely for the parking of vehicles, building access, or storage in an area other than a basement.

(h) For structures on slopes within FIRM Zone A-0, adequate drainage paths around the structures to guide floodwaters around and away from proposed structures are required.

(i) All subdivision proposals shall be designed to minimize flood damage, shall provide adequate drainage, and shall have public utilities and facilities constructed to minimize flood damage.

(j) New construction or substantial improvement may be exempted from the requirements of this subsection upon review and approval by the Director of an acceptable elevation survey, certified by a State of Oregon Registered Professional Engineer or Professional Land Surveyor, which demonstrates that the lowest grade adjacent to the proposed structure is above the base flood level.

**(7) Development Standards for FIRM Zones V and VE:**

The following standards shall apply to all new construction, substantial improvement, and other development in areas within FIRM zones V and VE:

(a) All buildings or structures shall be located landward of the mean high tide line.

(b) All new or substantially improved structures shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor, excluding pilings or columns, is elevated to at least one foot above the base flood level. Elevation of the lowest horizontal member shall be certified by a registered professional engineer or professional land surveyor.

(c) Pile or column foundations and structures attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval).

(d) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of paragraphs (b) and (c) of this subsection.

(e) All space below the lowest floor shall be either free of obstruction to the free flow of water or constructed with nonsupporting breakaway walls, open wood lattice work or insert screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.

For purposes of this section, breakaway walls shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot may be permitted only if a registered engineer or architect certifies that the designs proposed meet the following conditions:

(A) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

(B) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components, both structural and nonstructural. Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval).

(f) All space below the lowest floor shall be usable solely for parking of vehicles, building access or storage.

(g) No fill shall be used for structural support.

(h) Sand dunes shall not be altered so as to increase potential flood damage.

**(8) Floodway Requirements:**

In areas identified as floodway on the FIRM, the following restrictions, in addition to the requirements of subsection (6) of this section shall apply:

(a) No development shall be permitted that would result in any increase in base flood levels. Encroachment is prohibited, including fill, new construction, substantial improvement and other development, unless certification by a Registered Professional Engineer is provided which demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will cause no measurable increase in flood levels (water surface elevations) during a base flood discharge.

(b) Pursuant to Section 3-2.4.2 of the Oregon Manufactured Dwelling and Parks Specialty Code as enacted by OAR 918-500-020, new installation of manufactured dwellings is prohibited except where such installation is replacing an existing, lawfully placed manufactured dwelling and the installation complies with all other applicable provisions of this section.

**(9) Procedure When Base Flood Elevation Data is Not Available:**

(a) For the purposes of administering the provisions of this section in areas where detailed base flood elevation data has not been provided by FEMA, the Director shall obtain, review and utilize any base flood elevation and floodway data available from federal, state and local sources, and may exercise local judgment based on historical data.

(b) In areas where detailed base flood elevation data has not been provided by FEMA, all proposals for subdivisions or other new developments greater than 50 lots or five acres, whichever is less, shall provide detailed base flood elevation data and floodway data.

**(10) Watercourse Relocation:**

(a) Prior to approving any relocation or substantial alteration of a watercourse, the Director shall provide mailed notice of the proposal to adjoining communities and to the Department of Land Conservation and Development Floodplain Coordinator. Copies of such notice shall also be provided to the Federal Insurance Administration.

(b) No relocation or substantial alteration of a watercourse shall be permitted unless a detailed hydraulic analysis, certified by a Registered Professional Engineer, is provided which demonstrates that:

(A) The flood carrying capacity for the altered or relocated portion of the watercourse will be maintained;

(B) The area subject to inundation by the base flood discharge will not be increased; and

(C) The alteration or relocation will cause no measurable increase in base flood levels.

**(11) Utilities:**

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

(b) 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

(c) On-site waste disposal systems shall be located to avoid impairment of the systems, or contamination from the systems, during flooding.

**(12) Review of Building Permits:**

Where elevation data is not available, applications for building permits shall be reviewed to ensure that proposed construction will be reasonably safe from flooding. The review should include, but is not limited to, evaluation of historical data, high water marks, and photographs of past flooding, where available. Failure to elevate at least two feet above grade may result in higher flood insurance rates.

**(13) Recreational Vehicles:**

A recreational vehicle placed in accordance with subsection (3) of this section shall:

(a) Be located on site fewer than 180 consecutive days;

(b) Be fully licensed for highway use;

(c) Be on its wheels or jacking system;

(d) Be attached to the site only by quick disconnect type utilities and security devices; and

(e) Have no permanently attached additions. [1987 o.255 §2; 1997 o.366 §1; 2009 o.461 §2]

## **SPECIAL REQUIREMENTS**

### **1.1401 Clear-Vision Areas**

A clear-vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad.

(1) A clear-vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in subsection (3) of this section or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides.

(2) A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 2.5 feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above grade.

(3) The following measurements shall establish clear-vision areas:

(a) In a rural or residential zone the minimum distance shall be 30 feet, or, at intersections including an alley, 10 feet.

(b) In all other zones where yards are required, the minimum distance shall be 15 feet or, at intersections including an alley, 10 feet, except that when the angle of intersection between streets, other than an alley, is less than 30 degrees, the distance shall be 25 feet.

### **1.1405 Sign Requirements**

#### **(1) Scope:**

Every sign erected, altered or relocated within unincorporated Lincoln County shall conform to the provisions and requirements of this section. Except as otherwise provided in this subsection, every sign erected, altered or relocated within unincorporated Lincoln County shall conform to the provisions and requirements of this section. This section does not apply to:

(a) The display of a national or state flag.

(b) Traffic and street signs erected and maintained by a road authority as defined in ORS 801.445.

(c) Trespass signs posted in accordance with ORS 164.245 to 164.270.

(d) The display of a temporary interior window sign.

(e) Temporary holiday decorations.

#### **(2) Definitions:**

As used in this section:

(a) "Accessory sign" means a sign which is accessory to and in conjunction with an established main use of land.

(b) "Advertising sign" or "lot sign" means a sign which is the main use of lot or parcel on which it is located and is not accessory to or in conjunction with any other use.

(c) "Free standing sign" means a sign which is supported by a separate independent structure and is not attached to or supported by any other building or structure.

(d) "Nonconforming sign" means a sign which was erected legally but which does not comply with currently applicable sign restrictions and regulations.



(e) "Projecting sign" means a sign which is attached to the wall or roof of a building and which projects above the lowest part of the roof or more than 12 inches beyond the surface of the wall of the building to which it is attached.

(f) "Sign" means an identification, description, illustration, statement, display, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which is intended to accomplish communication.

(g) "Size" means the aggregate area of all sign display surfaces located on a single structure, but excluding posts and base that are without attached identification, description or illustration. Two surfaces parallel and back to back on the same structure shall be considered a single display surface.

(h) "Temporary sign" means any sign which is not permanently installed or affixed to any sign structure or building, and is accessory to an event, lease, rental or sale of limited, fixed duration.

(i) "Wall sign" means a sign attached to or painted on a wall of a building with a display surface which projects no more than 12 inches from the surface of the wall and not above the lowest roof of the building to which it is attached.

**(3) General Requirements:**

(a) No permanent sign shall be placed in or extend over a required side yard or street right-of-way or within 10 feet of the front property line in a required front yard.

(b) There shall be no moving or flashing signs.

(c) Light from a sign shall be directed away from a residential use or zone and shall not be located so as to distract motorists.

(d) Where it can be demonstrated that directional signs are needed for directing or controlling vehicular access, or where such signs are required as a condition of approval for public safety, such signs may be permitted in addition to any other signs permitted by this section. Such signs shall be placed at each motor vehicle entrance or exit, shall not exceed nine square feet in size and six feet in height, and shall not restrict required site distances.

(e) In the R-1, R-2, R-3, RR1-2, RR-5, A-C and T-C zones, one accessory sign shall be allowed and shall be limited to the following size:

(A) A sign not exceeding two square feet in size accessory to a single family dwelling or a home occupation.

(B) A sign not exceeding 32 square feet in size accessory to any other permitted or conditional use in the zone.

(f) In the R-4, C-1, C-T, M-P, I-P and P-F zones accessory signs are allowed. Not more than one projecting sign or free standing sign may be permitted per lot. The sign or signs shall not exceed a total aggregate area of 200 square feet or one square foot for every foot of lot frontage along streets, other than alleys, whichever is less. No sign shall exceed 35 feet in height measured from road level, and display surfaces shall not be greater than twelve 12 feet in height nor 25 feet in width.

(g) In the PMP zone, accessory signs are allowed in accordance with the applicable state park master plan adopted by the Oregon Parks and Recreation Department pursuant to OAR chapter 736, division 18 and ORS 390.180, or the local park master plan adopted by the Lincoln County Board of Commissioners pursuant to OAR chapter 660, division 34.

**(4) Advertising and Lot Signs:**

In the C-1, C-2, C-T, and I-P zones, advertising signs and lot signs may be allowed. In addition to the applicable requirements of LCC 1.1601 to 1.1630, advertising signs and lot signs must conform to the following standards:

(a) Signs must be 500 feet apart on the same side of a road and 250 feet apart on opposite sides of a road.

(b) Signs shall not exceed 35 feet in height measured from road level, and display surfaces shall not be greater than 12 feet in height nor 25 feet in width.

**(5) Temporary Signs:**

In addition to the allowances for signs provided by this section, not more than two temporary signs of not more than 12 square feet each may be established on any lot or parcel for a period of not more than 90 days in any single calendar year, or for any period of time during which the property is for sale, lease or rent.

**(6) Nonconforming Signs:**

(a) A nonconforming sign or sign structure shall not be moved, structurally altered or enlarged in any manner, unless such movement, alteration or enlargement would bring the sign into conformity with the requirements of this section.

(b) Any nonconforming sign or sign structure may be maintained with ordinary care.

**(7) Maintenance and Appearance of Signs:**

All signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and maintained in a safe condition. All signs shall be maintained in a neat, clear and attractive condition.

**(8) Abandoned Signs:**

Any sign shall be removed when the associated land use has discontinued or when the sign is no longer properly repaired or maintained as required by this section. [1997 o.369 §2; 2016 o.486 §2]

**1.1415 Off-Street Parking and Off-Street Loading Requirements**

At the time a structure is erected or enlarged or the use of an existing structure is changed, off street parking spaces, loading areas and access thereto shall be provided as set forth in this section unless greater requirements are established. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this section.

(1) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.

(2) In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the requirements of the several uses computed separately.

(3) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operations do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases or contracts to establish the joint use.

(4) Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.

(5) 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 storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(6) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved to minimum public road standards, maintained adequately for all weather use, and be so drained as to avoid flow of water across public sidewalks.

(7) Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance to residents by the erection, between the uses, of a sight-obscuring fence or not less than five feet in height except where vision clearance is required.

(8) Parking spaces along the outer boundaries of a lot shall be contained by a curb or bumper rail at least four inches high and set back a minimum of four and one-half feet from the property line.

(9) Artificial lighting which may be provided for parking areas shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling.

(10) Required off-street parking areas shall not be provided in the required front or street side yard areas in a residential zone.

(11) Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.

(12) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(13) Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of a particular use.

(14) Off-street parking space requirements:

(a) Dwelling, one-family: One space per dwelling unit.

(b) Dwelling, two-family-or multi-family: One and one-half spaces per dwelling unit.

(c) Mobile home park: Three spaces for each two trailer spaces.

(d) Motel, hotel or resort: One space for each guest accommodation.

(e) Hospital: Three spaces for each two beds.

(f) Nursing home or similar institution: One space for each three beds.

(g) Church, club or similar place of assembly: One space for each six seats, or one space for each 50 square feet of floor area used for assembly.

(h) Library: One space for each 300 square feet of floor space.

(i) Dance hall, skating rink or similar commercial amusement enterprise: One space for each 100 square feet of floor area.

(j) Bowling alley: Five spaces for each 200 square feet of floor area.

(k) Retail store, eating and drinking establishment: One space for each 200 square feet of floor area.

(L) Service or repair shop retail store handling bulky merchandise such as automobiles and furniture: One space for each 600 square feet of floor area.

(m) Bank, office: One space for each 300 square feet of floor area.

(n) Medical and dental clinic: One space for each 200 square feet of floor area.

(o) Warehouse, storage and wholesale business: One space for each 2,000 feet of storage area.

(p) Manufacturing establishment: One space for each 1,000 square feet of floor area.

(q) Stables: One space for each three horse stalls.

### **1.1417 Bicycle Parking Requirements**

(1) Required bicycle parking spaces shall be provided in designated areas marked and reserved for bicycle parking only.

(2) Each required bicycle parking space shall be equipped with a rack designed to permit secure bicycle locking.

(3) Required bicycle parking spaces shall be located no further from the building or use served than the required off-street automobile parking.

(4) Bicycle parking space requirements:

(a) Retail commercial, bank, office, restaurant, commercial amusement, church, club or similar place of assembly, library: One space for each 10 automobile parking spaces, with a minimum of one space.

(b) Public or private schools: One space for every 10 students.

(c) Multi-family dwellings: One space for each dwelling unit.

(d) Transit transfer station or park and ride lot: One space for each 10 automobile parking spaces. [2008 o.456 § 11]

### **1.1419 Pedestrian Circulation**

Multi-family and commercial uses within urban growth boundaries and rural community centers shall provide for safe and convenient pedestrian circulation in accordance with the following standards:

(1) Accessways shall connect all building entrances.

(2) Accessways shall connect required off-street parking areas to building entrances, to adjoining public streets, to adjoining transit stops, and to adjoining retail or public uses.

(3) As used in this section, "accessway" means a hard surfaced path that provides pedestrian and or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways include a walkway and additional land, if any, on either side of the walkway, 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 shall be physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices. Where accessways cross driveways, they shall be raised, paved or marked in a manner which provides convenient access for pedestrians. [2008 o.456 § 12]

### **1.1420 Setbacks Adjacent to Timberlands**

Lot depths and setback requirements of lots created after June 25, 1980, and adjacent to Timber Conservation Zones shall be at least 50 feet greater than normal requirements therefor.

