



PLANNING DEPARTMENT

P.O. Box 40 • Irrigon, Oregon 97844
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AGENDA

Morrow County Planning Commission

Tuesday, June 24, 2025, 6:00 pm

Morrow County Government Center, Irrigon, OR

For Electronic Participation See Meeting Information on Page 2

Members of Commission

Stacie Ekstrom, Chair

John Kilkenny, Vice Chair

Charlene Cooley

Stephen Henthorn

Karl Smith

Tripp Finch

Brian Thompson

Elizabeth Peterson

Members of Staff

Tamra Mabbott, Planning Director

Stephen Wrechsics, Associate Planner, GIS

Michaela Ramirez, Administrative Assistant

Jim Bagley, Principal Planner

Clint Shoemake, Planning Tech

Kaitlin Kennedy, Code Compliance Planner

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Minutes:** (Draft) May 27, 2025 [pgs. 4-7](#)
5. **Public Hearings** to begin at 6:00 PM (COMMISSION ACTION REQUIRED)

Presented by: Code Compliance Planner Kaitlin Kennedy

- I. **Conditional Use Permit CUP-N-388-25: Mario & Veronica Pacheco, Applicant, and Owner.** Conditional Use Permit to allow the storage and operation of a commercial trucking business on a residential property. The property is described as Tax Lot 1800 of Assessor's Map 4N25E14. The subject parcel is zoned Farm Residential (FR) and is located outside the City of Boardman's urban growth boundary (UGB). Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3 section 3.041, Farm Residential FR2, and Article 6 section 6.050. G, Standards Governing Conditional Uses, Home Occupations. [pgs. 9-25](#)

Presented by: Code Compliance Planner Kaitlin Kennedy

- II. **Conditional Use Permit CUP-N-392-25: Rosario Sanchez, Applicant, and Owner.** Conditional Use Permit to allow the storage and operation of a commercial trucking business on a residential property. The property is described as Tax Lot 6800 of Assessor's Map 4N25E20A. The subject parcel is zoned Suburban Residential (SR 2) and is located outside the City of Boardman's urban growth boundary (UGB). Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3 section 3.050, Suburban Residential SR 2, and Article 6 section 6.050. G, Standards Governing Conditional Uses, Home Occupations. [pgs. 27-43](#)

6. **Other Business:**
 - 6a. Work Session on EFU and FU Code Update [pgs. 45-162](#)
7. **Correspondence:** June monthly update [pgs. 164-167](#)
8. **Public Comment:**
9. **Adjourn**

Next Meeting: Tuesday, July 29, 2025, at 6:00 p.m.
Location: Bartholomew Building, Heppner, OR

ELECTRONIC MEETING INFORMATION

Morrow County Planning is inviting you to a scheduled Zoom meeting. Topic: Planning Commission
Time: June 24, 2025, 6:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/6554697321?pwd=dFMxR2xlaGZkK1ZJRFVrS1Q0SmRxUT09&omn=84249165172>

Meeting ID: **655 469 7321**

Passcode: **513093**

Find your local number: <https://us02web.zoom.us/j/kdmi6471tm>

Should you have any issues connecting to the Zoom meeting, please call 541-922-4624. Staff will be available at this number after hours to assist.

This is a public meeting of the Morrow County Planning Commission and may be attended by a quorum of the Morrow County Board of Commissioners. Interested members of the public are invited to attend. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours before the meeting to Tamra Mabbott at (541) 922-4624, or by email at tmabbott@morrowcountyor.gov.

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**Draft Minutes of the Public Meeting of the
Morrow County Planning Commission
Tuesday, May 27, 2025, 6:00 pm
Bartholomew Building
110 N Court Heppner, OR**

COMMISSIONERS PRESENT:

Stacie Ekstrom, Chair
Karl Smith
Stephen Henthorn
Charlene Cooley
John Kilkenny
Brian Thompson
Karl Smith
Trip Finch

COMMISSIONERS ABSENT:**ATTENDANCE via ZOOM:****STAFF PRESENT:**

Tamra Mabbott, Planning Director
Kaitlin Kennedy, Code Compliance Planner
Michaela Ramirez, Administrative Assistant
Clint Shoemake, Planning Technician

Staff Zoom:

Jim Bagley, Principal Planner

1. CALL TO ORDER

Chair Ekstrom called the meeting to order at 6:00 PM

2. ROLL CALL**3. PLEDGE****4. APPROVAL OF APRIL 29, 2025 DRAFT MINUTES**

Recommended Action: Approve

Action: Unanimously Approved

Presented by: Code Compliance Planner Kaitlin Kennedy

Conditional Use Permit CUP-N-389-25: Kimberly Renteria, Applicant, and Owner.

Request: Conditional Use Permit CUP-N-389-25: Kimberly Renteria, Applicant, and Owner.

Conditional Use Permit to allow the storage and operation of a commercial trucking business on a residential property. The property is described as Tax Lot 210 of Assessor's Map 5N26E36. The subject parcel is zoned Rural Residential (RR) and is located outside the City of Irrigon's urban growth boundary (UGB). Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3 section 3.040, Rural Residential RR1, and Article 6 section 6.050. G, Standards Governing Conditional Uses, Home Occupations

Motion to add letter from Jay Marlow (Neighbor/Opponent)

Motion by: Commissioner Peterson

Seconded by: Commissioner Henthorn

Chair Ekstrom called for applicants or persons in favor or opposed.

Testifying Parties:

Kimberly Renteria, 75678 Depot Lane, Irrigon, OR

Applicant Kimberly Renteria: explained they needed somewhere to park their 5 trucks after the season. They have reached out to CCS Farms and other property owners to park the trucks, but have not had any luck with it.

Commissioner Cooley: asked where the trailers were currently parked.

Applicant Kimberly Renteria: responded that the farm provides the trailers.

Staff Kaitlin Kennedy: asked about the screened fence on the west side of the property.

Applicant Kimberly Renteria: explained that they purchased the property with the fence in place.

Director Mabbott: asked if she was aware the permit was only temporary.

Applicant Kimberly Renteria: said yes, she understood. She commented that they have been seeking somewhere to put the trucks, but have been turned down.

Director Mabbott: offered to walk them through the process when they did find somewhere to park the trucks.

Applicant Kimberly Renteria: said the trucks are not the only source of income and that it wouldn't be worth having the trucks if they had to rent a property to park the trucks.

Director Mabbott: Gave her an example of a couple of properties that had fenced areas for trucks. These properties had various owners, which helped with the financial aspect. She also reiterated that the permit was temporary and there would be fines after the expiration.

Opponents: Letter from Jay Marlow- Kaitlin will respond to his questions.

Director Mabbott: asked if the screen fence is a condition.

Staff Kaitlin Kennedy: responded that the fence is currently screened on the west side.

Neutral: none

Public Hearing is closed by Chair Ekstrom.

Staff Kaitlin Kennedy suggested to the Chair that they could add a condition for the fence to continue to be screened on the west side of the property.

Director Mabbott: asked if the fence on the west side was theirs.

Applicant Kimberly: said she didn't know who the fence belonged to but they could continue to maintain the fence.

Recommended Action: Approve **Conditional Use Permit CUP-N-389-25**, adding a condition to maintain the fence on the west side of the property.

Motion: Approve **Conditional Use Permit CUP-N-389-25**

Motion by: Commissioner Finch

Seconded by: Commissioner Henthorn

Vote: All voted

Action: Unanimously Approved

Presented by: Code Compliance Planner Kaitlin Kennedy

Conditional Use Permit CUP-N-390-25: Juan Rodriguez, Applicant, and Owner.

Request: Conditional Use Permit to allow the storage and operation of a commercial trucking business on a residential property. The property is described as Tax Lot 202 of Assessor's Map

4N25E14C. The subject parcel is zoned Farm Residential (FR) and is located outside the City of Boardman's urban growth boundary (UGB). Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3 section 3.041, Farm Residential FR2, and Article 6 section 6.050. G, Standards Governing Conditional Uses, Home Occupations.

Chair Ekstrom called for applicant or persons in favor or opposed.

Testifying Parties:

Juan Rodriguez, 71472 Wilson Lane, Boardman, OR

Applicant Juan Rodriguez: explained that he had been mindful of his neighbors and hadn't heard any complaints. He also said the trucks are parked at another location and are only on the property when the trucks are not being used.

Opponents: none

Neutral: none

Public Hearing is closed by Chair Ekstrom.

Commissioner Kilkenny: asked where the trucks are left during the season.

Applicant Juan Rodriguez: responded that they are parked in the storage at Threemile Canyon Farms.

Recommended Action: Approve **Conditional Use Permit CUP-N-390-25**

Motion: Approve **Conditional Use Permit CUP-N-390-25**

Motion by: Commissioner Cooley

Seconded by: Commissioner Smith

Vote: All voted

Action: Unanimously Approved

Presented by: Planning Technician Clint Shoemake

Land Use Decision LUD-S-083-25 and Variance V-S-057-25: Mary Kay Bellamy, Applicant, and John Flynn, Owner.

Conflicts of interest: Commissioner Thompson recused himself, and so did Commissioner Finch

Request: The property is described as tax lot 3704 of Assessor's Map 2S 26E. The property is zoned Exclusive Farm Use (EFU) and located approximately ¼ mile east of the Heppner city limits. The request is to site an approximately 40-foot-tall radio transmission tower and 48 ft² support building. The request includes a variance to seek relief from the minimum side yard setback. Criteria for approval include Morrow County Zoning Ordinance (MCZO) Section 3.010 Exclusive Farm Use and Section 7.200(B) Major Variance.

Chair Ekstrom opened the testimony part of the Public Hearing

Testifying parties

Dale Bates, 270 Ken St, Heppner, OR

Terry Thompson, 72948 Bunker Hill Lane, Heppner, OR

Brian Thompson, 55805 HWY 74, Heppner, OR

Commissioner Kilkenny: asked if he, Dale, was there to speak about the setbacks.

Dale Bates: explained where the pole was placed, and they did not want to move it because of the cost, and if they had to move it, it would impede access.

Opponents: None

Neutral: Terry Thompson asked had the line had been surveyed? He said he had a map that showed the pole and asked if it was a financial endeavor, because if it was, he was owed some compensation.

Staff Clint Shoemake: responded that the map that was displayed is not survey grade.

Terry Thompson: said the line is not correct. The fence line displayed is way off.

Staff Clint Shoemake: explained what the colored lines on the map indicated and he also said the lines are approximate, not accurate.

There was discussion about the lines on the map displayed.

Staff Clint Shoemake: explained that the GIS map could not be used as to make any determinations.

Brian Thompson: said he had Matt Kenny establish the corner of the property where the pole was placed. He then asked Dale if they had Columbia Basin put the pole in.

Dale Bates: responded yes.

Brian Thompson: said they had placed it on Terry's property, and if it was used for a commercial endeavor?

Dale Bates: responded no. He also said it is not for profit, it is only used for the radio station. He then mentioned they would speak with Terry about it.

Brian Thompson: asked if it could be noted in the Conditions.

Director Mabbott: said that the whole application needed to be withdrawn because it is not the applicants' property.

Staff Clint Shoemake: gave an explanation of what the setback was and how they should go forward with the request.

Brian Thompson: told Dale he would like him to come to an agreement with Terry.

Director Mabbott and Clint Shoemake: advised that if actual setbacks are sufficient, the new application wouldn't have to go through the Planning Commission; it would be an Administrative Review. She also mentioned to Dale that they would have to submit another application with the landowner's signature.

Public Hearing is closed by Chair Ekstrom.