### **1.1425 Distance from Property Line**

In areas where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.

### **1.1430 Exterior Lighting**

Exterior lighting for uses in commercial and industrial zones shall not be located in such a manner so as to face or shine directly onto a lot in a residential zone, street or highway.

### **1.1435 General Provisions Regarding Accessory Uses**

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

(1) An accessory structure or use shall only be approved provided the principal use has been established.

(2) An accessory structure not used for human habitation and separated from the main building may be located in the required rear and side yard, except that it may not be located in the required street side yard of a corner lot, provided it is not closer than five feet to a property line.

(3) A mobile home may be stored on an individual lot subject to obtaining approval letter from the Division and subject to the following:

(a) Storage period shall not exceed one year.

(b) No utilities other than electric shall be connected.

(4) A mobile home may be occupied as a temporary dwelling in conjunction with an existing dwelling providing that a medical hardship is determined to exist and the following standards are met:

(a) That the dwelling complies with residential setback requirements.

(b) That a "Mobile Home Placement Permit" be approved prior to locating the mobile home.

(c) The medical hardship shall be confirmed on a yearly basis by a letter from a medical doctor licensed in the State of Oregon.

(d) Upon cessation of the medical hardship, the mobile home will be removed from the property and if necessary, the septic system abandoned in a manner approved by the county sub-surface sanitarian.

(5) Fences, hedges, and walls may be located within required yards, but shall not exceed three and one-half feet in height in any required yard which abuts a street other than an alley.

### **1.1440 Mobile Home Provisions**

(1) Mobile homes approved for placement on individual lots are subject to the following standards:

(a) Mobile homes must be placed in accordance with Oregon State mobile home set-up standards (OAR 814-23-005 through 080)

(b) The dwelling unit must be skirted.

(c) Other conditions may be required by the Planning Division or by the Planning Commission in order to insure compatibility with surrounding area development.

(2) A mobile home may be stored on an individual lot subject to obtaining approval letter from the Division and subject to the following:

(a) Storage period shall not exceed one year.

(b) No utilities other than electric shall be connected.

### **1.1445 Authorization of Similar Uses**

(1) **Purpose:**

The purpose of this section is to provide for land uses not specifically listed in any use zone but which are similar in character, scale and performance to the permitted or conditional use specified in a particular zone.

(2) **Review Criteria:**

A similar use may be authorized by the Planning Commission at a public hearing in accordance with the requirements of LCC 1.1250, provided that the Commission establishes that the proposed use meets the following criteria:

- (a) The use is not listed specifically in any use zone.
- (b) The use is similar in character, scale and performance to one or more of the permitted or conditional uses listed in the use zone in which it is proposed.
- (c) The use is not of the same general type or similar to any uses specifically listed in another zone.

Any similar use authorized by the Planning Commission shall conform to the applicable standards and requirements of the use zone in which it is located, including any requirement for Conditional Use review as set forth in LCC 1.1601 to 1.1630.

**(3) Procedure:**

- (a) A property owner may initiate a request for authorization of a similar use by filing an application with the Planning Division on forms prescribed by the Division.
- (b) The Planning Commission shall consider a request for authorization of a similar use at a public hearing in accordance with the requirements of LCC 1.1210(3).

**1.1501 Projections from Buildings**

(1) Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys and flues shall not project into any required yard more than one foot for each two feet of yard width. Unroofed landings, porches, and stairs may project into any required yard providing the following conditions are met:

- (a) No portion except for guardrails shall extend above the floor level of a habitable room.
- (b) No such projection shall obstruct a stairway.
- (c) No such projection shall extend more than one-third the distance from the exterior wall to the property line.

(2) Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, wind generators and other similar objects not used for human occupancy are not subject to the building height limitations of this ordinance. Such projections shall have a lateral projection no greater than eight feet.

**1.1510 General Exceptions to Lot Size Requirements**

If a legally created lot does not meet the lot size requirements of the zone in which the property is located, the lot may be occupied by a use permitted in the zone subject to the other requirements of the zone, except that, residential use shall be limited to a single family dwelling.

**1.1520 General Exceptions to Yard Requirements**

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

- (1) The required front or rear yard need not exceed the existing or probable average of the front or rear yards of dwellings on all lots within 100 feet on both sides of the proposed dwelling. On vacant parcels within 100 feet, standard yard requirements shall be used in determining the average.
- (2) When an attached or detached garage is to be built on a lot having an average elevation at least 10 feet higher or lower than street level, the front of the garage may be located to within five

feet of the front property line or at the point where the ground elevation is five feet higher or lower than the street level, whichever is greater. The garage and driveway shall be constructed in such a manner as to minimize traffic hazards resulting from maneuvering onto or off of an adjacent street.

**1.1530 Authorization of Transportation Facilities**

Except as otherwise provided by LCC 1.1367 and 1.1381, the following transportation facilities are permitted in all use zones:

(1) Operation, maintenance, and repair of existing transportation facilities identified in the Lincoln County Transportation System Plan, such as road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals.

(2) Facilities and improvements permitted outright under ORS 215.213(1)(j) through (m) and 215.283(1)(h) through (k). [2008 o.456 § 9]

## CONDITIONAL USES

### **1.1601 Purpose**

Certain types of uses require special consideration prior to their being permitted in a particular zone. The reasons for requiring such special consideration include, among others, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the uses, and the effect such uses have on any adjoining land uses and on the growth and development of the County as a whole. All uses permitted conditionally possess unique and special characteristics making impractical their inclusion as outright uses in many of the various zones herein defined. Location and operation of designated conditional uses shall be subject to review and authorized only by issuance of a Conditional Use Permit. The purpose of review shall be to determine that the characteristics of any such use shall not be unreasonably incompatible with the type of uses permitted in surrounding areas, and for the further purpose of establishing such conditions as may be reasonable so that the basic purposes of this Chapter shall be served. Nothing herein shall be construed to require the granting of a conditional use permit.

### **1.1605 Authorization to Grant, Deny or Revoke Conditional Use Permit**

(1) Conditional uses listed in LCC 1.1301 through 1.1394 may be permitted, enlarged, or altered upon authorization by the Planning Division or by the Planning Commission in accordance with the standards and procedures as set forth herein.

(2) In approving a conditional use request or the modification of a conditional use, the Planning Division or Planning Commission may impose, in addition to those standards and requirements expressly specified by this Section, additional conditions which are considered necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include, but are not limited to the following:

- (a) Increasing the required lot size or yard dimensions.
- (b) Limiting the height of buildings.
- (c) Controlling the location and number of vehicle access points.
- (d) Increasing the street width.
- (e) Increasing the number of required off-street parking spaces.
- (f) Limiting the number, size, location, and lighting of signs.
- (g) Requiring fencing, screening, landscaping, diking, or other facilities to protect adjacent or nearby property.
- (h) Designating sites for open space.
- (i) Setting a time limit for which the conditional use is approved.
- (j) Site reclamation upon discontinuance of use.

(3) In the case of a use existing prior to February 12, 1974, and classified in this chapter as a conditional use or a non-conforming use, change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

(4) The Planning Commission may require or authorize the Planning Division to require that the applicant for a conditional use furnish the County with a performance bond of up to the value of the cost of the improvements to be guaranteed by such bond, in order to ensure that the conditional use is completed according to the plans as approved by the Planning Commission or the Planning Department.



(5) Any permit granted hereunder shall be subject to revocation by the Planning Commission if it is ascertained thereby that the application includes or included any false information, or if it is determined that the conditions of approval have not been complied with or are not being maintained, or the conditional use becomes detrimental to public health, safety, or welfare.

(6) In order to consider revocation of a conditional use permit, the Planning Commission shall hold a public hearing as prescribed under LCC 1.1210(3) in order for the permit holder to show cause why such permit should not be revoked.

(7) If the Planning Commission finds that the conditions of permit approval have not been complied with or are not being maintained, a reasonable time may be given for rectification, and if corrections are not made within that time, revocation of the permit shall become effective 15 days after the time specified.

(8) Reapplication for conditional use approval cannot be made within one year after revocation or denial, except that the Planning Commission may permit a new application if in its opinion new evidence or a change in circumstances warrant.

#### **1.1610 Procedure for Taking Action on a Conditional Use Application**

(1) A property owner may initiate a request for a conditional use by filing an application with the Planning Division, using forms prescribed by the Division.

(2) Upon receipt of a completed application, the Planning Division may take action on a conditional use request in accordance with LCC 1.1210(2).

(3) If the conditional use has more than routine significance, as determined by the Planning Division, a public hearing may be set for Planning Commission consideration of the request in accordance with the requirements of LCC 1.1250.

#### **1.1615 Building Permit for an Approved Conditional Use**

Building permits for all or any portion of a conditional use shall be issued only on the basis of the plan as approved by the Planning Division or the Planning Commission. Any substantial change in the approved plan shall be submitted to the Planning Division or the Planning Commission as a new application for a conditional use.

#### **1.1620 Time Limit on a Conditional Use Approval**

(1) Approval of a conditional use authorizing a dwelling in the A-C or T-C zones shall be void four years after the effective date of the decision if the authorized development action is not initiated in that period. Approval of any other conditional use shall be void two years after the effective date of the decision if the authorized development action is not initiated in that period. As used in this subsection, "initiated" means that on-site sewage disposal construction permits, building permits or other necessary approvals have been secured and exercised or maintained valid or, if no such approvals are required, that the authorized use has been established.

(2) The division may grant one extension period of 24 months for dwelling approvals in the A-C or T-C zones, or of 12 months for any other conditional use approval if:

(a) The applicant submits a written request for an extension of time in which to initiate the development;

(b) The request is received by the division prior to the expiration of the approval period;

(c) The applicant states the reasons that prevented the commencing or continuation of development within the approval period; and

(d) The division determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

(3) Additional extensions in conformance with the standards and time periods set forth in subsection (2) of this section may be authorized by the division where the applicable criteria for the decision have not changed.

(4) The granting of an extension pursuant to this section is an administrative decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision. [1994 o.347 §5; 2001 o.416 §4]

### **1.1630 Standards and Procedures Governing Conditional Uses**

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

#### **(1) General standards:**

In addition to the other applicable standards of this section, all conditional uses, except for dwellings authorized in the T-C and A-C zones, shall comply with the following requirements:

(a) The site under consideration is suitable for the proposed use considering:

(A) The size, design and operating characteristics of the use.

(B) The adequacy of transportation access to the site.

(C) The natural and physical features of the site such as general typography, natural hazards, natural resource values, and other features.

(b) The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (a) of this subsection.

#### **(2) Standards for motels, hotels, lodges and resorts:**

(a) The minimum lot area per guest unit shall be 1500 square feet if the property is served by both a public or community water supply system and sewage disposal system.

(b) The minimum lot area per guest unit shall be 2500 square feet if the property is served by a public or community water supply system but not a public or community sewage disposal system.

(c) The minimum lot area per guest unit shall be 12,000 square feet if the property is not served by a public or community water supply system.

#### **(3) Special setback requirements:**

(a) Buildings and pens, which are a part of kennels and animal hospitals, and active recreation use areas which are a part of outdoor commercial amusement or recreation establishments shall be located no closer than 75 feet from a residential zone, street or highway.

(b) Clubs, lodges, or fraternal organizations in an R-4 zone, and community swimming pools and buildings housing recreational facilities in a residential zone, shall be located no closer than 30 feet from any other lot in a residential zone.

(4) **Standards for public utility facilities**, such as electric substation or transformer, public or community domestic water supply reservoir or pumping station, public or community sewage disposal plant or pumping station, radio or television tower or transmitter, or governmental structure or use of land:

(a) In a residential zone, all equipment and material storage shall be within an enclosed building.

- (b) Workshops shall not be permitted in a residential, C-1 or C-T zone.
- (c) Public utility facilities shall be screened where practical and provided with landscaping.
- (d) The minimum lot size requirement may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent or nearby property.

**(5) Standards for recreational vehicles located on individual lots:**

(a) Approval of such will not set a trend or encourage a pattern of development incompatible with surrounding area development.

(b) The lot must be served by a water system and a sewerage disposal system approved by the County Sanitarian.

(c) The recreational vehicle may be required to be surrounded by a sight-obscuring fence to a height of six feet above ground.

(d) A time limit not to exceed five years shall be established, after which time reapplication for conditional use permit approval shall be required.

(e) Upon compliance with the above and any additional conditions which the Planning Division or Planning Commission feels necessary to insure compatibility with surrounding area development, a building permit/mobile home placement permit must be obtained.

**(6) Standards for home occupation:**

All home occupations in all zones shall comply with the following standards:

(a) The home occupation shall be secondary to the main use of the property for residential purposes.

(b) No home occupation involving on-site retail sales shall be permitted.

(c) No window display and no sample commodities displayed outside the building shall be permitted.

(d) Home occupations shall not interfere with existing or permitted uses on surrounding or nearby lands.

(e) A home occupation shall not generate traffic or congestion or demand for parking to an extent incompatible with the primary purpose of the zone in which it is located or with the purposes of zones of surrounding or nearby lands.

(f) Nothing in this section shall authorize the construction of any structure or building not otherwise permitted in the zone in which a home occupation is to be established. Accessory structures to be erected for the purpose of housing a home occupation shall not exceed the home occupation square footage limitation of the zone in which it is located.

(g) For purposes of identifying a home occupation, one unlighted sign not to exceed two square feet may be permitted. Such sign shall not be located in a required front or street side yard.

(h) All home occupations approved after October 4, 1983, shall be reviewed annually for the purpose of ensuring compliance with applicable conditions and standards.

(i) The existence of a home occupation shall not constitute nor contribute to the justification for a zone change.

Standards provided in paragraphs (k) through (o), in addition to the standards provided in paragraphs (a) through (i), shall apply to all home occupations in R-1A, R-1, R-2, R-3, R-4, and RR-1-2 zones:

(k) No persons other than residents of the dwelling located on the subject property shall be engaged in the home occupation, and in no event shall the number of persons engaged in the home occupation exceed five.

(L) No outside storage of goods, commodities or waste materials associated with the home occupation shall be permitted.

(m) The home occupation shall be contained entirely within the subject property dwelling or a residential accessory structure. Area devoted to the home occupation shall not exceed a total floor area of 600 square feet.

(n) Home occupations permitted in residential zones shall be limited to the following types, subject to all applicable standards:

(A) Professional office or clinic.

(B) Personal service establishment, such as barber, beautician, tailor, cobbler, and gunsmith.

(C) Home appliance or electronic service or repair.

(D) Artist or craft studio.

(E) Small scale manufacture or assembly.

(F) Other uses similar in character, scale and performance to those listed in subparagraphs (A) through (E) of this paragraph.

(o) The following are specifically prohibited from being established as home occupations in residential zones:

(A) Storage, service or repair of automobiles, trucks, trailers, heavy equipment, boats or marine equipment.

(B) Machine, welding, sheet metal or similar metal working shop.

(C) Cabinet or woodworking shop.

(D) Plumbing, building, electrical or paint contractor's storage or repair shop.

(E) Auto wrecking yard or other salvage yard.

(F) Tire repair, retreading or vulcanizing.

(G) Restaurant, bar or tavern.

Standards provided in paragraphs (p) through (x), in addition to the standards provided in paragraphs (a) through (i), shall apply to all home occupations in T-C, A-C, RR-5 and RR-10 zones:

(p) The home occupation shall employ no more than five full or part-time employees, inclusive of the primary owner or operator.

(q) The home occupation shall be operated by a resident of the property upon which it is located.

(r) Total floor area devoted to the home occupation, either of a dwelling, an accessory structure, or the aggregate of both, shall not exceed 1,600 square feet.

(s) Outside area devoted to storage or other activities associated with the home occupation shall not exceed 1,600 square feet, exclusive of required off-street parking.

(t) All outside storage and parking areas shall be completely screened from adjoining properties and roadways by a sight obscuring fence or vegetative barrier.

(u) One off-street parking space shall be provided for each employee other than household residents.

(v) In the course of normal operation, the home occupation shall generate no noise, dust, odor or vibration detectable beyond the boundaries of the subject property.

(w) Home occupations permitted in A-C, T-C, RR-5 and RR-10 zones shall be limited to the following types, subject to all applicable standards:

(A) All uses permitted as home occupations in R-1, R-2, R-3, R-4 and RR-1-2 zones.

(B) Automobile, equipment, boat or marine equipment service or repair provided all such service and repair is conducted within an enclosed building.

(C) Machine, welding, sheet metal or similar metal working shop.

(D) Cabinet or woodworking shop.

(E) Uses similar in scale, character and performance to those listed in subparagraphs (A) through (D) of this paragraph.

(x) The following uses are specifically prohibited from being established as home occupations in T-C, A-C RR-5 and RR-10 zones:

(A) Auto wrecking yards or other salvage yard.

(B) Truck terminal or depot.

(C) Restaurant, bar or tavern.

(7) **Standards for mobile home parks:**

A mobile home park may be permitted as a conditional use when it meets the requirements of the Oregon Department of Commerce (OAR chapter 814) and the following additional standards of Lincoln County:

(a) Mobile home parks shall have:

(A) A minimum size of one acre.

(B) A minimum number of four spaces.

(b) Mobile home spaces shall have:

(A) A minimum length of 40 feet.

(B) A minimum width of 30 feet.

(C) A maximum coverage of 75 percent.

(D) A minimum of two parking spaces.

(E) Clearly-defined boundaries marked by a fence, planting, or other suitable means.

(F) Electricity, potable water, and an approved means of sewage disposal.

(c) Mobile homes shall have the following setbacks:

(A) A minimum distance of 25 feet from public street rights-of-way.

(B) A minimum distance of 10 feet from all non-street property lines.

(C) A minimum distance of 10 feet from community or service buildings.

(D) A minimum distance of 20 feet from other mobile homes.

(d) Accessory buildings or structures, including community and service buildings, carports, cabanas, and ramadas, but excluding signs and fences, shall be at least 25 feet from public street rights-of-way.

(e) Streets within mobile home parks shall have:

(A) A minimum width of 20 feet if parking is prohibited and 30 feet if parking is permitted on one side.

(B) Well-drained, durable and dustless surfaces improved to minimum public road standards, or other approved surface and maintained in good condition.

(C) Direct access to a public street.

(D) Illumination of not less than one foot candle.

(f) Walkways not less than three feet wide and illumination of not less than one foot candles may be required to provide pedestrian access from mobile home spaces to community and service buildings. All walkways shall be well drained and have durable and dustless surfaces.

(g) Play areas shall be required in parks where mobile home spaces are less than 4000 square feet and children under 14 are permitted. Play areas shall have at least 100 square feet per

mobile home spaces, but regardless of the number of mobile home spaces, shall be no less than 2500 square feet. Play areas shall be restricted to that use and protected from all streets, driveways, and parking areas by a fence, or the equivalent thereof, at least 30 inches in height.

(h) Screening consisting of a sight-obscuring fence, buffer strip of vegetation, or both, may be required along all property lines.

(i) Occupants of a mobile home park shall be provided with receptacles for garbage.

(j) Mobile home parks proposed to be located within urban growth boundaries shall be required to conform to all ordinance standards of the adjoining city.

**(8) Standards for recreational vehicle parks:**

A recreational vehicle park may be permitted as a conditional use when it meets the requirements of ORS chapter 446 and the Administrative Rules of the State of Oregon, OAR chapter 333. In addition, the following minimum standards shall apply:

(a) Minimum size of R.V. park: One acre.

(b) Minimum width of R.V. space: 30 feet.

(c) Minimum length of R.V. space: 40 feet.

(d) Minimum distance between R.V. and street right-of-way: 10 feet.

(e) Minimum distance between R.V. and all other property lines: Five feet.

(f) Minimum distance between R.V.'s: 15 feet.

(g) Minimum distance between R.V. and community or service buildings: 10 feet.

(h) Each access road connecting with a public street shall have a surface width of at least 30 feet for a distance of 40 feet as measured from the intersection of the public road. All other roads shall have a surface width of at least 20 feet. All access roads and parking areas and walkways shall be surfaced to minimum County road standards and well drained. Walkways not less than three feet wide may be required to be provided from trailer spaces to community and service buildings. All access roads and walkways shall be well lighted.

(i) Developed recreation areas shall be provided which contain a minimum of 2,500 square feet or 200 square feet per R.V. space, whichever requirement is the greater.

(j) All areas not used for R.V. spaces, motor vehicle parking, traffic circulation, or service or community buildings shall be completely and permanently landscaped. The landscaping shall be maintained in good condition.

(k) A sight-obscuring fence, buffer strip of vegetation, or both, may be required on every side of a R.V. park.

**(9) Standards for auto wrecking yard or junk yard:**

(a) The auto wrecking yard or junk yard shall be fully enclosed by a sight-obscuring fence, free of advertising, maintained in good condition, not less than six feet in height, and of a design approved by the Planning Director.

(b) All automobiles, wrecked or otherwise, shall be kept inside the fenced area at all times, except that vehicles belonging to customers may be parked outside the fence while at the establishment or business.

(c) All sales, display, storage, repair, or other handling of products, merchandise, equipment, and other articles shall occur from within an enclosed building or from within the fenced area.

**(10) Standards for solid waste disposal site:**

Solid waste disposal facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under ORS 459.245, shall meet the requirements of 1.1373(3)(o) or 1.1375(2)(d) and shall comply with the following requirements.

(a) The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Comprehensive Plan.

(b) The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest and grazing dwellings(s) or a residential zone.

(c) The facility does not constitute an unnecessary fire hazard. If located in a forested area, the County shall condition approval to ensure that minimum fire safety measures will be taken, which may include but are not limited to the following:

(A) The area surrounding the facility is kept free from litter and debris.

(B) Fencing will be installed around the facility, if deemed appropriate to protect adjacent farm crops or timber stand.

(C) If the proposed facility is located in a forested area, construction materials shall be fire resistant or treated with a fire retardant substance and the applicant will be required to remove forest fuels within [30 feet] of structures.

(d) The facility shall adequately protect fish and wildlife resources by meeting minimum Oregon State Department of Forestry regulations.

(e) Access roads or easements for the facility shall be improved to the County's Transportation System Plan standards and comply with grades recommended by the Public Works Director.

(f) Road construction for the facility must be consistent with the intent and purposes set forth in the Oregon Forest Practices Act to minimize soil disturbance and help maintain water quality.

(g) Hours of operation for the facility shall be limited to [8 am – 7 pm].

(h) Comply with other conditions deemed necessary.

(i) Submitted plans and specifications shall contain sufficient information to allow the county staff or Planning Commission to set standards pertaining to:

(A) Appropriate use of the land.

(B) Setbacks from the property line.

(C) Location of vehicular access points and road development standards.

(D) Public safety considerations.

(E) Adverse impacts on surrounding properties.

(j) If the solid waste disposal area is located less than 300 feet from a residential zone or a state highway, sight-obscuring screening shall be provided.

(k) All areas used for solid waste disposal shall be located no closer than 100 feet from a property line.

(L) The property shall be fenced to prevent blowing paper and debris and to control access to the property by pedestrians and vehicles.

(m) The standards of this subsection apply to all solid waste disposal sites, including but not limited to those regulated under LCC chapter 2, and facilities exempted from regulation under LCC 2.1035(8).

(11) **Standards for solid waste transfer stations:**

(a) Solid waste transfer stations shall be fenced to prevent blowing paper and debris, and to control access.

(b) Site-obscuring screening shall be provided.

(c) Facilities and storage shall be located no closer than 30 feet from any property line.

(d) Hours of operation shall be established.

(e) Operation shall be conducted to prevent seepage, excess noise and odor.

(f) Submitted plans and specifications shall contain sufficient information to allow the county staff or Planning Commission to set standards pertaining to:

(A) Appropriate use of the land.

(B) Setbacks from the property line.

(C) Location of vehicular access points and road development standards.

(D) Public safety considerations.

**(12) Standards for extraction and processing of rock, sand, gravel, or other earth products:**

(a) Submitted plans and specifications shall contain sufficient information to allow the county staff or Planning Commission to set standards pertaining to:

(A) The most appropriate use of the land.

(B) Setback from the property line.

(C) Location of vehicular access points.

(D) Protection of pedestrians and vehicles through the use of fencing.

(E) Prevention of the collection and stagnation of water at all stages of the operation.

(F) Rehabilitation of the land upon termination of the operation.

(b) Any processing of earth products commonly associated with the excavation of minerals, rocks, sand, or gravel, such as the use of crushing, sorting, or washing equipment, shall not be permitted in commercial, residential or marine zones. In zones where processing is permitted, it shall be located no closer than 200 feet from a lot in a residential, commercial or marine zone.

(c) Mining equipment and access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which are injurious or substantially annoying to persons living in the vicinity or to crops or livestock being raised in the vicinity.

(d) Asphalt plants, concrete products manufacture, cement plants, and similar uses often associated with extraction of earth products shall not be permitted in conjunction with extraction operations in a rural zone.

(e) Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources which is allowed only in the A-C zone, are subject to the following:

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

(B) A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the Lincoln County Comprehensive Plan.

**(13) Standards for uses involving wetland filling, dredging, draining, disposal of dredging spoils, and similar activities, or construction of wharfs, bulkheads or similar devices:**

(a) In a Marine Waterway (M-W) Zone, all uses and activities shall be subject to the standards set forth in the Lincoln County Estuary Management Plan, Ordinance #184.



(b) Evidence shall be provided that the applicant has complied with, or fully intends to comply with, all standards of the Department of Environmental Quality, the Division of State Lands and all other agencies having interests or ordinances applicable to the property in question.

(c) The activity shall not represent a source of water pollution to any nearby tidelands, marshlands, rivers, streams, or other waterways used for the raising, production, or preservation of marine life or other natural resources.

(d) Any filling or dredging activity shall not substantially alter the course of any channel or the natural movement of any waters, result in increased flood hazards, or cause the formation of appreciable bottom or sludge deposits deleterious to marine life.

(e) Any fill or dredging spoil area shall be deposited behind a watertight berm to avoid any sloughing and to stabilize the area.

(f) If a fill is proposed of which any portion falls below mean higher high water or mean high water plus six feet, whichever is highest, and which is adjacent to or having potential access to a navigable waterway, the developer shall designate on the plan a portion of the parcel to remain unfilled for possible off-channel moorage or similar use. The size of the area to remain unfilled shall be determined on the basis of the need generated by proposed or anticipated uses on the fill, and shall be not less than 20 percent of that portion of the parcel lying below the highest above-mentioned elevation. The location and design of the unfilled portion shall be approved by Planning Division or Planning Commission.

(g) Applications for a permit for filling, dredging, or similar activities shall include:

(A) The source of the applicant's right to fill or dredge.

(B) The purpose of the proposed operation.

(C) The legal description of the area where the operation will take place.

(D) The depth to which dredging or filling is to take place and the proposed angle of slope.

(E) The manner in which material will be dredged or used for fill and the type of material to be used.

(F) The method to be used to stabilize the dredge or fill area.

(G) A map showing the plan of dredging or filling and the uses proposed for the area.

(H) The time when the project is scheduled to begin and to be completed.

(I) In taking action, the Planning Director, County staff or the Planning Commission may consult any state, federal, or local agency it feels appropriate for consultation and advice.

**(14) Standards for uses involving construction, addition, or reconstruction of piers, docks, boathouses, or similar facilities:**

(a) In a Marine Waterway (M-W) Zone, all uses and activities shall be subject to the standards set forth in the Lincoln County Estuary Management Plan, Ordinance #184.