Recommended Action: Withdraw **Land Use Decision LUD-S-083-25 and Variance V-S-057-25: Mary Kay Bellamy, Applicant, and John Flynn, Owner.**

Motion: Withdraw **Land Use Decision LUD-S-083-25 and Variance V-S-057-25: Mary Kay Bellamy, Applicant, and John Flynn, Owner.**

Director Mabbott: shared that the Threemile Canyon Farms application will go to the Board of Commissioners on June 18th, the City of Boardman Land Partition will go to LUBA because it was appealed, and the City Manager of Irrigon appealed Jose Campos CUP-N-386-25, so it will go to the Board of Commissioners on July 16th.

Other Business: May Planning Update

Correspondence: None

Public Comment: None

Adjourned: Meeting adjourned at 6:59 PM

Next Meeting: Tuesday, June 24, 2025, at 6:00 p.m. The next meeting will be held in Irrigon, OR, in the Morrow County Government Center.

Respectfully submitted,
Michaela Ramirez

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**PRELIMINARY FINDINGS OF FACT
CONDITIONAL USE REQUEST
CUP-N-388-25**

REQUEST: To allow a Home Occupation Permit in the Farm Residential (FR 2) Zone for the operation of a commercial trucking business.

APPLICANT/OWNER: Veronica and Mario Pacheco
71612 Wilson Lane
Boardman, OR 97818

PROPERTY DESCRIPTION: Tax Lot 1800 of Assessor's Map 4N 25E 14

PROPERTY LOCATION: Property on the southeast corner of Rippee Road and Southeast Wilson Lane, outside the Boardman Urban Growth Boundary (UGB) on Wilson Lane.
Addressed as 71612 Wilson Ln. Boardman, OR 97818

- I. BACKGROUND INFORMATION:** The subject site is 20.17 acres and is located within the Farm Residential (FR) zone, approximately 1.65 miles southeast of the Boardman City limits. This Conditional Use Permit application requests a Home Occupation Permit to allow the applicant to operate and park six commercial ten-wheelers, five commercial truck units (single trailer), and one truck-tractor with a double trailer on the property. The applicant has been operating commercial vehicles on the site for approximately four years and submitted the CUP application in response to code enforcement contact. The applicant is one of more than a dozen commercial truck operators under code enforcement action for utilizing residential property within Morrow County without the appropriate land use approvals. The approval of this CUP will serve to temporarily rectify outstanding code violations while providing specific parameters for the operation of the existing business.

This Conditional Use Permit shall be temporary, allowing the business owners time to find an appropriately zoned location for their trucking business. The Planning Commission has granted *temporary* Conditional Use Permits over the past two years to allow additional time for landowners to rectify code violations and to provide a path forward to both business owners and neighbors. The purpose of the temporary CUP is strictly to allow the trucking business owner a defined period of time to relocate their trucks while continuing the business operation. The subject property is located outside the Boardman UGB, therefore there are no direct impacts to the City of Boardman.

Access to the site is from southeast Wilson Lane, a county-owned and maintained road.

MCZO Section 3.041.C.2a Limitations on Uses allows a landowner "to use a truck or tractor unit as personal transportation to the resident parcel. No more than one (1) truck or tractor unit is allowed per parcel." The applicant proposes permission to have five ten-wheelers parked on their property and operated seasonally.

The county has initiated a neighborhood-based code compliance effort to address growing concerns regarding unregulated commercial trucking operations, which impact public roads and property owners in residential zones. After launching the program, the county heard from numerous landowners that strict compliance would put property owners such as the Pacheco's in a difficult situation, specifically, faced with closing down their business if an alternative location is not available. They have been operating a business that supports local agriculture in our area for approximately four years at this location. The purpose of this Conditional Use Permit is to give them a defined amount of time to find an appropriately zoned property to park their vehicles.

- II. COMPLIANCE WITH MORROW COUNTY ZONING ORDINANCE SECTIONS 3.041, 6.030, 6.050, and 6.075.** The requirements for approval are listed below in **bold type**, followed by a response in standard type.

SECTION 3.041 FARM RESIDENTIAL ZONE, FR 2

In a FR-2A Zone, the following regulations shall apply:

In a FR-2A Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements set forth in Article 6 (Conditional Uses).

- B. Conditional Uses Permitted. In an FR 2 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements set forth in Article 6.**

- 7. Home occupations subject to the limitations set forth in Article 6 of the this ordinance.**

Finding: The applicant proposes parking a total of twelve commercial trucks on the property, south of the primary residence. Where they will be minimally visible from the road and/or adjacent residences.

SECTION 6.030 GENERAL CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

- A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor.**

Finding: The proposed use is intended to be operated in a way that will not intentionally disturb neighboring residences. The Pacheco's have operated commercial trucks on the subject property for approximately four years at this location. They have received complaints regarding their trucking operations in a residential neighborhood. The violations were addressed through code enforcement contact.

The proposed home occupation has the potential to generate noise, traffic, and impacts to county-maintained roads. The recommended conditions of approval attempt to mitigate anticipated and expressed concerns. The applicant did not provide specific details on operation times or activity taking place onsite. However, similar operations have indicated that operations start at approximately 6-7 AM and return approximately between 5:00PM and 6:00PM.

Previous Planning Commission approvals have included a 6:00AM to 6:00PM window for operation, this has also been included as a condition of approval for this application. Any minor maintenance, such as tire and oil changes, must be conducted during hours that comply with the noise standards outlined in the Morrow County Code Enforcement Ordinance. No major mechanical operations on commercial vehicles will be conducted or allowed on the property.

Any complaints received about operations outside of these hours may result in a review of the activity and potential revocation of the permit.

B. Establishing a special yard or other open space or lot area or dimension.

Finding: This proposed use will be within the boundaries of the existing lot area. The county does not recommend any additional requirements for open space.

C. Limiting the height, size, or location of a building or other structure.

Finding: This application does not include the approval of new buildings or accessory structures. The county does not recommend any additional limitations on the height, size, or location of the structures.

D. Designating the size, number, location, and nature of vehicle access points.

1. **Where access to a county road is needed, a permit from the Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.**

Finding: The existing access to the site is from Wilson Lane. This road is a dedicated public roadway owned and maintained by the county. The applicant is required to provide a copy of the property access permit from Morrow County Public Works Department. This has been listed as a condition of approval.

In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.

Finding: This action will not trigger the need for a Traffic Impact Analysis (TIA) as it will not generate more than 400 passenger car equivalent trips per day. According to the Applicant's narrative, the trucks enter and exit the property intermittently

during the operational seasons, no more than six months out of the year. During the remaining months of the year, these trucks sit dormant on the subject parcel. This analysis does not trigger the need for a TIA. Deviation from the proposed use, may result in a review of the activity and potential revocation of the permit.

E. Increasing the amount of street dedication, roadway width, or improvements within the street right-of-way.

Finding: No increase in street dedication, roadway width, or improvements in the right-of-way are proposed by the applicant. These preliminary Findings of Fact were provided to Morrow County Public Works Department, the City of Boardman, Morrow County Fire Marshall, and Boardman Fire and Rescue District for their review and comment.

1. It is the responsibility of the landowner to provide appropriate access for emergency vehicles at the time of development.

Finding: Preliminary Findings of Fact were provided to Boardman Fire and Rescue for their review and comment.

F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

Finding: The subject parcel is located within a residential area off Wilson Lane, east of Rippee Road. As identified on the site plan, the trucks will be parked on the property south of the primary residence inside the subject parcel, adjacent to tax lots 110, 101, and 1802, to minimize visibility from the roadway. The county has included a condition of approval requiring the commercial trucks to remain parked and stored on the property as proposed and not in such a way as to create a visual obstruction to roadways, or detriment to adjoining property owners. This has been listed as a condition of approval.

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

Finding: The applicant has not requested signage for the Home Occupation. Any future signs must meet the sign requirements in the Morrow County Zoning Ordinance.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

Finding: Lighting is not proposed with the application. Any outdoor lighting other than typical residential lighting shall be limited and shielded from the roadway and neighboring residences.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

Finding: The proposed use would not require diking, screening or landscaping to protect nearby property.

J. Designating the size, height, location and materials for a fence.

Finding: Fencing or additional fencing was not proposed but could be added as a condition of approval.

K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

Finding: The proposed home occupation will be limited to existing structures and will not create any foreseeable natural resource impacts based on the proposed use. A copy of the Preliminary Findings of Fact was provided to the West Extension Irrigation District for their review and comment. Additional conditions related to natural resources do not appear to be warranted.

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

Finding: Other conditions have not been identified. The Planning Commission may find that all necessary conditions to permit the temporary Conditional Use Permit to conform with the intent and purpose of this Ordinance and policies of the Comprehensive plan.

SECTION 6.050 STANDARDS GOVERNING CONDITIONAL USES

A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

G. Home Occupations, when permitted as a conditional use and conducted as an accessory use, shall be subject to the following limitations:

- 1. The home occupation is to be secondary to the main use of the property as a residence and shall be conducted within the same dwelling or in an accessory building on the same property.**

Finding: The primary use of the property is residential. The application does not include the approval of any new structures or modification to existing structures. The applicant will be conducting the business part of the home occupation within the existing buildings, with truck parking outside the structures, as shown on the applicant's site plan. This criterion is met.

- 2. No structural alterations shall be allowed to accommodate the home occupation except when otherwise required by law, and then only after the plans for such alteration have been reviewed and approved by the Planning Commission. Such structural alterations shall not detract from the outward appearance of the building as an accessory structure to a residence.**

Finding: No structural alterations are proposed nor will be needed to accommodate the home occupation. This criterion is met.

3. **One non-illuminated sign not to exceed 200 square inches and bearing only the name and occupation of the resident shall be permitted.**

Finding: No signs are proposed with this application. Any future signs will need to meet the requirements of the Morrow County sign ordinance. This criterion is met.

4. **No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interferences with radio or television reception, or other factors.**

Finding: Any materials or mechanical equipment that may cause detriment to adjacent residential properties will not be allowed. This criterion is met.

5. **No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or a trailer or the parking of customer's vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents or so as to necessitate off-street parking.**

Finding: Deliveries are not required for the proposed use. The proposal necessitates parking for twelve commercial vehicles on the twenty acre subject site. The use has been ongoing for approximately four years, and it is not anticipated that the continuation of the use would create a visual disturbance or inconvenience to nearby residents. This criterion is met.

6. **Retail sales shall be limited or accessory to a service.**

Finding: Retail sales are not proposed with the application. This criterion is met.

7. **Be operated by a resident or employee of a resident of the property on which the business is located.**

Finding: The applicant has made known that the commercial operation will be operated by himself and person(s) he employs. This criterion is met.

8. **The permit allowing a home occupation shall be reviewed every 12 months following the date the permit was issued and may continue the permit if the home occupation continues to comply with the requirements of this section.**

Finding: This permit will be reviewed annually with other Home Occupation permits.

9. **Employ on the site no more than five full-time or part-time persons.**

The applicant states they will not employ more than five full-time or part-time person(s) on the site at any time. This criterion is met.

- 10. Not unreasonably interfere with other uses permitted in the zone in which the property is located.**

Finding: The current business has been operating at this property for approximately four years. Planning Commission may find that this conditionally permitted use will not unreasonably interfere with other uses permitted in the zone where the property is located.

- 11. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery:**
a. the bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
b. the meals may be served at the bed and breakfast facility or at the winery.

Finding: The proposed use is not a bed and breakfast facility, nor on the same tract as a winery, this criterion does not apply.

SECTION 6.075. LENGTH OF PERMITS, PERMIT HOLDER, RENEWAL AND REVOCATION.