(b) Evidence shall be provided that the applicant has complied with or fully intends to comply with all standards of the Department of Environmental Quality, the Division of State Lands and all other agencies having interests or ordinances applicable to the property in question.

(c) The facility or any use related to it shall not allow any water pollution to occur to any nearby tidelands, marshlands, rivers, streams, or other waterways used for the raising, production, or preservation of marine life or other natural resources.

(d) The facility shall not substantially alter the course of any channel or the natural movement of any waters or result in increased flood hazards, or the formation of appreciable bottom or sludge deposits deleterious to marine life and shall meet all of the following requirements:

(A) No dock, pier or similar facility shall extend into any watercourse more than 25 feet from ordinary low water line nor 50 feet from ordinary high water line, unless it can be shown that such extension is necessary and will not increase flood hazards or create other problems such as the deterioration or destruction of marine life or wildlife habitat as a result of the extension.

(B) No dock, pier or similar facility shall extend into the navigable channel any distance greater than required for safe moorage and shall be designed so as to minimize potential flood hazard and loss of navigable waterway area.

(C) No pier, dock or similar facility shall extend into any watercourse more than five percent of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side.

(e) No plumbing facilities for the handling of domestic or industrial waste shall be a part of the facility unless approved by the Health Department.

(f) Application for a permit for a pier, dock, bulkhead, boathouse, or similar facility shall include:

(A) The source of the applicant's right to construct the facility.

(B) The purpose of the facility.

(C) The legal description of the area where the facility will be located.

(D) A map and drawings, showing the plan for construction of the facility. Such plan shall include a vicinity map drawn to scale showing location and design of similar facilities and other development within 250 feet of the parcel upon which the improvement is proposed.

(E) The time when the project is scheduled to begin and to be completed.

(g) Plans for moorage facilities shall meet the following requirements:

(A) In new subdivisions tentatively approved after February 12, 1974, docks having less than 10 moorage spaces will be approved only in the instance that no other public or private means of launching or moorage is available or can be developed within 1000 feet of the site in question.

(B) Facilities being proposed in areas where it is likely that additional similar structures will be desired shall be designed to be combined into joint facilities wherever possible.

(C) The design of moorages must provide sheer logs or similar devices for fending debris. Such improvements need not be maintained during periods where there is no danger of flood water.

(D) Docks shall have the long dimension running parallel to the channel unless future development will result in pier construction or moorages being connected, necessitating facility design perpendicular to the channel.

(E) The width of those portions of such facilities dimension required to provide safe access and moorage.

(F) One dock shall not be closer to another than the length of the shorter structure or 25 feet whichever distance is greater.

(G) The number of ramps, fenders and other land connections, and the number of piling and other projection below the surface of the water shall be minimized.

(H) Walkways shall be provided on only one side of individual moorages unless it can be satisfactorily shown that walkways are necessary on both sides. Walkways and breakwaters shall have a width not greater than required to provide safe moorage and access thereto.

(h) Each dock, boathouse, or similar facility shall have the U.S. Army Corps of Engineers permit number permanently affixed to the outboard side of the facility in a clearly visible location prior to requesting final Planning Division inspection for conditional use permit issuance.

(i) No owner of a dock or similar facility shall exercise any proprietary rights on the water surrounding such structure. Violations of such will be considered a failure to maintain the Conditional Use approval requirements.

(j) Recognition of potential flood hazards as well as the need to protect the visual attractiveness of the waterway shall be shown in design and exterior materials used in construction of docks, piers, boathouses and similar facilities.

(k) In taking action on a Conditional Use request, the Planning Division or the Planning Commission may consult any State, Federal or local agency it feels appropriate for consultation and advice.

**(15) Standards for outdoor recreation developments:**

(a) Permanent residency shall be limited to caretakers, proprietors or other personnel required to operate the outdoor recreation development.

(b) All recreational vehicle spaces shall be screened from roadways, streams or creeks by sight obscuring vegetation.

(c) Materials used in all improvements shall be of a nature compatible with the surrounding area.

(d) Recreational vehicle spaces, camp or cabin sites shall have a maximum density of four spaces or sites per acre.

(e) Outdoor recreation development areas devoted to spaces or sites shall not exceed ten acres per development.

(f) Plans for water supply and sewage disposal improvements must be approved by the State Health Division and the Department of Environmental Quality respectively prior to the issuance of a building permit.

(g) The total number of a combination of the above accommodations shall not exceed the allowable density of any of the accommodations developed independently.

**(16) Standards for livestock:**

(a) The minimum lot area requirement for the keeping of horses, cows, sheep, goats or swine is 40,000 square feet.

(b) The minimum lot area requirement for the keeping of chickens, ducks, geese, pigeons, and rabbits is 5,000 gross square feet.

(c) Adequate fencing to contain the animals is required and must be located no closer than 100 feet from any other residence in other than RR1-2, RR-5, A-C or T-C zones; for horses, cows, sheep, goats, or swine, and 25 feet from any other residence for rabbits and fowl.

(d) The total number of animals, other than their young under the age of six months, allowed on a lot or parcel shall be limited by the sum of the minimum square footage requirement for each animal as listed below never to exceed the square footage of the lot or parcel meeting the fencing requirements and which is fenced. The Planning Division or Planning Commission for cause, such as soil factors, terrain, density or surrounding residential properties, may require greater minimums for each animal. Net land per animal:

(A) Horses or cows: One animal for the first 40,000 square feet, and one animal per 15,000 square feet thereafter, except for supervised stables boarding horses for profit within enclosed structures which shall provide land area requirement only for horses to be kept in pastures.

(B) Sheep, goats, or swine: One animal for the first 20,000 square feet, and one animal per 10,000 square feet thereafter.

(C) Rabbits: One per 10 square feet, caged.

(D) Fowl: One per 10 square feet, penned.

(e) Adequate animal shelters are required for horses, cows, goats, sheep or swine and must be located no closer than 70 feet from the street, or attached to the part of the dwelling opposite the street, and no closer than 70 feet from any other property line.

(f) Adequate animal shelters are required for fowl and rabbits and must be located no closer than 40 feet from the street (or attached to the part of the dwelling opposite the street).

(g) All animal feeds other than hay shall be stored in metal containers or other rodent-proof containers.

(h) All animal wastes and carcasses must be taken care of in a manner so that a health hazard does not exist.

(i) The Planning Division or Planning Commission may for cause restrict or permit the type or sex of animal permitted.

(j) Conditional use applications should be for maximum allowable animals.

**(17) All conditional uses within an A-C Zone shall be reviewed as required in ORS chapter 215.**

**(18) Additional standards for uses in the South Beach I-P zone:**

(a) Access to Highway 101 shall be conditioned on use of alternative road as access when available and closure of Highway 101 access.

(b) Buildings shall be located such that alternative access is not precluded.

(c) Areas visible from Highway 101 shall have visual screening. Visual screening shall include revegetation and may include sight-obscuring fence or berm.

(d) The applicant shall develop a drainage plan which is approved by the County Engineer as part of a coordinated drainage plan.

**(19) Standards for heliports:**

(a) There shall be provisional approval from the Oregon Department of Transportation, Aeronautics Division.

(b) Applicable noise standards of the Oregon Department of Environmental Quality shall be met.

**(20) Standards for mini-storage:**

(a) The mini-storage operation design including signs, structure elevations, painting, plot plan, and materials shall be submitted for review.

(b) Each individual space for rent or sale shall be less than 500 square feet.

(c) Mini-storage shall be limited to dead storage. Outside storage shall be limited to boats, recreational vehicles, and similar vehicles placed within a designated dust-free surfaced area surrounded by a sight-obscuring six foot fence.

(d) Yards shall be permanently landscaped and yard dimensions adjacent to residential zones shall be the same as within the residential zone.

(e) One parking space for each 25 cubicles located at the project office shall be required for use of prospective clients.

(f) All structures shall be fenced and be visually screened. Visual screening shall include permanent re-vegetation which will grow to a height of five feet within four years.

(g) The traffic lane shall be twelve feet wide, and have a ten foot parking lane except where the traffic lane does not serve storage cubicles. All areas providing for vehicle access, parking and movement shall be improved to minimum public road standards.

(h) Change of use to another use such as retail sales or repair services shall require reapplication and conformity to applicable state laws and ordinances.

(i) An on-site caretaker or 24-hour on-site manager may be permitted.

(j) There shall be only one access from each adjacent street.

(k) Outside lighting may be required for all structures.

**(21) Standards for single-wide mobile homes in the R-1 zone:**

(a) Approval of such shall not set a trend or encourage a pattern of growth incompatible with surrounding area development.

(b) All placement and siting standards of Section 1.1440 shall be complied with.

**(22) Standards for bed and breakfast:**

(a) Bed and breakfast facilities shall be restricted to single-family residences.

(b) No more than five sleeping rooms shall be available for the accommodation of facility visitors.

(c) Occupancies shall be limited to no more than 15 days in any 30-day period.

(d) Breakfast shall be the only meal provided to bed and breakfast guests.

(e) The exterior of the building shall maintain a residential appearance from all aspects.

(f) No materials or commodities shall be delivered to or from the residence that are of such a bulk or quantity as to create congestion.

(g) The bed and breakfast facility shall be operated in such a manner so as not to cause unreasonable disturbance to area residents.

(h) Two off-street parking spaces shall be provided for owners or operators with one additional space for each authorized guest room. Off-street parking shall be provided in accordance with standards set forth in LCC 1.1415.

**(23) Standards for parks and campgrounds in the A-C and T-C zones:**

(a) Campgrounds shall be utilized for overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes. Camp sites may be occupied by tents, travel trailers, or recreational vehicles.

(b) Campgrounds authorized in the T-C zone shall not include intensively developed recreational uses such as swimming pools, tennis courts, or commercial amusement uses or commercial services such as retail stores or gas stations.

(c) Individual camp sites may not include utility connections for recreational vehicles or travel trailers. Central comfort stations and similar central facilities may be permitted.

(d) Area devoted to park or campground development shall not exceed 10 acres per development.

(e) Developed camp sites shall not exceed 40 sites per development.

(f) Visitor lodging and retreat facilities are allowed if authorized in a state park master plan adopted by the Oregon Parks and Recreation Department (OPRD): historic lodges, houses or inns and the following associated uses in a state park retreat area only:

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

(B) Dining halls (not restaurants).

**(24) Standards for personal use airports:**

(a) Personal use airports or helipads shall be restricted, except for aircraft emergencies, to use by the owner, by commercial aviation activities in conjunction with agriculture, and infrequent and occasional use by invited guests.

(b) No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the facility.

(c) Exceptions to the limitations on permitted activities contained herein may be allowed subject to a specific waiver action by the State Aeronautics Division authorizing the activity.

**(25) Standards for farm help dwellings:**

(a) Farm help dwellings shall be located on the same lot or parcel as the dwelling of the farm operator.

(b) Occupancy of farm help dwellings shall be limited to grandparents, stepgrandparents, grandchildren, parents, stepparents, children, brothers, sisters, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.

(c) Farm help dwellings shall be occupied by persons whose assistance in the management of the existing commercial farming operation is required by the farm operator. As used in this paragraph, "farm operator" means the person primarily and predominantly responsible for performing the work and making the day-to-day decisions in the management of the farm operation.

**(26) Standards for golf courses in the A-C zone:**

(a) Golf courses in the A-C zone shall be limited to nine hole or 18 hole regulation courses, or some combination thereof, consistent with the following:

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

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

(b) Golf course facilities not meeting the provisions of paragraph (a) of this subsection, including, but not limited to, executive courses, par three courses, pitch and putt courses, miniature golf courses, driving ranges and similar facilities, are not permitted in the A-C zone.

(c) Accessory uses to golf courses shall be limited to those either necessary for the operation and maintenance of the course, or those which provide goods or services customarily provided to golfers at a golf course. Accessory uses may include parking, maintenance facilities, cart storage and repair, clubhouse, restrooms, lockers and showers, food and beverage service, pro shop, and practice or driving range. Accessory uses do not include sporting facilities unrelated to golf, such as swimming pools, tennis courts, weight rooms, commercial uses oriented to persons other than golf course patrons, or housing.

(d) Accessory uses shall be limited in size and orientation to serve the needs of golf course patrons.

(e) Accessory uses which provide commercial services, such as food and beverage service and pro shop, shall be located in the main clubhouse and not in a separate building.

**(27) Standards for primary processing of forest products in the A-C zone:**

(a) Primary processing consists of the use of a portable chipper or stud mill or similar methods of initial treatment of a forest product in order to enable its shipment to market. As used in this paragraph, "forest product" means timber grown upon the tract where the processing facility is to be located.

(b) Processing facilities shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2).

(c) Processing facilities shall be portable and temporary in nature.

(d) Approvals for primary processing facilities shall authorize operation for a period of not more than one year. Such approvals may be extended for subsequent periods of not more than one year.

**(28) Standards for temporary hardship dwellings in A-C and T-C zones:**

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

(a) Hardship dwellings may only be authorized in conjunction with an existing dwelling.

(b) A hardship dwelling may only be authorized based upon a hardship suffered by the resident of the subject property or a relative as defined in ORS 215.283.

(c) The hardship dwelling shall be connected to the same subsurface sewage disposal system as the primary dwelling, unless this system is found to be inadequate for such use by the On-Site Waste Management Division, or the dwelling can be connected to a public sewer.

(d) The existence of the medical hardship shall be confirmed on a yearly basis by a physician.

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

(f) As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.

**(29) Standards for Wireless Communication Facilities:**

All wireless communication facilities to be authorized as conditional uses shall comply with the following standards:

(a) As used in this subsection, “wireless communication facility” means an unstaffed facility for the transmission and/or reception of radio frequency signals, usually consisting of an equipment cabinet or other enclosed structure containing electronic equipment, a support structure, and antennae or other transmission and reception devices.

(b) Wireless communication facilities shall be sited in accordance with the following priorities, in order of their preference:

(A) Co-location by placement of antennae or other transmission and reception devices on an existing tower, building or other structure such as a utility pole or tower, water tank or similar facility.

(B) Use of mini cell or similar alternate technology whereby transmission and reception devices are placed on existing structures or placed on new structures which are consistent in height with and sited similarly to types normally found in the surrounding area, such as telephone, electrical, or light poles.

(C) Siting of a new tower in a visually subordinate manner. As used in this subparagraph, “visually subordinate” means the relative visibility of a wireless communication facility where that facility does not noticeably contrast with the surrounding landscape. Visually subordinate facilities may be partially visible, but not visually dominant in relation to their surroundings as viewed from residences, highways or other public vantage points.

(D) Siting of a new tower in a visually dominant location, but employing concealment technology. As used in this subparagraph, “concealment technology” means technology through which a wireless communication facility is designed to resemble an object present in the natural environment or to resemble a building of a type typically and customarily found in the area.

(c) Applicants proposing the siting of wireless communication facilities through means other than co-location shall demonstrate why higher priority alternatives for providing the specific, proposed wireless service are not feasible. As used in this paragraph, “not feasible” means that the proposed wireless communication service cannot be provided in a reasonable, practicable and cost effective manner. Factors that may render an alternative not feasible may include:

(A) Existing buildings or towers are structurally inadequate to accommodate the proposed facility, and cannot be reasonably retrofitted.

(B) The alternative would cause radio frequency interference that would materially impair the functioning of existing or planned equipment at the tower or site, and such interference cannot be reasonably mitigated.

(C) The alternative cannot provide the radio frequency coverage required to provide the proposed service.

(D) The alternative is precluded by law, rule, regulation, contract or other legal authority.

**(30) Standards for the propagation cultivation, maintenance and harvesting of aquatic or insect species in the A-C zone:**

(a) Insect species shall not include any species under quarantine by State Department of Agriculture or the United States Department of Agriculture.

(b) The director shall provide notice of any application for conditional use approval to the State Department of Agriculture at least 20 days prior to an administrative decision under LCC 1.1210 (2) or initial public hearing under LCC 1.1210 (3).

**(31) Standards for farm stands in the A-C zone:**

(a) Structures shall be designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.

(b) Retail sales of other incidental items and/or fee based activity to promote the sale of farm crops and livestock sold at the farm stand are permitted provided that the revenues from sale of incidental items and fee based promotional activity do not exceed 25 per cent of the total annual sales of the farm stand.

(c) A farm stand shall not include structures designed for occupancy as a residence or for activity other than the sale of farm crops and livestock, and may not include structures for banquets, public gatherings or public entertainment.

(d) As used in this section, “farm crops or livestock” includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.

(e) As used in this subsection, “processed crops and livestock” includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

(f) As used in this Section, “local agricultural area” includes Oregon.

**(32) Standards for facilities for processing of farm crops in the A-C zone:**

(a) Facilities shall be located on a farm operation that provides at least one quarter of the farm crops processed at the facility.

(b) Building floor area devoted to processing shall not exceed 10,000 square feet, exclusive of floor area designated for preparation, storage or other farm use.



(c) Facilities must comply with all applicable siting standards. However, standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.

(d) County may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

**(33) Standards for youth camps in the T-C zone:**

As authorized in the T-C zone, a youth camp is a facility owned or operated by either a state or local government, or a non-profit corporation as defined under ORS 65.001, for the purposes of providing outdoor recreational and educational experiences primarily for the benefit of persons twenty-one years of age and under. Youth camps do not include any manner of juvenile detention center or facility. Youth camps shall comply with the following standards:

(a) The maximum number of overnight participants that may be accommodated shall not exceed 350 persons including staff, except that this maximum number may be exceeded for up to eight nights in a calendar year.

(b) Overnight stays for adult programs primarily for persons over twenty-one years of age (excluding staff) may be permitted, but shall not exceed 10% of the total nights of operation.

(c) A youth camp shall not interfere with the exercise of legally established water rights.

(d) A youth camp shall be located on a lot or parcel of at least 40 acres in size.

(e) A youth camp shall be located in a forested setting appropriate to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby land.

(f) Youth camp structures shall be set back a minimum of 250 feet from adjacent property lines and public roads, except that a lesser setback may be permitted if:

(A) The proposed setback will not result in conflicts with commercial resource management practices;

(B) The proposed setback will not significantly increase safety hazards associated with vehicular traffic; and,

(C) The proposed setback will provide an appropriate buffer for nearby and adjacent lands from the visual and audible aspects of youth camp activities.

(g) Youth camps shall not be served by a sewer system as defined in OAR 660-011-0060 (1)(f).

(h) Recreational facilities shall be limited to passive improvements such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. One swimming pool may be permitted if no lake or other water feature suitable for aquatic recreation is located on or adjacent to the subject property. Intensively developed facilities such as tennis courts, gymnasiums and golf courses are not permitted.

(i) Covered areas that are not fully enclosed such as pavilions and riding arenas may be permitted.

(j) Primary cooking and eating facilities shall be provided in a single building. Secondary cooking and eating facilities may be provided in other buildings that primarily accommodate other youth camp activities, except that no such cooking or eating facilities shall be permitted in buildings primarily serving as sleeping quarters.

(k) Sleeping quarters may include cabins, tents or other structures. Sleeping quarters may include lavatories, but bathing or kitchen facilities are not allowed in sleeping quarters.

(L) Up to three camp activity buildings may be permitted in addition to primary cooking and eating facilities and sleeping quarters.

(m) Accessory buildings necessary for the operation of the camp, including but not limited to buildings for administrative services, equipment and supply storage, maintenance services, and first aid and infirmary services, may be permitted.

(n) One caretaker's residence may be permitted if there are no other dwellings on the subject property.

(o) Youth camps shall comply with the siting and fire protection standards of LCC 1.1375 (7).

(p) Applications for authorization of a youth camp shall include a fire safety protection plan which shall describe how the following fire safety measures will be provided:

(A) Fire prevention measures;

(B) On-site pre-suppression and suppression measures; and

(C) Establishment and maintenance of fire safe assembly areas for camp participants.

(q) On-site fire suppression measures shall include at a minimum:

(A) At least 1000 gallon mobile water supply that can access all areas of the camp;

(B) A minimum 30 gallon-per-minute water pump with sufficient hose and nozzles; and

(C) A sufficient number of firefighting hand tools; and

(D) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

(r) An equivalent level of fire suppression may be authorized in the alternative to subparagraph (q) based on the Oregon Department of Forestry (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is located in an area protected by ODF and not served by a structural fire protection provider.

(s) The requirements for on-site fire suppression measures contained in subparagraph (q) may be waived if a proposed youth camp is located in an area served by structural fire protection service and the provider of that service informs Lincoln County in writing that on-site fire suppression at the camp is not needed.

(t) Approval of a youth camp requires that the land owner sign and record in the deed records of Lincoln County a document binding on the owner, or operator of the camp if different than the owner, and the owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**(34) Standards for storage structures for emergency supplies in the T-C zone:**

(a) Upon application for conditional use approval for the placement of emergency supply structures in the T-C zone, the Director shall provide written notification of such application to the Lincoln County Sheriff's Office, Emergency Management.

(b) Structures shall be located outside the tsunami inundation zone and consistent with evacuation maps prepared by the Oregon Department of Geology and Mineral Industries (DOGAMI) or other evacuation plans adopted by a local government entity.

(c) Structures may be authorized in the T-C zone only if locations within an urban growth boundary cannot reasonably accommodate the structures.

(d) Sites where the structures could be co-located with an existing use authorized under LCC 1.1375 (2) shall be preferred; applications for sites not co-located with other uses shall demonstrate that such co-location is not reasonably practicable.

(e) Structures shall be limited to a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served.

(f) The structures shall be managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public. [1985 o.231 §1; 1987 o.262 §1; 1990 o. 288 §1; 1994 o.347 §6; 1998 o.375 §3; 2001o.415 §1; 2001 o.416 §4; 2017 o.499 §1]

## NON-CONFORMING USES

### 1.1701 Non-Conforming Uses

#### (1) Definitions:

(a) The use of any building, structure or land which is lawful at the time of the enactment of any zoning ordinance, regulation or amendment thereto, and is not permitted by the zoning ordinance, regulation or amendment, shall be considered a "nonconforming use," and may be continued.

(b) As used in this section, "alteration" of a non-conforming use or structure includes:

(A) A change in the use of no greater adverse impact to the neighborhood; and

(B) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

#### (2) Alteration:

Alteration of a non-conforming use may be permitted in accordance with subsection (5) of this section to reasonably continue the use. Alteration of a non-conforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. A change of ownership, control or occupancy of a non-conforming use shall be permitted.

#### (3) Restoration and Replacement:

Restoration or replacement of any non-conforming use shall be permitted when made necessary by fire, other casualty or natural disaster, and shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.

#### (4) Interruption and Abandonment:

A non-conforming use interrupted or abandoned for a period of more than one year may not be resumed.

#### (5) Alteration Approval:

Any proposal for the alteration of a nonconforming use, except an alteration necessary to comply with a lawful requirement or an alteration made for the purpose of replacement or restoration under subsection (3) of this section, shall require application and review pursuant to LCC 1.1210(2). [1995 o.354 §1]

## VARIANCES

### **1.1801 Authorization to Grant or Deny Variances**

The Planning Commission or Planning Department may authorize variances from the requirements of LCC 1.1310 to 1.1940 where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of these requirements 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, or to increase building height more than ten percent higher than is otherwise permitted, except to complete a story of which more than half falls within the allowable height limit of that zone, or to allow construction of a structure one story higher than the finished ground elevation on the highest side of the structure. In granting a variance the Planning Director or Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this chapter.

### **1.1810 Circumstances for Granting a Variance**

A variance may be granted only in the event that all of the following circumstances are found to exist:

(1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to February 12, 1974, topography, or other circumstances over which the applicant has no control.

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.

(3) The variance would not be materially detrimental to the purposes of this chapter, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any county plan or policy.

(4) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

(5) The hardship does not arise from a violation of the provisions of this chapter.

(6) A request for a variance to the flood plain standards, LCC 1.1386 through 1.1394, in addition to the above, shall conform to the following:

(a) A variance may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Oregon Statewide Inventory of Historic Sites and Buildings without regard to LCC 1.1810(6)(b) through (e).

(b) A variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(c) A variance may be issued for new construction or substantial improvement to be erected on a lot of one-half acre or less in size when contiguous to and surrounded by lots with existing structures constructed below the base flood level.

(d) The variance shall only be issued upon:

(A) A showing of good and sufficient cause;

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

(C) A determination that the granting of the 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 local laws or ordinances; and

(D) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) If a variance is issued under the provisions of this subsection, except under paragraph (a) of this subsection, and allows construction below the base flood level, then the Planning Division shall:

(A) Notify the applicant in writing over the signature of the Planning Director that:

(i) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and

(ii) Such construction below the base flood level increases risks to life and property.

(B) File in deed records, Lincoln County Clerk's Office, notification of issuance of the variance, which shall contain the following at a minimum:

(i) Assessor's map and tax lot number of the property to which the variance is issued;

(ii) Legal description of the property as shown on the latest deed or land sales contract;

(iii) Findings, conclusions, limitations, and description of the variance;

(iv) The statements contained in subparagraph (A) of this paragraph;

(v) Date that the variance was issued; and

(vi) Signature of the Planning Director, which signature shall be notarized.

(7) New construction which consists of minor additions to the exterior of an existing structure which do not constitute substantial improvement, and which do not violate the intent of either the County or Federal Flood Plain Management Programs may be granted a variance to the elevation requirements of LCC 1.1395 under the provisions of subsections (1) through (5) of this section without being subject to the provisions of subsection (6) of this section.

#### **1.1820 Time Limit on a Variance**

Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the Planning Division or Commission may extend authorization for an additional period not to exceed one year, on request.

#### **1.1830 Variance Procedure**

(1) A property owner may initiate a request for a variance by filing an application with the Planning Division on forms prescribed by the Division.

(2) Upon receipt of a completed application, the Planning Division may take action on a variance request in accordance with LCC 1.1210(2).

(3) If the variance has more than routine significance as determined by the Planning Division, a public hearing may be set for Planning Commission consideration of the request in accordance with the requirements of LCC 1.1210(3).

## **DEVELOPMENT GUIDELINES**

### **1.1910 Intent**

The intent of development guidelines is to provide procedures necessary to secure the desirable attributes of the county from depletion and otherwise protect against hazardous or otherwise undesirable developments. "Development", as used in LCC 1.1910 to 1.1940, means the act, process or result of developing, but excludes those forest operations and associated activities which are governed by the Oregon Forest Practices Act and Rules.

### **1.1915 Scope**

Development guidelines shall apply to those areas of concern as described in the following sections and identified on the Comprehensive Plan and Zoning maps and the Comprehensive Plan Inventory for Lincoln County.

### **1.1920 Procedure**

The following procedure shall be followed in determining the suitability and desirability of development being proposed in areas of concern as described in this section:

#### **(1) Application:**

Applicants requesting approval of land use actions in areas subject to the provisions of this section shall be required to submit, along with any application for a building permit or other development, a detailed site plan and/or written statement demonstrating how the proposed activity takes into account each of the applicable considerations and conforms to each applicable standard specified in this section.

#### **(2) Review:**

Statements and diagrams of recognition of considerations and conformance with standards submitted along with requests for development will be reviewed in the following manner:

(a) **Building Permits Approval:** For development proposed which has impact only to the immediate area, as determined by the Planning Division, the above mentioned statements and diagrams will be reviewed by the Planning Division as part of the Building Permit approval procedures. If the proposed development appears to adequately recognize the applicable considerations and conforms to all applicable standards outlined above, the Building Permit will be approved. If questions are raised regarding recognition of considerations or conformance with standards, a meeting date shall be set by the Planning Division with the request or to discuss the areas of question. If such questions can be resolved satisfactorily, the Building Permit will be approved. For development proposed which has an impact greater than the surrounding vicinity, as determined by the Planning Division, or for development proposed which the Planning Division cannot satisfactorily resolve questions regarding recognition of considerations, the requests will be referred to the County Planning Commission for resolution.