- A. Length of Permit and Permit Holder:** The County may evaluate how long a particular conditional use is expected to remain valid. Some conditional uses may be considered "permanent" as a fully developed use that "runs with the land" and it attaches to and benefits the land and is not limited to a particular landowner. The County may require the owner of the original conditional use permit to record the permitted use on the deed record. The permit is the responsibility of the current owner of the property, whether that is the original applicant or a successor.

A conditional use permit may allow a use that would benefit the permit owner on a sporadic or temporary basis until the purpose for the conditional use permit no longer exists. Upon termination of the use, the land must be in a condition that it may be re-developed in compliance with its current zoning designation. The County may authorize a conditional use permit until a particular date, for a stated period of time, or until the occurrence of a particular event. Additionally, the County may stipulate that a Conditional Use Permit will be reviewed or renewable after a stated time period.

Finding: The proposed home occupation does not have a designated term length. The applicant is requesting permission to park their commercial trucks for five years. The Planning Commission has previously approved similar applications with a condition of one year, with the ability to renew for an additional year, up to two times. The Planning Commission may consider this time frame for this application as well. If the proposed use is permitted, it will be subject to annual review until the ownership of the land changes, or until the use is discontinued.

- B. Reviews and Renewals.** If a review or renewal date is included as a condition by which a conditional use permit is granted, initial review would be ministerial and completed by the Planning Director. The holder of the conditional use permit will be required to make application and pay the requisite fee for review. The review would evaluate the permit conditions and adherence to them, determine if any changes had taken place with the uses allowed in the zone, and determine whether any complaints had been logged concerning the property or the conditional use. If any concerns arise further review will take place at a public hearing with notice. If no concerns arise the permit will be renewed.

For conditional use permits without a review or renewal condition, or if complaints are received concerning a conditional use permit, the County may review any valid conditional use permit for compliance with the conditions of the permit. This review would be a ministerial review done by the Planning Director. If it is deemed necessary by the Planning Director to amend or revoke the permit, a public hearing with notice must be held before the Planning Commission. If action is based on a complaint the complainant may be required to pay any permit review or renewal application fees.

Finding: This home occupation shall be reviewed annually with other home occupations; therefore, no condition is necessary. However, the applicant shall maintain the home occupation as presented in the application. If complaints are received and it is found that the business is being performed outside what has been proposed the applicant will be responsible for paying any applicable review or renewal application fees and permit may be revoked. This is listed as a condition of approval.

- C. Revocation or Vacation.** Any conditional use permit may be vacated by the current landowner or by the County after appropriate notice and hearing when:
- The use has been terminated and there is no expectation by the land owner and the County that the use will continue;
 - The use is not being conducted in compliance with the stated conditions of the permit, or
 - The County finds that the use jeopardizes the public health, safety and welfare of Morrow County and the use does not conform to the Morrow County Code Enforcement Ordinance or other adopted ordinances. (MC OR-1-2013)

Finding: The county reserves the right to revoke the permit based on this criterion.

III. LEGAL NOTICE PUBLISHED: June 4, 2025
Hepner Gazette-Times

June 4, 2025
East Oregonian

IV. AGENCIES NOTIFIED: Brandon Hammond & Carla McLane, City of Boardman; Glen McIntire, Building Official; Eric Imes, Morrow County Public Works; Bev Bridgewater, West Extension Irrigation District, Marty Broadbent, District Fire Marshal, and Landon Jones, Umatilla Electric Cooperative.

V. COMMENTS RECEIVED:

No comments received.

VI. PROPERTY OWNERS NOTIFIED: June 4, 2025

VII. HEARING DATE: June 24, 2025
Morrow County Government Building
Irrigon, Oregon

VIII. PLANNING COMMISSION:

The Planning Commission may vote to approve CUP-N-388-25 subject to the following CONDITIONS OF APPROVAL, or, Planning Commission may find that the application does not comply with the standards and deny the application.

1. The applicant will maintain the home occupation as presented in the application. If complaints are received or it is found that work is being performed outside of what was proposed by the applicant or within the terms and conditions of this permit, this permit may be revoked.
2. All commercial activity will occur within the hours of 6:00 AM – 6:00 PM. All commercial activity should be limited to single trips per unit per day and operated seasonally (no more than 6 months) out of the year.
3. No more than five full-time or part-time person(s) may be employed on the site at any time.
4. Noise, traffic, lighting, and other potential impacts to neighboring properties shall be limited to those generally anticipated for a typical residential use. No major mechanical work or operation is permitted or allowed.
5. This permit is valid for one year, with annual review and an opportunity to renew the permit for up to two additional years. This permit is not valid if the ownership of the property changes.
6. Any proposed signage must meet the requirements of the Morrow County Zoning Ordinance and receive Zoning Permit Approval.
7. All commercial units included in this home occupation permit are required to be parked on the property as presented in the site plan and not in the right of way or in such a way as to cause visual detriment to the roadway.
8. The applicant shall obtain and provide a copy of an access permit from Morrow County Public Works and Road Department by September 30, 2025.

MORROW COUNTY PLANNING COMMISSION

Stacie Ekstrom, Chair

Date

Attachments:

- A. Vicinity Map
- B. Application with Attachments

Vicinity Map

TL 1208 TL 1209 TL 1210 TL 1211
 TL 1207 TL 1214 TL 1213 TL 1212
 TL 1206 TL 1215
 TL 1205 TL 1216
 TL 1204 TL 1200 TL 1201
 TL 1202 TL 1203
 TL 1299
 TL 500
 TL 701
 TL 702 TL 703 TL 700
 TL 202 TL 201
 TL 100 TL 109 TL 110
 TL 200
 TL 108 TL 101
 TL 204 TL 107 TL 102
 TL 205 TL 106 TL 103
 TL 206 TL 105 TL 104
 TL 207
 TL 208
 TL 1800
 TL 1802
 TL 1905 TL 1904
 TL 1906
 TL 1907
 TL 1908
 TL 1919
 TL 1918
 TL 1808
 TL 1807
 TL 1805
 Rippee Rd
 Wilson Ln SE
 Downey Rd
 Jerry Ln
 Boardman
 Meadow Loop
 0 400 800 US Feet
 Subject Parcel
 Lake Washington



ASSESSOR'S MAP/TAX	OWNER 1	OWNER 2	MAIL ADDRESS	CITY	STATE	ZIPCODE
04N25E140001800	PACHECO MENDOZA, MARIO G ETAL		1540 SW MEADOW VIEW	HERMISTON	OR	97838
04N25E140000500	FREDERICKSON, VERNON V ETAL		222 E MAIN ST	HERMISTON	OR	97838
04N25E140001299	FREDERICKSON, VERNON V ETAL		222 E MAIN ST	HERMISTON	OR	97838
04N25E14C000110	SKOUBO, ELLA		71566 WILSON LN	BOARDMAN	OR	97818
04N25E14C000109	SKOUBO, ELLA		71566 WILSON LN	BOARDMAN	OR	97818
04N25E140001802	DAWSON, KAY F		71706 WILSON LN	BOARDMAN	OR	97818
04N25E140001808	MAGALLANES, RUBEN & GLORIA		71749 WILSON LN	BOARDMAN	OR	97818
04N25E14C000101	RAMOS, EDGAR DANIEL & DELACRUZ, MARIA		71809 WAYNE LN	BOARDMAN	OR	97818
04N25E14C000102	GOMES, CATEON J & GOMES, SHERREL L		71820 WAYNE LN	BOARDMAN	OR	97818
04N25E140001201	GUZMAN, ARNULFO & GUZMAN, AGUSTIN		79018 RIPPEE RD	BOARDMAN	OR	97818
04N25E140001807	CALVILLO, MARIO M & CALVILLO, ROCIO F		PO BOX 823	BOARDMAN	OR	97818
04N25E14C000103	O'BRIEN, CHARLES EUGENE ET AL		PO BOX 981	BOARDMAN	OR	97818

CUP-N-388-25 | Mario & Veronica Pacheco | FR 250ft. notice.

4N25E14 TL1800.
S:\Planning\CUP\North\2025



LAND USE APPLICATION CONDITIONAL USE REQUEST

RECEIVED
APR 02 2025

CUP-N-388-25

BY: *Kmk*

PAID
Kmk of 4/26

FILE NUMBER _____

Date Received 4-2-2025

Date Deemed Complete _____

Applicable Zoning Ordinance Criteria: _____

Applicant:

Name(s) Mario & Veronica Pacheco, Maria Pacheco,

Address 71612 Wilson Rd.
Boardman, OR. 97838

Phone 541-701-4303 E-mail address mpacheco96@gmail.com

Legal Owner: (if different from applicant)

Name(s) Mario & Veronica Pacheco

Address 1540 SW Meadow View DR.
Hermiston, OR. 97838

Proposed Conditional Use:

Description of Request and the Proposed Use:

Assisting local, agricultural endeavors
storing trucks.

Proposed to store 6 10-wheelers & 5 truck
& Trailers to be operated seasonally.

Proposed 5 to 8 years

** and 1 truck with double trailer*

Existing Property Description:

Township _____ Range _____ Section _____ Tax Lot(s) 4N 25E 14 TL 1800

Zoning Designation FR Farm Residential
(If EFU or FU, soil information is required with your statement)

Located within an UGB? NO If yes, which city? _____

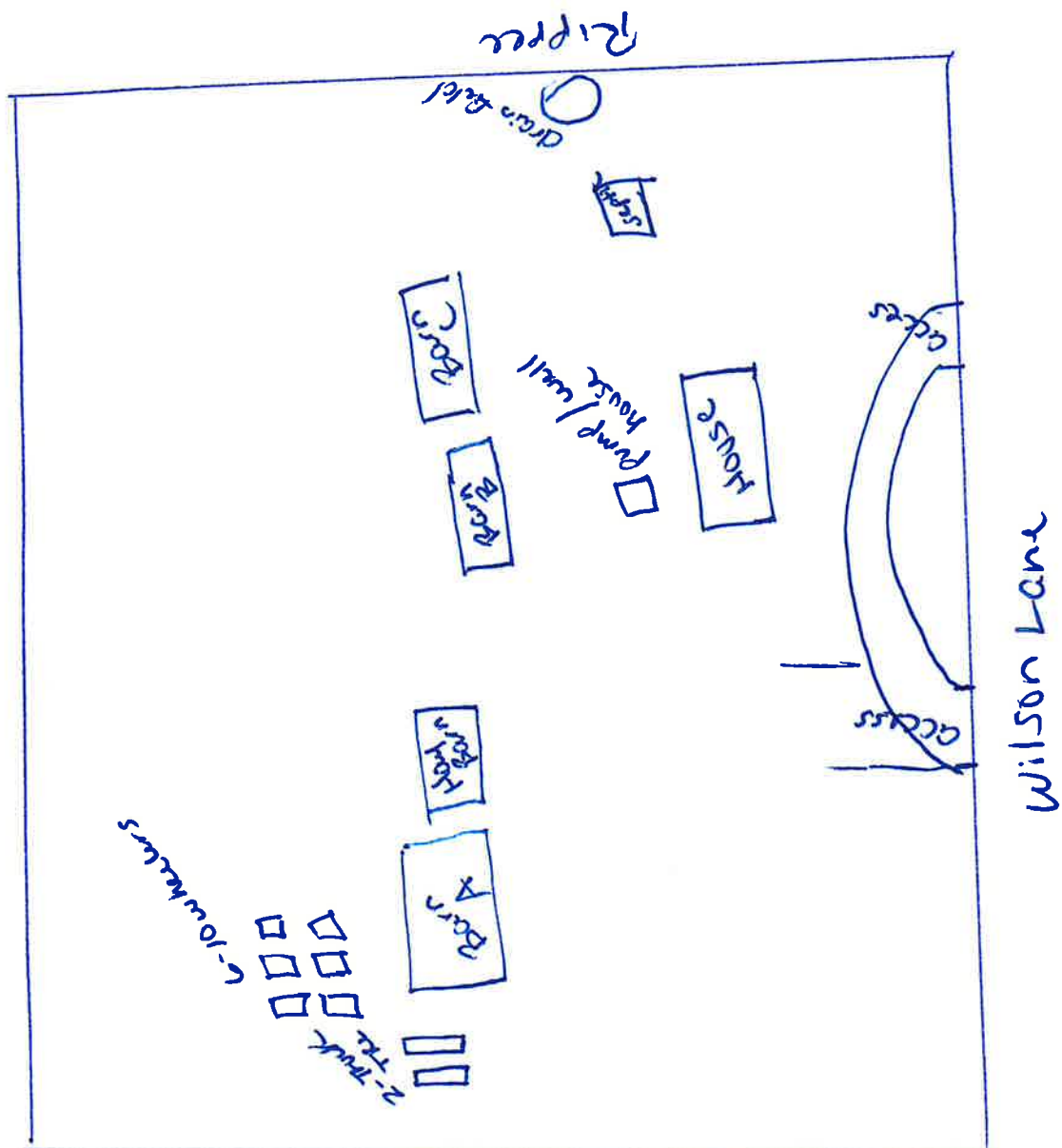
Physical Address 71612 Wilson Ln. Boardman, OR. 97818

General Location Wilson Ln. & Rippee Rd.