#### **(b) Other Approvals:**

Statements and diagrams of considerations and standards for subdivisions, land partitioning, conditional uses, rezones, and other development activities which do not require building permit approval shall be reviewed by the Planning Division for those activities which have an impact only to an immediate area. If the Planning Division determines such considerations are satisfactorily recognized, requests will be approved for those decisions which this Chapter authorizes. If such a proposal is determined by the Planning Division to have an impact greater than the surrounding

vicinity; if the Planning Division is not authorized to make a decision on the matter; or if agreement is not reached between the request or and the Planning Division that the considerations have been satisfactorily recognized, the item will be referred to the Planning Commission for resolution.

### **1.1925 Geologic Hazards**

The following development guidelines are applicable to hazards identified in Bulletin 81, State Department of Geology and Mineral Industries, Environmental Geology of Lincoln County, 1973, or Environmental Hazard Inventory, RNKR Associates, 1978, or by other means:

#### **(1) Purpose:**

Various geological formations have different characteristics with respect to suitability for development because of faults, flood or landslide potential, high ground water, stream bank, beach or headland erosion, and other factors. The following development guidelines have been prepared in order that geologic hazards will be recognized and the losses resulting therefrom will be lessened.

#### **(2) Areas of Concern:**

The primary areas of concern are active landslides, high ground water, beach erosion and others. Such hazards are identified in the RNKR Environmental Hazard Inventory, RNKR Associates, 1978, Environmental Geology of Lincoln County, DOGAMI, 1973, or may be determined by other means. Maps included in these studies are a part of the Lincoln County Comprehensive Plan Inventory and are available at the Department of Planning and Development.

#### **(3) Standards:**

The following shall be required in areas of geologic hazards as identified:

##### **(a) Ocean Front Lots:**

Setbacks from the shoreline for structures shall be based on identified recession rates in accordance with formulas set forth in Environmental Hazard Inventory, PNKR, page 35. Deviations from required shore front setbacks may be permitted upon submission of a site specific geotechnical analysis prepared by a registered geologist or certified engineering geologist which specifies adequate safeguards to compensate for the reduced setback.

##### **(b) Geologically Recent Landslides:**

A site specific geotechnical analysis prepared by a registered geologist or certified engineering geologist is required for all development requests on lands within 100 feet of a geologically recent landslide. The geotechnical analysis shall identify the nature and extent of the hazard or hazards present and shall provide specific recommendations for measures adequate to safeguard the proposed development from the identified hazard or hazards.

##### **(c) Massive Ancient Landslides:**

Major developments such as subdivisions or Planned Developments shall require a site specific geotechnical analysis as specified in paragraph (b) of this subsection. Other developments which require extensive cuts, fills, excavation, road construction or other major modifications to existing land forms shall also require a geotechnical analysis as specified in paragraph (b) of this subsection.

##### **(d) High Groundwater Areas:**

For development of three or more parcels of less than two acres a detailed geotechnical or engineering analysis shall be required except where sewer is already available, to identify the extent of the problem and establish the feasibility of developing with individual on-site subsurface sewage disposal systems. Cumulative adverse off-site environmental impacts shall be measured to



determine acceptable levels of development in order to avoid ground water contamination and avoid problems for adjoining or down-slope properties. Any proposed subdivision or partitioning in areas identified as potentially having potable ground water in quantities capable of augmenting local domestic water supplies shall be required to establish that the proposed development will not degrade the water quality to the extent that it renders such water unsuitable for domestic use.

**(e) Weak Foundation Soils:**

In areas known to have weak foundation soils for construction of buildings and roads, a detailed soils analysis shall be made by a qualified soils expert. The analysis shall include a recommendation to overcome identified limitations prior to development approval.

**1.1930 Beaches and Dunes**

The following development guidelines are applicable in beach and dune area identified in the Beaches and Dunes of the Oregon Coast, CC & DC, 1975, and further identified in Environmental Hazard Inventory, Coastal Lincoln County, RNKR Associates, 1977, or by other means:

**(1) Purpose:**

Sand areas may be subject to wind erosion, wave undercutting, ocean flooding and storm waves. The following development guidelines have been prepared in order that sand area characteristics will be recognized and the development appropriate.

**(2) Areas of Concern:**

Areas designated in the Lincoln County Comprehensive Plan Inventory as sand areas.

**(3) Standards:**

The following standards shall be applied in the review of land use actions in all identified sand areas.

(a) Except for the Alsea and Siletz sand spits uses on active foredunes, conditionally stable dunes subject to ocean undercutting or wave overtopping and interdune areas (deflection plains) subject to ocean flooding shall be limited to hiking trails, platforms for wildlife viewing and similar low intensity educational, recreational or open space uses.

(b) A revegetation plan is required prior to development. Building construction shall be designed and located to minimize vegetation removal, dune form alteration and exposure to erosion. The plan shall consider the following:

(A) The type of use proposed and the adverse effects it might have on the site and adjacent areas;

(B) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

(C) Methods for protecting the surrounding area from any adverse effects of the development; and

(D) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

**(c) Foredunes:**

Foredunes shall be breached only to replenish sand supply in interdune areas, or on a temporary basis in an emergency, such as fire control, cleaning up oil spills, draining farm lands, and alleviating flood hazards, and only if the breaching and restoration after breaching is accomplished under the supervision of a qualified sand expert.

**(d) Groundwater Areas:**

(A) Prior to approval of uses proposed in areas identified in the Comprehensive Plan Inventory as potentially having potable ground water in quantities capable of augmenting local domestic water supplies, the applicant shall provide a report by the Oregon Department of Environmental Quality (DEQ) or other acceptable authority that the use shall not degrade water quality below DEQ's standards.

(B) Prior to approval of development using ground water sources, a technical report shall be provided by the applicant which demonstrates that the use will not draw down ground water to levels which would lead to loss of stabilizing vegetation or intrusion of saltwater into water supplies.

### **1.1935 Scenic Areas, Historic and Archaeological Sites, and Fish and Wildlife Habitats**

The following development guidelines shall apply to scenic areas, historic and archaeological sites and fish and wildlife habitats as identified in the Lincoln County Comprehensive Plan Inventory:

#### **(1) Purpose:**

The scenic, historic and fish and wildlife resources of Lincoln County make it a desirable location to visit and in which to reside. These resources are of importance to the citizens of the county for environmental, social, and economic reasons. The following development guidelines are established to ensure that the viability of such resources is not destroyed.

#### **(2) Areas of Concern:**

Areas designated in the Lincoln County Comprehensive Plan Inventory as having value as scenic, historic or fish and wildlife resources shall be subject to the provisions of this section.

#### **(3) Considerations:**

The following list indicates the considerations which shall be recognized in the review of land use actions in areas subject to the provisions of this section:

##### **(a) Scenic Areas:**

- (A) Maintaining natural vegetation whenever possible.
- (B) Landscaping areas where vegetation is removed and erosion might result.
- (C) Screening unsightly land uses, preferably with natural vegetation or landscaping.
- (D) Limiting rights-of-way widths and numbers of roads intersecting scenic roadways to the minimum needed to safely and adequately serve the uses to which they connect.
- (E) Limiting signs in size and design so as not to distract from the attractiveness of the area.
- (F) Siting developments to be compatible with surrounding area development, and recognizing the natural characteristics of the location.
- (G) Limiting excavation and filling only to those areas where alteration of the natural terrain is necessary, and revegetating such areas as soon as possible.
- (H) Protecting vistas and other views which are important to be recognized because of their limited number and importance to the visual attractiveness of the area.
- (I) Concentrating commercial developments in areas where adequate parking and public services are available, and discouraging strip commercial development.

##### **(b) Fish and Wildlife Habitats:**

- (A) Protecting water quality and minimizing structural encroachment into natural waterways and drainage ways.

(B) Maintaining natural riparian vegetation. Riparian vegetation as used in this paragraph means naturally occurring vegetation within 50 lineal feet of a body of water as measured along the existing grade.

(C) Reestablishment of vegetation in riparian areas when disturbance is unavoidable.

(D) Minimizing filling, drainage and channelization in wetland areas.

(E) Providing for the maximum practicable amount of open space in development.

(F) Maintaining existing native upland vegetation.

(G) Retaining large dead trees (snags) when safety considerations permit.

(H) Protecting perching trees and maintaining low intensity uses within 150 meters of pigeon mineral springs.

(I) Protection of trees within the primary nest zone (the area encompassed by the boundary drawn to enclose all nests) or heron rookeries.

(J) Maintaining natural vegetation within 100 meters of the primary nest zones of heron rookeries.

(K) Preservation of trees and maintenance of low intensity uses within a 100 meter radius of eagle and osprey nests.

(L) Protection of old growth trees within 400 meters of existing eagle and osprey nests.

(M) Locating dwellings as close as practical to roads, other dwellings and other existing development in areas of major big game range.

(N) Minimizing road buildings excavation and other construction activities in areas of major big game range.

### **1.1940 Airport Areas**

The following development guidelines are applicable to those areas in close proximity to airports within the county, and particularly in approach pattern areas:

#### **(1) Purpose:**

Since airports are an important community asset and investment, they must be protected from encroaching incompatible uses which may subsequently have a deleterious effect on the expansion or future operation of the facility. These development guidelines have been prepared in order to achieve the potential of all airports. The operation of airports should not be placed in jeopardy or be limited by future standards that would be enacted to provide for the safety and health of structures and inhabitants when they should initially have been limited or prevented from locating in close proximity to the airport facility.

#### **(2) Areas of Concern:**

At the present time there are four public airport or landing facilities in the county which warrant the provision of some means of protection. They are located at Siletz Bay, Toledo, Newport, and Waconda Beach. Areas of concern around each of these facilities are delineated on County Zoning Maps. Private landing strips and heliports are not delineated but may still be subject to applicable restrictions.

#### **(3) Standards:**

The following standards shall apply in airport areas:

##### **(a) Airport Area Height Limitations:**

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow to a height in excess of the applicable height herein established. Such height limitations shall be established in accordance with regulations of

the Federal Aviation Administration relating to objects affecting navigable airspace, 14 CFR Part 77.

**(b) Use Restrictions:**

Regardless of any other provisions of this section, no use may be made of land or water within any area covered by this section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

**(c) Marking and Lighting:**

The owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by Lincoln County to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

**(d) Future Uses:**

Except for the exceptions provided in paragraph (e) of this subsection, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any airport area unless approved by the Lincoln County Planning Commission or Planning Division through a conditional use permit. Each application shall indicate the purpose for which the approval is desired, with sufficient detail to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the approval may be granted. No permit for a use inconsistent with the provisions of this section shall be granted.

**(e) Exceptions:**

(A) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(B) In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(C) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no approval shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

(D) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any height limits established by this section.

**(f) Existing Uses:**

No approval shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on June 25, 1980, or than it is when the application for a permit is made.

**(g) Variances:**

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this section, may apply to the Planning Division or Commission for a variance from such regulations in accordance with LCC 1.1801 through 1.1830. The application for variance shall be accompanied by a determination from the Federal Aviation Administration and the Aeronautics Division of the Department of Transportation as to the effect of the proposal on operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed where the requirements of LCC 1.1810 have been met and it is found that the relief granted will not be contrary to the public interest and will not create a hazard to air navigation. Additionally, no application for variance to the requirements of this section may be considered by the Planning Commission or Planning Department unless a copy of the application has been furnished to the airport owner for comment as to the aeronautical effects of the variance. Failure of the airport owner to respond to the request for comments shall not prevent Lincoln County from acting on its own to grant or deny the application.

**(h) Land Uses Within Airport Areas:**

All structures and uses within the airport areas shall conform to the requirements of regulations of the Federal Aviation Administration relating to objects affecting navigable airspace, 14 CFR Part 77, and to other federal and state laws regulating structural height, smoke, steam or dust and other hazards to flight, air navigation, or public health, safety and welfare. Within the various airport areas, certain uses are compatible and certain uses are not because of possible negative effects on either the airport or the use. Such effects on the airport may include danger to property or life from accident, noise, and vibration. Because of these factors, the special airport zones have been further limited or restricted as follows:

**(A) Approach Zones:**

- (i) The following uses are prohibited except as required for airport use:
  - (aa) Places of public assembly.
  - (bb) Residential density greater than one unit per five acres.
  - (cc) Retirement homes and other residential institutions.
  - (dd) Hospitals.
  - (ee) Schools.
  - (ff) Aggregate extraction where ponding and birds pose a strike hazard.
  - (gg) Above ground power lines within clear zones.
  - (hh) Storage of hazardous material as defined by the National Fire Protection Association.
  - (ii) Communications towers.
  - (jj) Solid waste disposal sites.
  - (kk) Commercial or industrial use with potential operations hazards such as electrical interference, high intensity lighting, smoke, glare, noise, and other hazards.
- (ii) All other uses as listed in the underlying zone with a hold-harmless agreement and navigational easement.

**(B) Clear Zones:**

- (i) The clear zone shall be free of any construction or obstacle and shall be minimally used by people.
- (ii) Agriculture which does not attract birds is compatible, but no structures are allowed.
- (iii) Above ground power lines are prohibited.
- (iv) Airport clear zones are subject to the conditions as shown in the airport's master plan.

**(C) Moderate Noise Impact Zone (LDN 55+):**

(i) Schools, hospitals, nursing homes, theaters, auditoriums, residential development and all other places of public assembly shall have noise insulation in accordance with Oregon Department of Environmental Quality standards and recommendations.

(ii) Housing shall be oriented such that screening with fences, berms or other treatment reduce awareness of the airport.

**(D) Substantial Noise Impact Zone (LDN 65+):**

(i) Airport terminal with appropriate insulation.

(ii) Hangars.

(iii) Other airport related uses only.

**1.1945 Otter Rock Wellhead Protection Area**

The following Development Guidelines shall apply to the Otter Rock Water District Wellhead Protection Area as identified in the Lincoln County Comprehensive Plan Inventory:

**(1) Purpose:**

The groundwater resource within the Otter Rock Water District Wellhead Protection Area has been identified as a significant Goal 5 resource. This resource provides the sole source of drinking water to the community of Otter Rock. This resource is of critical importance to property owners and residents of Otter Rock for both public health and economic reasons. The following development guidelines are established to reduce the risk of contamination of this groundwater resource.

**(2) Areas of Concern:**

Lands within the Otter Rock Water District Wellhead Protection Area, as identified and mapped in the Lincoln County Comprehensive Plan Inventory, shall be subject to the provisions of this section.

**(3) Standards:**

The following standards shall be applied to all proposed development within the Otter Rock Water District Wellhead Protection Area:

(a) Where a public or community sewage disposal system which can serve a proposed sewage flow is both legally and physically available, as defined in OAR 340-071-0160, installation of on-site sewage disposal systems is prohibited.

(b) Notwithstanding the provisions of the underlying use zone, the minimum lot area per dwelling unit shall be 5 acres when a lot is not served by a public or community sewage disposal system.

(c) Home occupations or other conditional uses which involve the use of hazardous or toxic materials are hereby determined to be incompatible with existing uses (groundwater protection) on surrounding lands, and are prohibited as failing to comply with LCC 1.1630(1)(b).

(d) The Division shall provide written notice to the Otter Rock Water District of all land use applications within the wellhead protection area at least 20 days prior to issuing a decision on such applications. [1999 o.389 §2]

**1.1950 Agate Beach Landfill and Transfer Station**

The following development guidelines are intended to implement Statewide Planning Goal 11 and OAR 660-011-0060 for the Agate Beach Landfill and the Solid Waste Transfer station currently operated by Thompson's Sanitary Service, Inc., on land described as Tax Lots 1300,

1300-21, 1300-22, and 1305, Assessor's Map 10-11-17. These guidelines are applicable only if the aforementioned property is located outside the Newport Urban Growth Boundary.

**(1) Purpose:**

The purpose of these guidelines is to allow extension of sewer service outside the Newport Urban Growth Boundary (UGB) to allow leachate from the closed Agate Beach Landfill and the existing solid waste transfer station to be collected and transported to the Newport Wastewater Treatment facility located inside the Newport UGB. This connection is necessary to comply with plans approved by the Department of Environmental Quality (DEQ) under closure permit # 373 for the Agate Beach Landfill, and with DEQ mandated operational requirements for the transfer station.

**(2) Restrictions:**

Sewer service shall not be extended beyond the subject property outside the UGB. Sewer service to the subject property shall be limited to serving leachate collection and transmission facilities.

**(3) Applicability:**

The procedures required in LCC 1.1920 shall not apply to any development on the subject property. The guidelines shall only preclude use and extension of sewer service except as authorized herein. Nothing in these guidelines shall prohibit other uses authorized under applicable planning and zoning designations, ongoing closure activities related to the closed landfill, or ongoing operational activities related to the solid waste transfer station. [1999 o.390 §2]

**1.1955 Traffic Impact Mitigation**

The following development guidelines shall apply to the review of development proposals identified as creating substantial increases in traffic or creating other potentially adverse impacts or burdens on transportation facilities:

(1) Purpose: The following development guidelines implement OAR 660-012-0045(2)(e), which requires a process to apply conditions to development proposals in order to protect and minimize adverse impacts to transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts through a traffic impact study, the standards for approval or denial of an application based on the level of traffic impacts identified in a traffic impact study, and the authority to impose conditions or limitations on a proposed development as needed to mitigate adverse traffic impacts.

(2) Standards: The following standards shall apply to any application filed with the division pursuant to LCC 1.1210(2) or 1.1210(3):

(a) Applications Requiring Traffic Impact Study: A traffic impact study is required for any application identified in this section which the county engineer determines may result in operational or safety problems or which will have one or more of the following impacts:

(A) An increase in site traffic generation of 500 or more average daily trips or 100 hourly vehicle trips as determined in accordance with the latest edition of the Trip Generation manual, published by the Institute of Transportation Engineers;

(B) An increase in use of adjacent streets by 10 or more vehicles per day exceeding 20,000 pound gross vehicle weight;

(C) A proposed approach location does not meet the standards set forth in LCC 6.025 or is located where vehicles entering or leaving the property are restricted; or

(D) A change in internal traffic patterns that may cause safety problems, such as back up onto a highway or traffic crashes in the approach area.

(b) A required traffic impact study shall be prepared by a professional engineer licensed in the State of Oregon in accordance with applicable Oregon Administrative Rules.

(c) The study area for a required traffic impact study shall evaluate all collector and arterial intersections impacted by 50 or more peak hour vehicle trips generated by the proposed land use.

(d) A required traffic impact study for an amendment shall evaluate the use with the highest trip generation potential that could be permitted by the proposed amendment.

(e) For applications impacting a state highway, a required traffic impact study shall be prepared in the manner set forth in OAR 734 division 051.

(f) Approval Criteria: When a traffic impact study is required, approval of the subject application requires satisfaction of the following criteria:

(A) Conditions resulting from the proposed development, including any mitigation measures, will meet county's level-of-service standard of "D" or volume-to-capacity ratio of 0.90 and, if a state highway is impacted, the standards of OAR 734-051 for impacted state highways; and

(B) The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:

(i) Minimize negative impact on all applicable transportation facilities;

(ii) Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable; and

(iii) Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations.

(g) Conditions of Approval: In approving any application subject to this section, the director or commission may impose any conditions or requirements found necessary to achieve compliance with the purpose and standards of this section, including but not limited to:

(A) Dedication of land for streets, transit facilities, or other transportation facilities; and

(B) Improvements such as paving, curbing, installation of or contribution to turn lanes or traffic signals, or construction of streets that serve the proposed use. [2008 o.456 §10]



## LAND DIVISIONS

### 1.3210 Purpose

As authorized by law, including ORS chapters 92 and 215, the following requirements and standards relating to the division of land apply to all land within the unincorporated area of the County. These regulations have the following objectives:

- (1) To allow for the proper location of utilities.
- (2) To specify the width, location and improvement of public and private streets and roads.
- (3) To provide for adequate sewage disposal.
- (4) To provide for adequate water supplies.
- (5) To provide for drainage facilities.
- (6) To reduce danger from geologic hazards, floods, fire and pollution.
- (7) To otherwise secure the objectives of the Lincoln County Comprehensive Plan. [1994 o.336 §1]

### 1.3215 Approval of Subdivisions

(1) No plat or replat of a subdivision of land shall be recorded or have any validity unless and until it has the approval of Lincoln County as provided for in this chapter.

(2) No person shall dispose of, transfer, or sell any lot in any subdivision until final approval is obtained and the plat of that subdivision recorded.

(3) No person shall negotiate to sell any lot in any subdivision until a tentative plan of that subdivision has been approved.

(4) The director shall not approve a building permit for any lot in a subdivision until the subdivision has been granted final approval and the plat of the subdivision has been recorded. [1994 o.336 §2]

### 1.3220 Approval of Partitions

(1) A partition of land shall not be valid until it has been approved as provided in this chapter. No person shall convey any interest in a parcel in any partition or replat of a partition until the plat of the partition has been recorded as provided for in this chapter. A person may negotiate to sell any parcel in a partition or replat of a partition upon approval of the tentative plan of the partition.

(2) The Director shall not approve a building permit for any parcel in a partition or replat of a partition until the partition or replat has been granted final approval and the plat has been recorded.

(3) When the Director determines that continuous partitioning of a tract of land may occur in subsequent years, the Director may refer the application to the Planning Commission, for a determination as to whether the development should be subject to the Subdivision requirements of this chapter. [1994 o.336 §3]

### 1.3223 Approval of Property Line Adjustments

No person shall accomplish a property line adjustment without having first secured the approval of Lincoln County as provided for in this chapter. [1994 o.336 §5]

### **1.3225 Approval of Street or Road Creations**

(1) No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of Lincoln County as provided for in this chapter.

(2) No instrument dedicating land to public use shall have any validity unless such instrument bears the approval of Lincoln County as accepting such dedication. [1994 o.336 §6]

### **1.3230 General Requirements and Minimum Standards of Design and Development**

The following are the minimum requirements and standards to which subdivisions, partitions and replats must conform before approval.

#### **(1) Conformity to the Comprehensive Plan:**

All subdivisions, partitions and replats shall conform to the Comprehensive Plan, and zoning regulations for Lincoln County. However, lawfully created lots or parcels which do not conform to the current lot size, width to depth or other dimensional standards required by zoning may be re-platted without regard to these standards, except that the degree to which such lots or parcels do not conform to one or more applicable standards shall not be increased.

#### **(2) Relation to Adjoining Street System:**

(a) A subdivision or partition shall provide for the continuation of existing and projected streets and roads. If, in the opinion of the Division or the Commission, topographic or other site conditions make such continuation or conformity impractical, exceptions may be made.

(b) When a tract is divided into lots or parcels of a size which could allow for further re-division under current zoning, the Planning Division or Commission may require an arrangement of lots and streets such as to permit a later redivision in conformance with the street requirements and other requirements contained in this chapter.

(c) Within urban growth boundaries and rural community centers, block lengths between interconnecting streets shall not exceed 600 feet.

#### **(3) Access:**

A subdivision, partition or replat shall provide each lot or parcel with not less than 25 feet of frontage on a public or private road or street, except that where necessitated by adverse sight distances or other factors, greater frontage may be required.

#### **(4) Private Streets:**

(a) No street or road which connects existing public streets or which would serve as a collector from existing public or private streets shall be approved as a private street.

(b) The establishment of a private street shall not be allowed if it will deny the public access to public areas such as beaches or parks.

(c) No road or street shall be approved as a private road in a case where such a road or street presently is or will in the future be needed to provide access to development on adjacent properties or to serve as a collector for other subdivisions or partitions in the area.

(d) All private streets or roads established for the purpose of subdividing, partitioning or replatting land shall be surveyed and monumented.

(e) Right-of-way widths and improvements on private roads serving two or more lots or parcels shall be the same as those for public roads providing access to similar developments. Private roads serving only one parcel shall be exempt from standards for improvements.

#### **(5) Road Right-of-Way Requirements:**

<u>(a) Type of Road</u>	<u>Right-of-Way Width</u>
Arterials and collectors	60 to 80 feet
Local roads and streets	50 feet
All other roads	50 feet

(b) Where topographical requirements necessitate either cuts or fills for the proper grading of roads, additional right-of-way or slope easements may be required.

**(6) Street Design and Improvements:**

(a) All plans and specifications for street and road improvements shall be prepared by an engineer licensed in the State of Oregon.

(b) The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this chapter.

(c) Street improvements shall conform to the following requirements:

(A) Width: Outside of urban growth boundaries and rural community centers, roads serving three or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance, and roads serving more than three dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance. Within urban growth boundaries and rural community centers, roads with no on-street parking shall have a 20 foot improved width, roads with parking provided on one side of the street shall have a 24 foot improved width, and roads with parking provided on both sides of the street shall have a 28 foot improved width.

(B) Construction: Roads must be improved with an all weather surface in accordance with generally accepted engineering practices. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight of 50,000 pounds. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 pound gross vehicle weight standard shall be provided by the designing engineer.

(C) Vertical Clearance: Roads shall have an unobstructed vertical clearance of not less than 13.5 feet.

(D) Turnarounds: Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.

(E) Turnouts: Roads with less than 20 feet of improved width and greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts may be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.

(F) Road Grade: Road grades shall not exceed 12 percent, except that a maximum of 15 percent may be permitted on pitches less than 200 feet long. Roads with grades exceeding eight percent shall be surfaced with asphaltic concrete or other hard surfacing approved by the Public Works Director. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states that their fire fighting equipment can negotiate the proposed road grades.

(G) Curve Radii: Curve centerline radii shall be not less than 225 feet.

(H) The applicant shall provide an as-built certification stamped by a licensed professional engineer registered in the State of Oregon verifying that road design standards set forth in this section have been met.

(I) Applicants seeking modifications to the above standards in accordance with subsection (18) of this section shall provide an alternative road design meeting the standards set forth in the

American Association of State Highway and Transportation Officials (AASHTO) manual or other acceptable design principles and construction specifications consistent with generally accepted engineering practices.

(d) All bridges shall have a 30 year minimum life expectancy and shall be constructed to load limit standards approved by the County Director of Public Works.

(e) All roads proposed to be developed within a city's urban growth boundary shall be developed to the standards of the city where such standards require greater levels of improvements than the standards contained herein.

(f) Improvements to arterial and collector streets shall include sidewalks and bikeways.

**(7) Street Intersections:**

(a) Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of the area and previous adjacent layout.

(b) Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections; in no case shall intersections be offset less than 100 feet.

**(8) Cul-de-Sacs and Turn-a-Rounds:**

(a) In general, dead-end (cul-de-sac) streets in partitions or subdivisions with an average lot size of under one acre shall not exceed 400 feet in length.

(b) Approved turn-a-rounds shall be provided on all dead-end streets.

**(9) Utility Easements:**

Where alleys are not provided, easements of not less than six feet in width may be required on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas and water. Easements of the same or greater widths may be required along boundary lines or across lots where necessary for the extension of utility lines, waterways, and walkways and to provide necessary drainage ways or channels.

**(10) Public Access Ways:**

Within urban growth boundaries and rural community centers, the land divider shall dedicate to the public access ways 10 to 20 feet in width to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans or to provide access to schools, parks, beaches, shopping areas, employment centers, transit stops or other public areas, of such design and location as reasonably required to facilitate public use and provide safe and convenient pedestrian access.