Land Use Application

71612 Wilson Ln. Boardman, OR. 97818

1. NIA
2. NIA
3. NIA
4. UEC
5. NO
6. NO
7. NO
8. None
9. NO
10. NO
11. support local agriculture
12. No diking, screening, or other landscaping required.



HOP - Questions

71612 Wilson Rd. Boardman, OR.

1. Yes home occupation secondary
2. No structural alteration at this time
3. No signage
4. Will not conduct major mechanical work
5. No deliverables
6. No retail
7. Yes
8. Yes
9. Yes
10. Yes
11. N/A

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**PRELIMINARY FINDINGS OF FACT
CONDITIONAL USE REQUEST
CUP-N-392-25**

REQUEST: To allow a Home Occupation Permit in the Suburban Residential (SR 2) Zone for the operation of a small commercial trucking business.

APPLICANT/OWNER: Rosario Sanchez Mendoza
70235 Summit Lane
Boardman, OR 97818

PROPERTY DESCRIPTION: Tax Lot 6800 of Assessor's Map 4N 25E 20A

PROPERTY LOCATION: ± 0.10 miles east of Parkside Road, outside the Boardman Urban Growth Boundary (UGB) on Summit Lane.
Addressed as 70235 Summit Lane. Boardman, OR 97818

- I. BACKGROUND INFORMATION:** The subject site is 2.74 acres and is located within the Suburban Residential (SR 2) zone in the West Glen Subdivision, approximately ± 0.25 miles west of the Boardman City limits. This Conditional Use Permit application requests a Home Occupation Permit to allow the applicant to operate and park five commercial ten-wheelers on the property. The applicant has been operating commercial vehicles on the site for approximately eighteen years and submitted the CUP application in response to code enforcement contact. The applicant is one of more than a dozen commercial truck operators under code enforcement action for utilizing residential property within Morrow County without the appropriate land use approvals. The approval of this CUP will serve to temporarily rectify outstanding code violations while providing specific parameters for the operation of the existing business.

This Conditional Use Permit shall be temporary, allowing the business owners time to find an appropriately zoned location for their trucking business. The Planning Commission has granted *temporary* Conditional Use Permits over the past two years to allow additional time for landowners to rectify code violations and to provide a path forward to both business owners and neighbors. The purpose of the temporary CUP is strictly to allow the trucking business owner a defined period of time to relocate their trucks while continuing the business operation. The subject property is located outside the Boardman UGB, therefore there are no direct impacts to the City of Boardman.

Access to the site is from Summit Lane, an unpaved public roadway that is not maintained by the county.

MCZO Section 3.051.E.2a Limitations on Uses allows a landowner "to use a truck or tractor unit as personal transportation to the resident parcel. No more than one (1) truck or tractor unit is allowed per parcel." The applicant proposes permission to have five ten-wheelers parked on their property and operated seasonally.

The county has initiated a neighborhood-based code compliance effort to address growing concerns regarding unregulated commercial trucking operations, which impact

public roads and property owners in residential zones. After launching the program, the county heard from numerous landowners that strict compliance would put property owners such as the Sanchez's in a difficult situation, specifically, faced with closing down their business if an alternative location is not available. They have been operating a business that supports local agriculture in our area for approximately eighteen years. The purpose of this Conditional Use Permit is to give them a defined amount of time to find appropriately zoned property to park their vehicles.

- II. COMPLIANCE WITH MORROW COUNTY ZONING ORDINANCE SECTIONS 3.051, 6.030, 6.050, and 6.075.** The requirements for approval are listed below in **bold type**, followed by a response in standard type.

SECTION 3.051 SUBURBAN RESIDENTIAL ZONE, SR 2

In a SR-2A Zone, the following regulations shall apply:

- D. In a SR-2A Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements set forth in Article 6 (Conditional Uses).**
- 3. Home occupations subject to the limitations set forth in Article 6 of the this ordinance**

Finding: The applicant proposes parking the five ten-wheelers on the northern end of the parcel where they will be minimally visible from the road and/or adjacent residences.

SECTION 6.030 GENERAL CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

- A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor.**

Finding: The proposed use is intended to be operated in a way that will not intentionally disturb neighboring residences. The Sanchez's have operated commercial trucks on the subject property for approximately eighteen years, with no complaints or specific concerns directly related to their existing operation. Nonetheless, the county has received general complaints related to the operation of commercial trucks in residential neighborhoods.

The proposed home occupation has the potential to generate noise, traffic, and impacts to county-maintained roads. The recommended conditions of approval attempt to mitigate anticipated and expressed concerns. The applicant did not provide specific details on operation times or activity taking place onsite.

However, similar operations have indicated that operations start at approximately 6-7 AM and return approximately between 5:00PM and 6:00PM. Previous Planning Commission approvals have included a 6:00AM to 6:00PM window for operation, this has also been included as a Condition of Approval for this application. Any minor maintenance, such as tire and oil changes, must be conducted during hours that comply with the noise standards outlined in the Morrow County Code Enforcement Ordinance. No major mechanical operations on commercial vehicles will be conducted or allowed on the property.

Any complaints received about operations outside of these hours may result in a review of the activity and potential revocation of the permit.

B. Establishing a special yard or other open space or lot area or dimension.

Finding: This proposed use will be within the boundaries of the existing lot area. The county does not recommend any additional requirements for open space.

C. Limiting the height, size, or location of a building or other structure.

Finding: This application does not include the approval of new buildings or accessory structures. The county does not recommend any additional limitations on the height, size, or location of the structures.

D. Designating the size, number, location, and nature of vehicle access points.

1. **Where access to a county road is needed, a permit from the Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.**

Finding: The existing access to the site is from Summit Lane. This road is a substandard public roadway not maintained by the county. The applicant is required to provide a copy of the property access permit from Morrow County Public Works Department. This has been listed as a condition of approval.

In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.

Finding: This action will not trigger the need for a Traffic Impact Analysis (TIA) as it will not generate more than 400 passenger car equivalent trips per day. According to the Applicant's narrative, the trucks enter and exit the property rarely during the operational season, approximately one month out of the year. When in seasonal operations the trucks exit the property and stay on the farm for extended periods of time. They would not enter or exit the property daily. During the remaining months of the year, these trucks sit dormant on the subject parcel. This analysis does not trigger the need for a TIA. Deviation from the proposed use plan may result in a review of the activity and potential revocation of the permit.

E. Increasing the amount of street dedication, roadway width, or improvements within the street right-of-way.

Finding: No increase in street dedication, roadway width, or improvements in the right-of-way are proposed by the applicant. These preliminary Findings of Fact were provided to Morrow County Public Works Department, the City of Boardman, Morrow County Fire Marshall, and Boardman Fire and Rescue District for their review and comment.

1. It is the responsibility of the landowner to provide appropriate access for emergency vehicles at the time of development.

Finding: Preliminary Findings of Fact were provided to the Boardman Fire and Rescue for their review and comment.

F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

Finding: The subject parcel is located within the West Glen Subdivision, east of Parkside Road. As identified on the site plan, the trucks will be parked on the northern perimeter inside the subject parcel, adjacent to the Boardman canal and tax lot 800, to minimize visibility from the roadway. The county has included a condition of approval requiring the commercial trucks to remain parked and stored on the property as proposed; and not in such a way as to create a visual obstruction to roadways, or detriment to adjoining property owners.

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

Finding: The applicant has not requested signage for the Home Occupation. Any future signs must meet the sign requirements in the Morrow County Zoning Ordinance.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

Finding: Lighting is not proposed with the application. Any outdoor lighting other than typical residential lighting shall be limited and shielded from the roadway and neighboring residences.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

Finding: The proposed use would not require diking, screening or landscaping to protect nearby property.

J. Designating the size, height, location and materials for a fence.

Finding: Fencing or additional fencing was not proposed but could be added as a condition of approval.

- K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.**

Finding: The proposed home occupation will be limited to existing structures and will not create any foreseeable natural resource impacts based on the proposed use. A copy of the Preliminary Findings of Fact was provided to the West Extension Irrigation District for their review and comment.

- L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.**

Finding: In accordance with The West Extension Irrigation District (WEID) and Oregon Department of Transportation (ODOT) bridge weight limit requirements; the maximum allowable vehicle weight permitted to use the irrigation canal bridge is 88,000 lbs. This has been added as a condition of approval.

SECTION 6.050 STANDARDS GOVERNING CONDITIONAL USES

A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

- G. Home Occupations, when permitted as a conditional use and conducted as an accessory use, shall be subject to the following limitations:**

- 1. The home occupation is to be secondary to the main use of the property as a residence and shall be conducted within the same dwelling or in an accessory building on the same property.**

Finding: The primary use of the property is residential. The application does not include the approval of any new structures or modification to existing structures. The applicant will be conducting the business part of the home occupation within the existing buildings, with truck parking outside the structures, as shown on the applicant's site plan. This criterion is met.

- 2. No structural alterations shall be allowed to accommodate the home occupation except when otherwise required by law, and then only after the plans for such alteration have been reviewed and approved by the Planning Commission. Such structural alterations shall not detract from the outward appearance of the building as an accessory structure to a residence.**

Finding: No structural alterations are proposed nor will be needed to accommodate the home occupation. This criterion is met.

- 3. One non-illuminated sign not to exceed 200 square inches and bearing only the name and occupation of the resident shall be permitted.**

Finding: No signs are proposed with this application. Any future signs will need to meet the requirements of the Morrow County sign ordinance. This criterion is met.

4. **No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interferences with radio or television reception, or other factors.**

Finding: Any materials or mechanical equipment that may cause detriment to adjacent residential properties will not be allowed. This criterion is met.

5. **No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or a trailer or the parking of customer's vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents or so as to necessitate off-street parking.**

Finding: Deliveries are not required for the proposed use. The proposal necessitates parking for five ten-wheelers on the subject site. The use has been ongoing for approximately eighteen years, and it is not anticipated that the continuation of the use would create disturbance to nearby residents. This criterion is met.