**(11) Lots and Parcels:**

(a) Every lot or parcel shall front on a street and the frontage of each shall be not less than 25 feet unless a greater frontage is necessitated by adverse sight distance or other conditions.

(b) Each side line shall be as close to perpendicular to the adjacent street line or radial to a curved street line as possible.

(c) Lots or parcels with double frontage shall not be permitted unless in the opinion of the Director or the Commission, an odd shaped tract or existing topography makes such lots unavoidable.

(d) Where lots are to be platted using a "flag lot" configuration, the staff of the flag shall not be considered in computing the width to depth ratio.

**(12) Parks and Open Space:**

In a subdivision of 10 acres or more, the Planning Commission may require the subdivider to provide up to five percent of the subdivision area for park and recreation purposes. These areas

shall be of a design and location acceptable to the Planning Commission, based on the suitability of the area for park and recreation purposes.

**(13) Partial Development:**

If a proposed subdivision or partition area includes only part of the tract owned by the subdivider, the Planning Commission or Division may require a sketch of the tentative layout or streets in the remainder of that tract.

**(14) Duplication of Names:**

Subdivision plat names shall be subject to the approval of the County Surveyor. The name of a tentative plan must not duplicate the name used in any other legally recorded subdivision in Lincoln County, except for the words, "town", "city", "place", "court", "addition", or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name that has previously used block numbers or letters.

**(15) Water:**

No partition, subdivision or replat shall receive final approval unless the county has received and accepted:

(a) A certification by the owner or superintendent of a publicly or privately owned domestic water supply system, that water is available to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition;

(b) A performance agreement, bond, contract or other assurance that a domestic water supply system will be installed to the boundary line of each and every lot or parcel depicted in the proposed partition or subdivision; or

(c) Where a community or public water supply system is not available, a statement signed by the applicant that water service will not be provided to any lot or parcel depicted in the partition or subdivision. In a residential subdivision or partition, the proposed source of domestic water to be developed by the buyer, whether off or on-site, spring, well, or other source, shall be included in the statement.

**(16) Sewer:**

No partition or subdivision shall receive final approval unless the county has received and accepted:

(a) A certification by the owner or superintendent of a publicly or privately owned sewage disposal system that sewerage service is available to the boundary line of each and every lot depicted in the proposed subdivision or partition;

(b) A performance agreement, bond, contract or other assurance that a sewage disposal system will be installed by or on behalf of the developer to the boundary line of each and every lot depicted in the proposed subdivision or partition; or

(c) Where no community sewerage service is available, the Department of Environmental Quality or the Lincoln County On-Site Waste Management Division shall approve the proposed methods of sewage disposal.

**(17) Phase Development:**

Subdivisions or partitions may be platted in phases. Plans for phase development shall be set forth as a part of the tentative plan application. When submitted for final approval, each phase must conform in all respects to the conditions of tentative approval.

**(18) Modifications:**

The Director or Commission may grant modifications to the standards contained in LCC 1.3230. Modifications shall be requested by the applicant as part of the tentative plan application. A modification may be granted provided that:

(a) There are practical difficulties in meeting the required standard or demonstrable aesthetic advantages in modifying the required standard;

(b) The basic intent and purpose of the requirement to be modified would still be served; and

(c) The granting of the modification would not be contrary to or conflict with any other provision of the Lincoln County Code. [1994 o.336 §7; 2008 o.356 §13]

**1.3235** [repealed 1994 o.336 §14]

**1.3237 Procedure for Subdividing, Partitioning or Replatting Land**

**(1) Pre-Application Conference:**

Prior to submitting a tentative plan of a subdivision, partition or replat, the applicant shall confer with the Planning Division staff regarding the requisites of the tentative plan application and the applicable standards and criteria of this chapter.

**(2) Tentative Plan Application and Review:**

The procedure for application and review of the tentative plan of a subdivision, partition or replat, shall be as set forth in LCC 1.1210(2).

**(3) Time Limit on Tentative Approval:**

Approval of a tentative plan of a partition, subdivision or replat is valid for a period of two years from the effective date of the approval, unless a phasing plan or other larger time frame has been authorized as a part of the tentative plan approval. If no request for final approval or time extension has been received within the tentative approved time limit, the tentative plan approval shall expire.

**(4) Time Extension on Tentative Approval:**

Approval of a tentative plan may be extended beyond the two year or other approved period upon request. Requests for time extensions shall be made to the division on a form prescribed by the division. Requests for time extensions shall be considered and acted upon in accordance with LCC 1.1210(1). In considering a request for a time extension, the Director or Commission may consider the following:

(a) To what extent any required improvements have been constructed or completed.

(b) Whether there have been any changes in circumstances or in applicable code or statutory requirements which could have affected the original approval.

(c) Whether additional conditions or requirements could be imposed on the tentative approval which would satisfactorily address any deficiencies resulting from changed circumstances or code or statutory requirements. In granting a request for a time extension, the Director or the Commission may impose such additional conditions or requirements as are considered appropriate.

A time extension shall be for a period of one year. Not more than three time extensions of a tentative approval may be granted.

**(5) Revision of Tentative Plan:**

If an approved tentative plan is to be substantially revised, such revision shall be filed as a new application for tentative plan approval.

**(6) Performance Agreements:**

(a) The County may accept, in lieu of the completion of road, utility or other improvements required by a tentative approval, a performance agreement executed by the developer with the Board for the purpose of guaranteeing the completion of such improvements.

(b) The form of guarantee provided by such an agreement shall be subject to the approval of the Board.

(c) Any performance agreement entered into pursuant to this section shall require the completion of the guaranteed improvements within a specified time period. Such time period may be extended at the discretion of the Board.

(d) Cost estimates for improvements to be guaranteed by a performance agreement shall be provided by the developer. All cost estimates shall be reviewed by the Director of Public Works who shall provide a recommendation on the adequacy of such estimates to the Board.

**(7) Certifications Required for Final Approval:**

Requests for final approval of a subdivision, partition or re-plat shall be accompanied by the following:

(a) A copy of all covenants and restrictions.

(b) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association.

(c) The certification, performance agreement or statement regarding the availability of water and sewerage services.

(d) As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement.

(e) A plat and one exact copy meeting the requirements of LCC 1.3242 and ORS 92.050 to 92.100, unless an exception is provided for by LCC 1.3242(6).

(f) Where a plat is not required pursuant to 1.3242(6), descriptions of the parcels prepared and stamped by a registered professional land surveyor. The boundaries between the newly created parcels shall be related to a physically existing public land survey corner monument or to a physically existing monumented lot, parcel or boundary corner of a recorded subdivision, partition or condominium plat.

(g) A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than 30 days prior to the date the final plat is submitted for final approval. Such a report shall also identify all easements of record.

(h) Copies of deeds, conveyances or other recorded documents pertaining to any easements which the platted property is subject to.

(i) A copy of filed survey of the perimeter boundaries of the subject property, complying with ORS 209.250, or a statement from the County Surveyor waiving such requirement. Such survey shall have been filed not less than 30 days prior to the granting of final approval.

(j) Such other information as is deemed necessary by the Director to verify conformance with the conditions of tentative approval

**(8) Procedure for Final Approval:**

(a) The procedure for application and review of a request for final approval of a subdivision, partition or replat shall be as set forth in LCC 1.1210(1). All such applications shall be accompanied by the certifications set forth in LCC 1.3237(7).

(b) Upon the granting of final approval, the Director shall sign the plat and its exact copy.

(c) Upon signing, the Director shall deliver the plat and its exact copy to the County Surveyor. The surveyor shall review the plat for conformance with the requirements of LCC 1.3242 and the provisions of ORS 92.050 to 92.100.

(d) Upon approval of the County Surveyor, plats shall be circulated for signing to the following officials:

(A) The County Treasurer, whose signature shall certify that all taxes on the property have been paid;

(B) The County Assessor, whose signature shall certify that the plat is signed by the owner or owners of record;

(C) For subdivision plats, the Chair or Vice Chair of the County Commission whose signature shall certify that the plat is approved by them.

(e) Upon signing by the required county officials, plats shall be delivered to the County Clerk for recording.

(f) The signature of the Director on a final plat shall be valid for a period of one year. If a plat has not been recorded within one year of the date of the Director's signature, the final approval of the plat by the Director, in accordance with LCC 1.3237(8) shall expire, and a new request for final approval shall be required. [1994 o.336 §9]

**1.3240** [repealed 1994 o.336 §14]

### **1.3242 Plat Requirements**

#### **(1) Requirements of Survey and Plat:**

The surveys and plats of all subdivisions, partitions, and replats shall be made by a registered professional land surveyor and shall conform to the requirements of ORS chapter 92 and the plat standards of the Lincoln County Surveyor.

#### **(2) County Roads:**

When an area or tract of land to be subdivided or partitioned adjoins a county road, that portion of the county road right-of-way adjoining the plat shall be surveyed and monumented, unless such requirement is waived by the Director of Public Works.

#### **(3) Encroachment or Hiatus:**

In the event that any encroachment, hiatus or property line discrepancy exists on the property to be platted, such encroachment, hiatus or discrepancy shall be clearly shown on the plat.

#### **(4) Elevation Bench Marks:**

Where required, the location, name and elevation of any elevation bench marks shall be indicated on the face of the plat. The name, year, and elevation of the bench mark upon which the elevation is based shall also be shown.

#### **(5) Easements:**

All recorded and proposed easements will be shown on the plat, along with the following information:

(a) The specific location and size by dimensions or description.

(b) If previously recorded, the County Clerk's recording reference.



(c) The purpose or type of easement and whether it is a public or private easement and, if private, state who benefits from the easement. Any public or private easement to be created, or any other restriction made, shall be noted in the declaration. Public easements shall include language in the declaration which dedicates the easement to the use of the public.

**(6) Exceptions:**

Parcels in excess of ten acres created by partition need not be surveyed, monumented, or shown on a partition plat. [1994 o.336 §10]

**1.3245** [repealed 1994 o.336 §14]

**1.3247 Standards and Procedures for Property Line Adjustments**

(1) Tentative Approval

(a) The procedure for application, review and tentative approval of property line adjustments shall be as set forth in LCC 1.1210(1).

(b) A property line adjustment shall be tentatively approved provided that:

(A) No additional lots or parcels will be created; and

(B) Except as provided for in subparagraph (H) of this paragraph, the subject lots, parcels or tracts of land will not be reduced in size to below the minimum area required by the applicable use zone; and

(C) The proposed lots, parcels or tracts of land as adjusted will comply with any required width to depth ratio as set forth in the applicable use zone; and

(D) The proposed property line adjustment will not reduce any yard or other setback below that required under applicable zoning; and

(E) The proposed property line adjustment will not reduce the street or road frontage of the subject lots or parcels to below that required by this chapter; and

(F) The proposed property line adjustment will not reduce below the required minimum any setback for an existing on-site sewage disposal system or approved replacement area; and

(G) Except as provided for in subparagraph (H) of this paragraph, where the original lots, parcels or tracts do not conform to lot size, street frontage width to depth or yard requirements, any proposed property line adjustment shall not increase the degree of non-conformity.

(H) An existing lot or parcel in size may be reduced in size below the minimum area required by the applicable use zone through a property line adjustment provided that the adjustment would not result in the creation of the potential for additional land divisions under existing zoning and:

(i) The lot or parcel to be reduced in size is developed with residential, commercial or industrial structural improvements;

(ii) The reduction in size is necessary to resolve a boundary discrepancy, hiatus or encroachment;

(iii) The reduction in size is necessary to comply with an applicable yard, setback, or other dimensional standard established by this chapter or other applicable law; or

(iv) The reduction in size results from acquisition or condemnation for right-of-way or other public purpose.

(c) Tentative approval of a property line adjustment is valid for a period of one year. If no request for final approval or request for a time extension is received by the Planning Division

within one year of the date of a tentative approval, the tentative approval shall expire. A tentative approval may be extended by the division for a period of one year upon request of the applicant.

**(2) Final Approval:**

(a) The procedure for application, review and final approval of property line adjustments shall be as set forth in LCC 1.1210(1).

(b) Final approval of a property line adjustment shall be granted upon submittal of the following:

(A) A copy of a filed survey of the property line adjustment complying with ORS 209.250 and in substantial conformance with the tentative approval, except that a survey is not required if:

(i) All lots, tracts or parcels affected are greater than 10 acres; or

(ii) The property line adjustment consists of the relocation of a common boundary of lot in a subdivision or a parcel in a partition and the adjusted property line is a distance of even width along the common boundary.

(B) If a survey is not required pursuant to subparagraph (A) of this paragraph, a description of the adjusted property line prepared and stamped by a registered professional land surveyor. The adjusted property line shall be described in relation to a physically existing Public Land Survey corner monument or to a physically existing monumented lot, parcel or boundary corner of a recorded subdivision, partition or condominium plat.

(C) Copies of recorded conveyances conforming to the tentatively approved property line adjustment and containing the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment.

(D) Such other documentation as may be required by the Director to verify conformance with any requirements or conditions of the tentative approval. [1994 o.336 §11]

**1.3250** [repealed 1994 o.336 §14]

**1.3252 Property Line Adjustments in Subdivisions and Partitions**

(1) Except as provided for in subsection (2) of this section, all property line adjustments within recorded plats shall be accomplished by replatting in accordance with LCC 1.3237.

(2) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments set forth in LCC 1.3247, rather than by replatting, when the director determines that:

(a) The property line or lines to be adjusted will not result in a substantial reconfiguration of the affected lots or parcels; and

(b) All of the other requirements for property line adjustments set forth in LCC 1.3247 will be met. [1994 o.336 §12]

**1.3255** [repealed 1994 o.336 §14]

**1.3260** [repealed 1994 o.336 §14]

**1.3265** [repealed 1994 o.336 §14]

**1.3270** [repealed 1994 o.336 §14]