6. **Retail sales shall be limited or accessory to a service.**

Finding: Retail sales are not proposed with the application. This criterion is met.

7. **Be operated by a resident or employee of a resident of the property on which the business is located.**

Finding: The applicant has made known that the commercial operation will be operated by himself and person(s) he employs. This criterion is met.

8. **The permit allowing a home occupation shall be reviewed every 12 months following the date the permit was issued and may continue the permit if the home occupation continues to comply with the requirements of this section.**

Finding: This permit will be reviewed annually with other Home Occupation permits.

9. **Employ on the site no more than five full-time or part-time persons.**

The applicant states they will not employ more than five full-time or part-time person(s) on the site at any time. This criterion is met.

10. **Not unreasonably interfere with other uses permitted in the zone in which the property is located.**

Finding: The current business has been operating at this property for approximately eighteen years. Planning Commission may find that this conditionally permitted use will not unreasonably interfere with other uses permitted in the zone where the property is located.

11. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery:
 - a. the bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
 - b. the meals may be served at the bed and breakfast facility or at the winery.

Finding: The proposed use is not a bed and breakfast facility, nor on the same tract as a winery, this criterion does not apply.

SECTION 6.075. LENGTH OF PERMITS, PERMIT HOLDER, RENEWAL AND REVOCATION.

- A. **Length of Permit and Permit Holder:** The County may evaluate how long a particular conditional use is expected to remain valid. Some conditional uses may be considered "permanent" as a fully developed use that "runs with the land" and it attaches to and benefits the land and is not limited to a particular landowner. The County may require the owner of the original conditional use permit to record the permitted use on the deed record. The permit is the responsibility of the current owner of the property, whether that is the original applicant or a successor.

A conditional use permit may allow a use that would benefit the permit owner on a sporadic or temporary basis until the purpose for the conditional use permit no longer exists. Upon termination of the use, the land must be in a condition that it may be re-developed in compliance with its current zoning designation. The County may authorize a conditional use permit until a particular date, for a stated period of time, or until the occurrence of a particular event. Additionally, the County may stipulate that a Conditional Use Permit will be reviewed or renewable after a stated time period.

Finding: The proposed home occupation does not have a designated term length. The applicant is requesting permission to park and operate five ten-wheelers for four years. The Planning Commission has previously approved similar applications with a condition of one year, with the ability to renew for an additional year, up to two times. The Planning Commission may consider this time frame for this application as well. If the proposed use is permitted, it will be subject to annual review until the ownership of the land changes, or until the use is discontinued.

- B. **Reviews and Renewals.** If a review or renewal date is included as a condition by which a conditional use permit is granted, initial review would be ministerial and completed by the Planning Director. The holder of the conditional use permit will be required to make application and pay the requisite fee for review. The review would evaluate the permit conditions and adherence to them, determine if any changes had taken place with the uses allowed in the zone, and determine whether any complaints had been logged concerning the property or the conditional use. If any concerns

arise further review will take place at a public hearing with notice. If no concerns arise the permit will be renewed.

For conditional use permits without a review or renewal condition, or if complaints are received concerning a conditional use permit, the County may review any valid conditional use permit for compliance with the conditions of the permit. This review would be a ministerial review done by the Planning Director. If it is deemed necessary by the Planning Director to amend or revoke the permit, a public hearing with notice must be held before the Planning Commission. If action is based on a complaint the complainant may be required to pay any permit review or renewal application fees.

Finding: This home occupation shall be reviewed annually with other home occupations; therefore, no condition is necessary. However, the applicant shall maintain the home occupation as presented in the application. If complaints are received and it is found that the business is being performed outside what has been proposed the applicant will be responsible for paying any applicable review or renewal application fees. This is listed as a condition of approval.

- C. Revocation or Vacation. Any conditional use permit may be vacated by the current landowner or by the County after appropriate notice and hearing when:**
- The use has been terminated and there is no expectation by the land owner and the County that the use will continue;
 - The use is not being conducted in compliance with the stated conditions of the permit, or
 - The County finds that the use jeopardizes the public health, safety and welfare of Morrow County and the use does not conform to the Morrow County Code Enforcement Ordinance or other adopted ordinances. (MC OR-1-2013)

Finding: The county reserves the right to revoke the permit based on this criterion.

III. LEGAL NOTICE PUBLISHED: June 4, 2025
Hepner Gazette-Times

June 4, 2025
East Oregonian

IV. AGENCIES NOTIFIED: Brandon Hammond & Carla McLane, City of Boardman; Glen McIntire, Building Official; Eric Imes, Morrow County Public Works; Bev Bridgewater, West Extension Irrigation District, Marty Broadbent, District Fire Marshal, and Landon Jones, Umatilla Electric Cooperative.

V. COMMENTS RECEIVED:

No comments received.

VI. PROPERTY OWNERS NOTIFIED: June 4, 2025

VII. HEARING DATE: June 24, 2025
Morrow County Government Building
Irrigon, Oregon

VIII. PLANNING COMMISSION:

The Planning Commission may vote to approve CUP-N-392-25 subject to the following CONDITIONS OF APPROVAL, or, Planning Commission may find that the application does not comply with the standards and deny the application.

1. The applicant will maintain the home occupation as presented in the application. If complaints are received or it is found that work is being performed outside of what was proposed by the applicant or within the terms and conditions of this permit, this permit may be revoked.
2. All commercial activity will occur within the hours of 6:00 AM – 6:00 PM. All commercial activity should be limited to single trips per unit per day and operated seasonally (no more than 6 months) out of the year.
3. No more than five full-time or part-time person(s) may be employed on the site at any time.
4. Noise, traffic, lighting, and other potential impacts to neighboring properties shall be limited to those generally anticipated for a typical residential use. No major mechanical work or operation is permitted or allowed.
5. This permit is valid for one year, with annual review and an opportunity to renew the permit for up to three times. This permit is not valid if the ownership of the property changes.
6. Any proposed signage must meet the requirements of the Morrow County Zoning Ordinance and receive Zoning Permit Approval.
7. This permit does not include the approval of any new structures or modifications to existing structures for purposes of the business.
8. The applicant shall obtain a letter of agreement from the West Extension Irrigation District (WEID) and US Bureau of Reclamation to reach a resolution regarding the Crossing Agreement and assignment of ownership for the bridge that crosses the West Extension Irrigation main canal to access the subject site.
9. Trucks exceeding a maximum weight limit of 88,000 lbs. are not permitted access to the subject site.
10. All Commercial units included in this home occupation permit are required to be parked on the property as presented in the site plan and not in the right of way or in such a way as to cause visual detriment to the roadway.
11. The applicant shall obtain and provide a copy of an access permit from Morrow County Public Works and Road Department by September 30, 2025.

MORROW COUNTY PLANNING COMMISSION

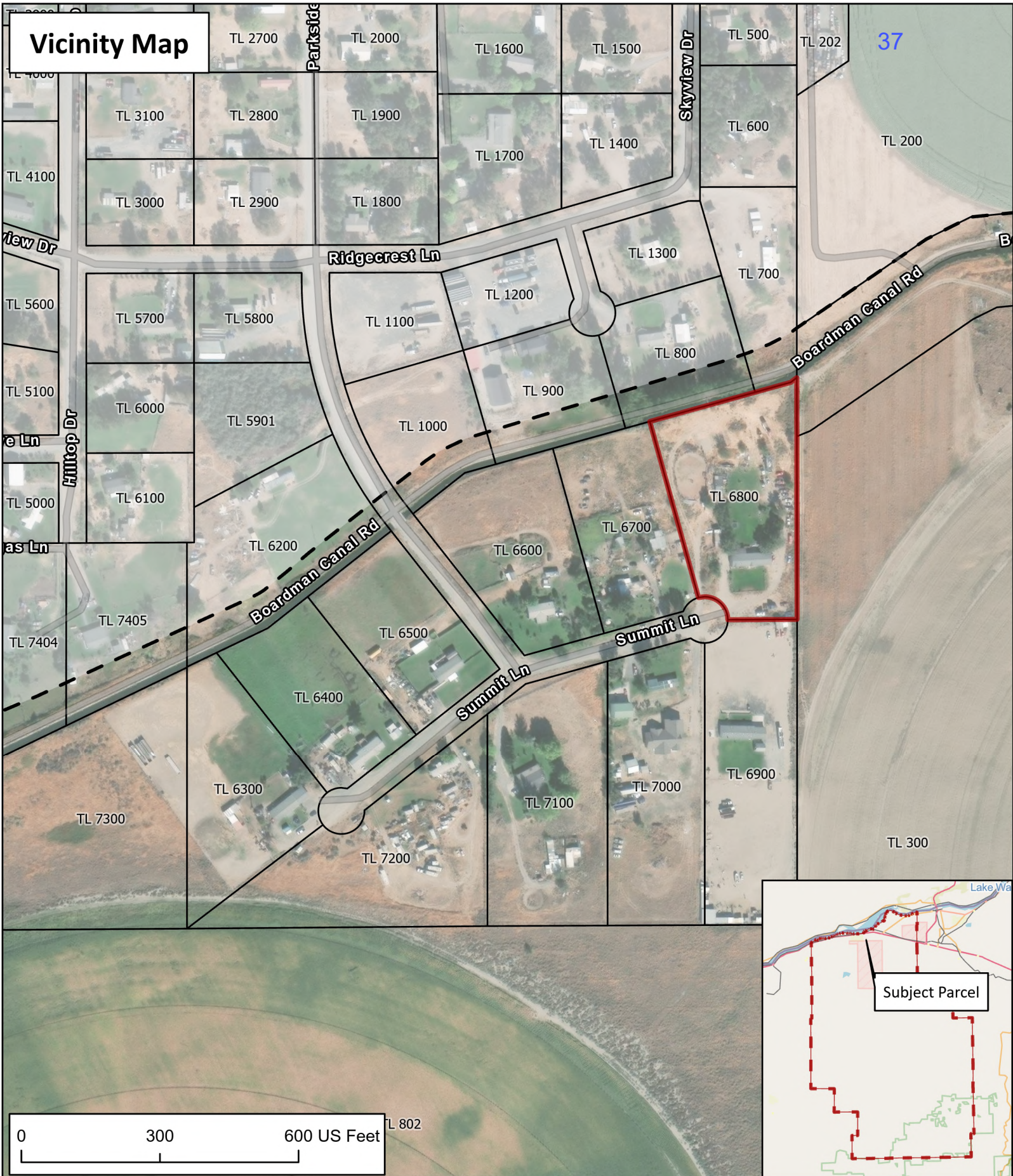
Stacie Ekstrom, Chair

Date

Attachments:

- A. Vicinity Map
- B. Application with Attachments

Vicinity Map



CUP-N-392-25

Rosario Sanchez Mendoza
4N25E20A TL6800

- Morrow County Boundary
- Taxlots
- Subject Parcel

Coordinate System:

NAD 1983 HARN StatePlane Oregon North FIPS 3601

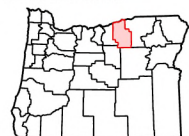
Projection: Lambert Conformal Conic

Datum: North American 1983 HARN

Cartography By: Stephen Wreccics

Date Saved: Tuesday, June 3, 2025

Morrow County Planning Department



ASSESSOR'S MAP/TAX	OWNER 1	OWNER 2	MAIL ADDRESS	CITY	STATE	ZIPCODE
04N25E20A000900	HERNANDEZ, LETICIA LARA & DENOVA, TANIA		PO BOX 1398	BOARDMAN	OR	97818
04N25E20A000800	CUMMINGS, GAIL & CUMMINGS, ANGELA		PO BOX 817	BOARDMAN	OR	97818
04N25E20A007100	GARCIA VELA, RUBEN ETAL		PO BOX 871	BOARDMAN	OR	97818
04N25E20A007000	CALVILLO, GUILLERMO		PO BOX 855	BOARDMAN	OR	97818
04N25E20A000700	NAVARRO, OSCAR		PO BOX 78	BOARDMAN	OR	97818
04N25E20A006900	GONZALEZ, OSCAR ALFREDO LOPEZ		PO BOX 313	BOARDMAN	OR	97818
04N25E20A006800	MENDOZA DE SANCHEZ, IRMA ET AL		PO BOX 163	BOARDMAN	OR	97818
04N25E20A006700	MOONEY, CLAYTON I & BETTY JARRET		70217 SUMMIT LN	BOARDMAN	OR	97818
04N25E20A006600	KLIPFEL, JAMES & KLIPFEL, MELUSSA		PO BOX 880	BOARDMAN	OR	97818
04N25E210000300	AYLETT, EARL L & AYLETT, DEBORRAH J		29732 ROYCE LN	HERMISTON	OR	97838
04N25E210000200	MCCARTY, DAN E & BRANDY L		27471 MCCARTY RANCH LN	ECHO	OR	97826

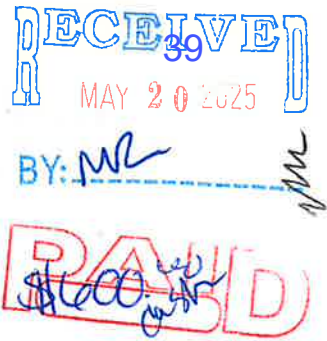
CUP-N-392-25 | Rozario Sanchez Mendoza | SR2 250ft. notice.

04N25E20A TL6800
S:\Planning\Cup\North\2025



LAND USE APPLICATION
CONDITIONAL USE REQUEST

CUP-N-392-25



FILE NUMBER _____

Date Received 5.20.2025

Date Deemed Complete _____

Applicable Zoning Ordinance Criteria: _____

Applicant:

Name(s) Rosario Sanchez mendez

Address 70235 Summit Ln, Boardman

Phone 920-4430
541-720-4930

E-mail address Sanchez.Rosario@yahoo.com
Sanchez.Rosario22@yahoo.com

Legal Owner: (if different from applicant)

Name(s) Same

Address mailing: P.O. Box 1123, Boardman

Proposed Conditional Use:

Description of Request and the Proposed Use:

Home Occupation - Residence and to Park 5 10-wheelers
trucks and the trucks are used for a month out
of the year for harvest and I plan to stay
and leave there as long as I can
I would like to have this permit for 4 yrs

Existing Property Description:

Township 4N Range 25E Section 20A Tax Lot(s) 6800

Zoning Designation SR2
(If EFU or FU, soil information is required with your statement)

Located within an UGB? No If yes, which city? _____

Physical Address 70235 Summit Ln. Boardman

General Location very east end of Summit Ln.

Public Road Access Summit LA
 Improvement Type and Condition of Road N/A
 Fire Protection District or Method Boardman fire dept
 Solid Waste Disposal Method Atk Sanitary disposal
 Existing Use of the Property Residential

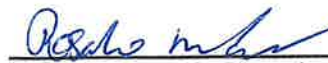

Please provide a statement with the following information to the Planning Department:

1. A plot plan of the property with existing and proposed structures and roads and accesses
2. Existing and proposed water supply well pump
3. Existing and proposed sewage disposal method septic tank
4. Utilities and other public services provided Sanitary disposal + UEC
5. Signs and/or lighting required NO
6. Parking/loading and fencing required NO
7. Drainage, is the land or any portion of it subject to flooding? NO
8. What, if any, change will there be in traffic use of the existing access? NO
9. Will the proposed use generate more than 400 automobile trips per day? NO
10. Will any new access be required? NO
11. A description of how the proposal will be compatible with surrounding land uses... Yes, support local agriculture for potatoes harvest
12. How the proposal will protect and preserve existing natural resources such as trees, vegetation, water resources and wildlife habitat and whether diking, screening or other landscaping will be required to protect nearby properties and habitats. N/A

The applicant is responsible for providing all of the information to show compliance with the standards for approval. If you are unsure of the standards required by the code, the Planning Department will be happy to provide them, but it is the applicant's duty to prove to us your proposal meets all of the given code requirements. Your plot plan and narrative should show or answer the above details as well as address specific issues about your particular application as well.

Signatures:

I(we), the undersigned, acknowledge that I am familiar with the standards and limitations set forth by the Morrow County Zoning Ordinance and that additional information and materials may be required, as provided by the Zoning Ordinance and Comprehensive Plan. I propose to meet all standards set forth by the County's Zoning Ordinance and any applicable State and Federal regulations. I(we) certify that the statements and information provided with this application are true and correct to the best of my knowledge.

Signed:  (Applicant) _____ (Applicant)
 (Legal Owner) _____ (Legal Owner)

If this application is not signed by the property owner a letter authorizing signature by the applicant must be attached.

Date: _____ Fee: _____

Morrow County Planning Department
 P.O. Box 40, Irrigon Oregon 97844
 (541) 922-4624 FAX: (541) 922-3472

Google Maps



- 1- House
- 2- Car port
- 3- Septic tank
- 4- well pump
- 5- Hors Stables
- 6- Corral
- 7- Hoile wat
- 8- truck parking

Measure distance
Total area: 121,779.39 ft² (11,313.68 m²)
Total distance: 1,476.51 ft (450.04 m)

6. Retail sales shall be limited or accessory to a service.
7. Be operated by a resident or employee of a resident of the property on which the business is located.
8. The permit allowing a home occupation shall be reviewed every 12 months following the date the permit was issued and may continue the permit if the home occupation continues to comply with the requirements of this section.
9. Employ on the site no more than five full-time or part-time persons.
10. Not unreasonably interfere with other uses permitted in the zone in which the property is located.
11. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established pursuant to Section 3.010 and is operated in association with the winery:
 - a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
 - b. The meals may be served at the bed and breakfast facility or at the winery.

H. Landfill, solid waste disposal site: The Planning Commission may authorize a landfill or other solid waste disposal site as a conditional use, subject to the following standards:

1. 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.
2. 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 or a residential zone.
3. The facility shall be fenced when the site is located adjacent to dwelling(s) or a residential zone, and landscaping, buffering, and/or screening shall be provided.
4. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, including but not limited to requiring that the area surrounding the facility is kept free from litter and debris.
5. 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.
6. The county may limit hours of operation for the facility to be compatible with adjacent uses.
7. Comply with other conditions deemed necessary.

1. my home ~~the~~
my home will be the first use of my property and
my trucks will be the second use of the property.
2. no no Structural alterations need to be done
unless are required by law ~~the~~
3. N/A no signs
4. no no materials or mechanical equipment will
be used, Only air compressor and a welders
5. N/A no
6. N/A no Sales will be made of accessories.
- ~~7. there will be no employees~~
7. ~~N/A~~, only 3 employees + myself
8. yes
9. ~~N/A~~ no more than 3 drivers
10. no
11. N/A not keel + breakfast

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PLANNING DEPARTMENT

PO Box 40 • Irrigon, Oregon 97844
(541) 922-4624

June 13, 2025

MEMO

TO: Planning Commission

FROM: Tamra Mabbott, Planning Director and Clint Shoemake, Planning Tech

RE: Farm/Forest Code Update Work Session

The Land Conservation and Development Commission adopted new Oregon Administrative Rules (OARs) on December 5, 2024. They became effective January 1, 2025.

The Planning Department has added the new OAR language to the Morrow County Zoning Ordinance, attached in redline format to identify the changes.

During this work session, staff will present the changes, invite your input and answer questions.

Staff would like to review these code changes during an informal work session before scheduling for a formal hearing.

Attached is background information, including the November 27, 2024 staff report to the LCDC and redline OAR changes.

In addition to the Farm and Forest Zone changes, there is a minor change to the Flood Hazard Overlay Zone, identifying the new federal requirements for a habitat assessment.



November 27, 2024

To: Land Conservation and Development Commission

From: Brenda Ortigoza Bateman, Ph.D., Director
Gordon Howard, Community Services Division Manager
Hilary Foote, Farm and Forest Specialist
Sean Carpenter, Senior Editor

Subject: **Agenda Item 4, December 5-6, 2024, LCDC Meeting**

Farm & Forest Modernization Program Rulemaking

I. Agenda Item Summary

Department of Land Conservation and Development (DLCD or department) staff request that the Land Conservation and Development Commission (LCDC or commission) review proposed amendments to rules guiding development on farm and forest lands in Oregon, consider public comment, and vote on these amendments. Any rule amendments adopted will be applied to new reviews following the effective date and will not apply retroactively to existing approvals or to applications currently under review. The public comment period for this item closed on Oct. 16, 2024.

a. Purpose

Staff will brief the commission on the draft farm and forest lands rule amendments. This agenda item is an opportunity for commissioners to discuss the recommendations and adopt rule amendments.

b. Objective

The commission votes on adopting rule amendments. Staff ask that the commission adopt the rule changes recommended by the department in Attachment A or adopt the rule changes with amendments to the department's recommendation.

For further information about this report, please contact Hilary Foote, Farm and Forest Specialist at hilary.foote@dlcd.oregon.gov or 503-881-9249.

II. Background

Oregon's zoning-based farm and forest land conservation programs have been in place for approximately 50 years. During that time, the Oregon Legislature, the commission, and the courts have expanded, modified and re-designed the program to improve its performance in achieving the objectives of Statewide Land Use Planning Goals 3: Agricultural Lands and 4: Forest Lands, and to adapt to changes in public priorities. These regulatory programs are living, dynamic structures, subject to amendments to state statutes, amendments to administrative rules that interpret and clarify the statutes, and court interpretations that establish case law standards.

Oregon's farm and forest conservation programs attempt to balance the need for clear and objective statewide standards with provisions for local discretion and the flexibility to adapt the program to the unique circumstances of individual counties. In some cases, ambiguity in use definitions or rule language has resulted in more frequent appeals of certain types of use applications, and repeated requests for department guidance from local jurisdictions.

In January 2024, the commission initiated the Farm and Forest Modernization Project rulemaking and directed the department to appoint a rules advisory committee (RAC)..

This rulemaking is intended to improve the clarity and consistency of farm and forest program implementation across the state. The initial charge from the commission directed staff to propose rule changes that will:

- Codify identified case law standards.
- Result in more consistent implementation of case law standards.
- Provide additional clarity to counties and potential land use permit applicants with the intent of reducing unnecessary appeals.

In response, RAC members considered standards related to:

- ORS 215.296 (the "farm impacts test").
- Commercial activities in conjunction with farm use.
- Agri-tourism and other commercial events "incidental and subordinate" and "necessary to support" standards.
- Transportation facilities on rural lands.

In April 2024, the commission expanded the scope of the rulemaking charge. The commission directed staff and RAC members to consider:

- Codification of case law related to the definition of a "private park".
- Definitions of "preparation" and "processing".
- Clarification of alignment methodologies in performing a template test.
- Evidentiary standard for the verification of income for certain uses.
- Multi-path permitting uses.

The commission also directed staff and the RAC to discuss replacement dwellings, bringing their initial thoughts and any additional information the commission might need to consider in conducting rulemaking on this topic in 2025 or beyond.

This staff report reviews the need for rule amendments, the staff recommendation, and key discussion points for some of these items. Staff have grouped the charge topics into three categories: 1) proposed rule amendments for items codifying case law 2) proposed rule amendments for other items and 3) conforming rule items. The staff report for the September LCDC meeting contains a section, which is not repeated here, describing items that staff currently doesn't recommend for rule amendments.

The rulemaking notice to the Oregon Secretary of State includes the full text of revised rules and is available included in the packet as Attachment B and online here:

https://www.oregon.gov/lcd/LAR/Documents/FarmForest_NoticeFilingTrackedChanges.pdf

The rulemaking charge from the commission is included in the packet as Attachment C and available online here:

https://www.oregon.gov/lcd/LAR/Documents/2024.05.02_FF_Rulemaking_Charge_Revised.pdf

The RAC membership roster is included in this packet as Attachment D and available online here: <https://www.oregon.gov/lcd/lar/pages/farmforestrule.aspx>

a. Proposed Rule Amendments for Codification of Case Law

Common law (or case law) is the body of law derived from judicial decisions by the courts. In this context, these are interpretations of statutory provisions by the Oregon Land Use Board of Appeals (LUBA), the Oregon Court of Appeals, and the Oregon Supreme Court. In American common law, prior court decisions are crucial in resolving cases, even when a statute is involved.

A large body of common law exists on aspects of the farm and forest program. While these rulings have not been codified in statute or rule, they are routinely applied to reviews on appeal of land use decisions.

County planning departments have varying degrees of ability to apply un-codified common law when reviewing applications. The result is local governments unequally implementing case law standards across the state and unnecessary legal challenges. Codifying common law standards related to frequently applied and subjective criteria and uses will improve consistency of application of these standards and reduce unnecessary appeals.

i. The Farm Impacts Test for Conditional Uses in Exclusive Farm Use Zones

Exclusive Farm Use (EFU) zoning is established at the state level to protect agricultural land for farming. Use of land zoned as EFU is limited to farm use, uses the legislature has determined are compatible with farm and forest operations, or uses which the legislature has determined may be compatible with farm and forest operations. EFU statutes in Oregon Revised Statutes (ORS) 215.203 contain a definition of “farm use”, and then two lists of uses the legislature has determined may be permitted in EFU zones.

The first list contains permitted uses, which are understood to be compatible with farm and forest operations as long as they are developed and operated within the parameters established for those uses in the enacted statute.

The second list contains conditional uses which, depending on the specific site and proposal, may or may not be compatible with the farm and forest operations which are the primary focus of the protective zoning.

All conditional uses in EFU zones require a county to exercise discretion. Counties must find that the use as proposed will not force a significant change in farm and forest practices and will not significantly increase the cost of farm and forest practices on the surrounding lands. This discretionary review requirement is in ORS 215.296 and is often referred to as the “farm impacts test.” Counties routinely apply this test to a wide variety of EFU conditional uses to determine compatibility with farm and forest operations.

In case law, there is guidance from the courts on how to conduct a sufficient analysis to provide findings under the farm impacts test. These established case law standards have not been codified in statute or rule and are therefore applied inconsistently by counties throughout the state. RAC members considered several cases on the topic, most notably the Oregon Supreme Court’s decision in *Stop the Dump Coalition v. Yamhill County*, 364 Or 432 (2019). DLCD staff relied on the case's step-by-step guidance to develop the proposed rule amendments. Staff have provided a summary of each of the cases considered and a review of the holdings (conclusions) in each case as Attachment E. DLCD staff are recommending rule language that reflects the holdings in those cases.

Staff have prepared a quick reference guide for the draft rules in Attachment F. The first page of this guide includes recommended rule language based on farm impacts test case law. Subsections (A) to (C) of the proposed rule amendments describe the steps required to reach a conclusion that the proposal won’t significantly impact farm or forest practices or the cost of those practices in the surrounding area as directed by the Oregon Supreme Court in its *Stop the Dump* decision.

Subsection (D) describes some examples of the types of potential impacts an applicant and the jurisdiction might consider when conducting the review.

Subsection (E) reflects *Von Lubken v. Hood River County*, 118 Or App 246 (1993) an Oregon Court of Appeals case that clarifies construction-related impacts should be considered in addition to operational impacts.

The commission received a comment letter expressing concern about requiring review of construction impacts under the farm impacts test. It cites two cases — *Citizens Against LNG v. Coos County*, 63 Or LUBA 162 (2011) and a pending case before LUBA involving a proposed water filtration facility in Multnomah County. However, neither of the cases referenced by Radler White Parks Alexander LLP in their comments involve ORS 215.296 (farm impacts test). The Coos County case addressed construction impacts for a portion of a proposed pipeline that crossed lands zoned for forest use, not farm use, which did not

require application of the farm impacts test. The referenced Multnomah County case that is pending before LUBA involves a proposal for a water filtration plant located in Multnomah County's Multiple Use Agricultural (MUA-20) Zone. Despite the name, Multnomah's MUA-20 zone is not an agricultural zoning district subject to state statutes governing agricultural lands. The requirement at issue in this case involves a provision in the local county zoning code that is not subject to state law or administrative rules regarding the farm impacts test. Staff have addressed these cases further in Attachment E.

The commission also received several comment letters from utility service providers expressing concern about this issue and how it would impact construction of utility facilities necessary for public service. However, such facilities are permitted uses (or "sub-1 uses"). They are not conditional uses under ORS 215.283(2), and thus are not subject to the farm impacts test. ORS 215.275 describes standards for utility facilities and does not reference the farm impacts test. It is not the intent of these rules to require review of construction impacts in the construction of utility facilities necessary for public service.

Subsection (F) reflects *Stop the Dump Coalition v. Yamhill County*, the Oregon Supreme Court decision that clarifies that a jurisdiction cannot force an impacted neighbor to accept financial compensation instead of adopting conditions that mitigate the impacts.

The department understands that there is interest in asking DLCD staff to prepare an agency guidance document to further describe the steps outlined in subsections (A) to (C). Staff have added this as an item to the draft 2025 Work Plan to further support appropriate implementation.

ii. Commercial Activities in Conjunction with Farm Use as Conditional Uses in Exclusive Farm Use Zones

Commercial activities in conjunction with farm use (CACFU) are a conditional use, which is broadly defined in statute at ORS 215.213(2)(c) and 215.283(2)(a). CACFUs are the second most approved nonfarm use in EFU zones. Counties review a wide variety of uses at various scales and intensities under this category. More commonly approved uses include:

- Alcohol production and tasting
- Processing and storage facilities
- Transportation businesses
- Equipment manufacturing, sales, and repair
- Events

For these uses, a key component of the review is consideration of what it means for a business to be "in conjunction with farm use." Multiple court rulings have addressed this question over the past 40 years. While DLCD has referenced these established case law standards in its model code for exclusive farm use zones, these standards have not been codified in statute or rule and therefore applied inconsistently throughout the state.

On September 24, 2024, the Oregon Court of Appeals affirmed a decision by LUBA addressing the case law standards for Commercial Activities in Conjunction with Farm Use and came to different conclusions than the department and the farm and forest rulemaking RAC found in the existing case law. The Court of Appeals case was *Friends of Yamhill County v. Yamhill County*, 335 Or App 272 (2024). In light of potential appeals on this case running into 2025, staff are recommending that these rules be deferred for possible future consideration by the commission after a further public rulemaking process has been conducted.

iii. “Incidental and Subordinate” and “Necessary to Support” standards as applied to ORS 215.213(11) and 215.283(4), the Agri-Tourism and Other Commercial Event Standards in Exclusive Farm Use Zones

In 2011, the legislature added a new use to EFU zones that allows for four different levels of agri-tourism events or other commercial events related to a farm use. The first three levels must pass the same standards for approval. The fourth level must meet more rigorous criteria to be approved. The four levels are:

1. Expedited review for a single, smaller event
2. One 72-hour event up to 500 people
3. Up to six 72-hour events or a month and a half of long weekend events
4. Up to eighteen 72-hour events or four months of long weekend events

The requirements for these events are listed in ORS 215.213(11) and ORS 215.283(4). Since 2013, counties have issued more than a hundred agri-tourism event permits under these standards.

All four levels of events authorized in ORS 215.213(11)/ORS 215.283(4) must demonstrate that they are “incidental and subordinate” to existing farm use of the property. This means that farm use must remain the predominant use of the property, and the event use should not become the proverbial “tail wagging the dog.”

For an application under the most intensive category — up to eighteen 72-hour events per year — the proposal must also be found to be “necessary to support” the commercial farm uses or the commercial agricultural enterprises in the area. As courts have noted when interpreting this language, the legislature’s inclusion of a different, higher standard for proposals involving up to eighteen events per year, as opposed to proposals involving fewer events, is both clear and logical.

Staff wishes to stress that the “incidental and subordinate” and “necessary to support” standards are existing statutory standards that have been in place since the legislature created the agri-tourism event opportunity in 2011. The rulemaking does not propose to add new standards: the proposed rule revisions are intended to codify case law that clarifies what these terms mean. Staff have developed Attachment E to summarize the cases

considered by the RAC and review the holdings in more detail. The staff-recommended rule language reflects the holdings in those cases.

On page 2 of Attachment F, staff have recommended rule language for this area of case law. The language in (a) is intended to clarify the types of relational aspects between the events and the farm use(s) to be considered when determining if the events are “incidental and subordinate” and that farm use remains the primary use of the property.

For the most intensive agri-tourism use, which includes the “necessary to support” standard, the language in (b) is reflective of the dictionary definitions that the court relied on to define what it means to be “necessary to support” the commercial farm or the commercial agricultural enterprises in the area. Staff’s recommended language in (b) reflects a requirement to compare the event’s proposal to all the commercial farm uses that are occurring on the property.

Some members of the RAC, and many of the comment letters received, expressed concern that the existing “necessary to support” standard as well as the court’s interpretation is overly burdensome and difficult to meet. Staff recommend that these concerns are expressed to the legislature, which has the authority to change the law if it is convinced that the current statutory language leads to such difficulties.

iv. Transportation Facilities on Rural Lands

The language in the Transportation Planning Rule (OAR 660-012-0065) that applies to rural transportation improvements applies to rural lands in general, meaning they apply to exception lands and nonresource lands as well as land protected under the farm and forest conservation program. Staff are proposing language that clarifies that when uses listed in OAR 660-012-0065(3) are proposed on land zoned farm or forest, they are subject to the farm impacts test or forest impacts test (as applicable). This is consistent with the department’s guidance on the topic and recent case law. Staff have included the recommended rule language for transportation facilities on rural lands on page 3 of Attachment F.

v. Private Parks

A variety and intensity of activities have been approved as “private parks” in resource zones. Approved private park uses include/have included: frisbee golf, shooting ranges, paintball parks, demonstration gardens, event venues, fish viewing areas, and motocross tracks. Members of the Technical Working Group convened in 2023 expressed concern that current rules do not state when proposals for private parks become inappropriate for a rural environment. Members suggested the department develop rules to define uses allowable as “private parks” including scale and intensity.

The RAC considered the holdings in *Central Oregon Landwatch v. Deschutes County*, 276 Or App 282 (2016) which addresses this topic. Staff have prepared recommended

language in Attachment F, page 4. Staff developed the proposed language to clarify that a private park is primarily recreational in nature — where the focus of the recreation is on the enjoyment of the outdoors. Staff have used case law to clarify that private parks are meant to be low intensity uses.

Some RAC members and letters of comment ask that language be included clarifying that a private park may not be open to the general public. Several participants cite as justification the court's finding in case law *Central Oregon Landwatch v. Deschutes County*, 276 Or App 282 (2016). After reviewing this case, DLCDC staff do not agree that the court made such a finding in its decision. Therefore, the department does not recommend inclusion of this language in the suite of administrative rule amendments before the commission at the December LCDC meeting.

b. Proposed Rule Amendments for Other Items

i. Preparation of Products on Farmland

ORS 215.203 clarifies that the general definition of “farm use” includes the “preparation of products or by-products raised on land employed for farm use.” OAR 660-033-0020(7) defines “products or by-products raised on such land” as “those products or by-products raised on the farm operation where the preparation occurs or on other farmland provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.”

Because “farm use of the land” includes preparation of products or by-products, the current definition contains a confusing, unintended circular reference. Because of this lack of clarity, OAR 660-033-0020(7) has been interpreted as “those products or by-products raised on the farm operation where the preparation occurs, or on other farmland provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the preparation of products or by-products.”

As a result, some counties have approved stand-alone, commercial preparation facilities with no associated farm operation as a “farm use.” On land zoned for exclusive farm use, farm use is allowed outright with minimal, if any, county review.

Attachment F, page 4 contains the recommended rule language for preparation uses on farms. The proposed language creates a two-part definition for “products or by-products raised on such land.” The first part of the proposed rule, OAR 660-033-0020(7)(a)(B)(i), clarifies that preparation of farm products produced on the hosting farm is allowable as a farm use. The second, OAR 660-033-0020(7)(a)(B)(ii), clarifies that preparation of products from other farms may also be considered farm use as long as the hosting property also has a farm operation that produces farm products, and those products are being prepared in the same facility as the products from other farms.

The Willamette Valley Specialty Seed Association commented that the draft language would not permit stand-alone seed cleaning facilities on land that was not also hosting a farm operation. In response, the department notes that LCDC added the definition for

“preparation” in OAR 660-033-0130 to expand on the statutory definition and provide flexibility to farmers to process some farm products produced by other farms in addition to their own crops. That rulemaking was done to address concerns that the statutory language of ORS 215.203 limits preparation to those “products or by-products *raised on such land*”, which limits preparation to products grown or produced on the farm operation and prohibits processing products, such as grass seed, grown on other farms. The commission’s action was based on the understanding of the grass seed industry: many farmers have cleaners on their own property, but to raise the capital to install those cleaners, farmers need to have income from preparing seed from other farms.

The revised rule proposed by department staff would continue to allow grass seed growers to clean seeds from other farms on their property if they also grow seed there. This also applies to other farm products such as fruit packing facilities. The definition was not intended to allow, without any further review, a stand-alone commercial preparation facility with no associated farm operation. Such a stand-alone preparation facility is not prohibited on farmland, but a county must process an application for such a facility as a commercial activity in conjunction with farm use subject to the farm impacts test.

ii. Evidentiary Standard for the Verification of Income for Farm Dwellings and Farm Stands in Exclusive Farm Use Zones

One of the tests to obtain a permit for primary and accessory farm dwellings involves verifying that a certain amount of income was earned on the farm over a certain period from the sale of farm products produced on the property. Several counties have communicated that it can be difficult to verify income in a reliable manner. The concerns county staff have expressed include that accountant statements and Internal Revenue Service (IRS) Schedule F (farm income) tax documents are not specific enough to be definitive, particularly about where the products were produced. County staff also have noted that it is difficult to verify if a taxpayer filed the tax documents with the IRS.

For dwellings in conjunction with farm use, income verification is only required at the time of application. There is no ongoing requirement to verify that the farming operation is continuing.

For farm stands, there is an ongoing statutory requirement that the sales from incidental retail items and event fees not exceed 25 percent of the farm stand income. Staff wishes to stress that this ongoing limitation on the sale of retail items and fees from promotional activities is an existing statutory requirement that has been in place since the legislature added fee-based promotional activities to allowable farm stand uses in 2001. The proposed rule language does not alter the income limitation. It only clarifies what method a county may use when it seeks to verify that the farm stand is complying with the income standard.

Staff have included the recommended rule language for income verification evidentiary standards in Attachment F, page 5. The department is recommending rule language that relies on the IRS tax return receipt as the minimum standard for verification of income. The proposed language also clarifies that a county may ask for any additional information it believes is necessary to demonstrate compliance with the standard.

A tax filer may request an IRS tax return transcript at no cost online or by mail. A tax return transcript produced by the IRS shows most line items from the original tax return as filed, along with any forms and schedules. It does not show tax account information such as refund amounts, federal tax deposits, payments, penalties and interest, or balance due. This is the least-cost method of verifying actual reported income for both applicants and reviewing jurisdictions. For dwellings in conjunction with farm use, this information is only required once — at the time of application. For farm stands, the proposed language clarifies that the county may request information documenting compliance with this standard from the farm stand operator at any time.

Some RAC members expressed concerns with privacy in this regard. As noted above, an IRS tax return receipt does not show tax account information such as refund amounts, federal tax deposits, payments, penalties and interest, or balance due. Applicants may redact other information that is not needed to verify income.

Some RAC members prefer language that would require a written statement prepared by a certified public accountant verifying that their client has met the standard. Other RAC members, including several county planners, feel that this approach is inadequate, citing examples of misuse. Additionally, an accountant's statement generally involves a fee, while the IRS tax return transcript is free of charge.

Several RAC members — in addition to comments received on the draft rules — requested more stringent requirements, including requiring site-inspections by planners and submittal of delivery receipts of products sold, as well as requiring counties and farm stand owners to prepare and review annual reports documenting compliance with the income threshold. DLCD staff feel that this would be a significant, additional regulatory burden on both applicant farm businesses and counties that does not exist today.

iii. Home Occupations in Exclusive Farm Use Zones

Home occupations are the most common non-resource use approved in exclusive farm use zones. Home occupations are defined in statute as a use that occurs in dwellings or other buildings normally associated with exclusive farm use zones and are operated by a resident or employee of a resident of the property. Home occupations are limited to employing five full-time or part-time persons. Counties may choose to adopt more restrictive standards for this use.

Given the ambiguity and breadth of the definition of a home occupation, a very wide variety and intensity of activities are approved as home occupations in EFU zones: hair salons, firearms dealers, tasting rooms, medical offices, events venues, daycares, funeral homes, mechanic repair shops, veterinary clinics, restaurants, among others. Sometimes uses are approved as home occupations instead of being approved under the standards established for a particular activity by the legislature. Proposals that cannot meet the standards established for a particular use by the legislature often seek approval under the more broadly defined “home occupation” option, which evades the legislature’s specific standards set for that particular use. In Attachment G, staff have included a list of uses that are allowed both specifically and as home occupations.

As an example, ORS 215.451 provides standards for a cider business that limits the size and scope of the business, and other standards like what kind and how many incidental events, such as cider tastings, may be allowed. Currently, a county may approve a cidery as a home occupation that exceeded these standards as long as it met the home occupation standards.

Attachment F, page 6 contains the proposed rule prepared by DLCD staff about home occupations. The proposed rule clarifies that uses with scale and scope no more intensive than those permitted by legislative standards can be reviewed as home occupations. The proposed rule also clarifies that certain home occupation businesses must be accessory to a residential use.

Under the proposed rule language, an applicant for a home occupation use that is otherwise listed separately in statute may choose one of the following options:

- 1) pursue an approval for a home occupation permit that no more intensive than what is allowable for that specific use in statute
- 2) pursue an approval for a use permit subject to the standards described for that use in statute
- 3) pursue an approval for a permit under an alternative category for a more intensive or larger scale use such as a commercial activity in conjunction with farm use, or
- 4) pursue an exception to statewide planning goals for a proposal more intensive or larger in scale than permissible in farm zones.

As an example, under the language proposed by staff, a county could still approve a small cidery as a home occupation but could not approve aspects of the cidery that were more than what is allowed by ORS 215.451. The cidery would have to be incidental to the residential use of the property. The cidery could still choose to seek a permit within the limits established by the legislature in ORS 215.451. Alternatively, a proposal for a larger cider business exceeding the scope and scale otherwise permissible under ORS 215.451 could seek approval as a commercial activity in conjunction with farm use.

RAC members and several public comments received request additional restrictions on home occupations in administrative rules. Most notably, several RAC members and commenters propose that the rules specifically prohibit consideration of a use otherwise provided for in statute as a home occupation. However, the input from county planners at RAC meetings was a key factor against the department taking such a course. In the example cited above, an applicant for a small cidery of a size well below the limits in state law would be forced into an application process designed for a larger facility, which might lead to the applicant not proceeding with the application. The intent of these rules is not to prevent small start-ups that might foster additional agricultural economic activity. The intent is to prevent abuse of the home occupation standard by allowing an otherwise limited use beyond the levels outlined in statute.

In the same cidery example, a county would not be able to approve a cider business that produced more than 100,000 gallons of cider annually — the limit created by the legislature in ORS 215.451(2)(a) — as a home occupation.

Other RAC members and public comments received suggest different changes to the home occupation statutes. Comments suggested explicitly prohibiting certain types of uses as home occupations. Comments were also received suggesting that home occupations be limited activities associated with a dwelling that is primarily used as a home rather than activities that are primarily a commercial use with a caretaker dwelling unit. However, these recommendations are outside of the scope of the charge, which was to address the specific issue of the conflict between home occupations and uses specified by the legislature in statutes.

Some RAC members and commenters opposed any change that would limit the scope of home occupation uses or that require a home occupation to be accessory to residential use of a dwelling. These RAC members believe that the limitation of five employees that the legislature established is sufficient to limit the scope of home occupations in all cases. In response, department staff assert that it was not the intent of the legislature to use the home occupation statutory allowance to create a “loophole” for a use that is bigger or more intensive than what the legislature had otherwise authorized.

DLCD has received public comment suggesting that rulemaking on this item be deferred pending resolution of an appeal of a case involving a large-scale¹ home occupation. However, the rulemaking charge on this item is not to codify case law, but rather to clarify what intensity of uses is allowable as a “home occupation” when they are also authorized elsewhere in statute. This type of clarification is well within the commission’s authority to interpret statutes implementing Goal 3.

c. Conforming Rule Changes

These rule updates are necessary to align agency rules with new provisions of law enacted by the legislature and currently in effect. These are instances where the rule language, as it is, no longer reflects the actual legal requirements in state statutes. If the commission does not update administrative rules with these changes, the existing statutory language has legal precedence and is directly applicable. Even though the effective statutory provisions take precedence over administrative rules, the outdated rule language may lead to confusion and mistaken application of regulations that have changed.

Rule amendments are necessary to conform to the following laws passed by the Oregon Legislature.

Law	Effect	OAR
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¹ At issue in this case (*Friends of Yamhill County v. Yamhill County*, 325 Or App 282 (2023)) is a permit application for a new, two-story, 8,200 square foot structure proposed to be used as a bed and breakfast home occupation with 9 guest rooms and an inn-keeper suite, with a total capacity to host 28 overnight guests. The building was constructed to building code standards for a hotel.

Oregon Laws 2023, chapter 301, sections 1 to 3	Changed the requirements for replacement dwellings in forest zones at ORS 215.755 to mirror the new requirements in ORS 215.291 which were previously applicable only to farm zones.	660-006-0025(3)(o) and (p)
Oregon Laws 2023, chapter 301, sections 1 to 3	Modified the requirements for replacement dwellings in farm zones.	660-033-0130(8)
Oregon Laws 2023, chapter 81, section 2	Adds rabbits and rabbit products to the list of farm products which may be processed at a farm product processing facility under ORS 215.255.	660-033-0130(28)
Oregon Laws 2021, chapter 369, sections 9 and 10	Added childcare facilities, preschool recorded programs or school-age recorded programs as a new use in exclusive farm use zones.	660-033-0120
Oregon Laws 2019, chapter 416, sections 1 to 2	Modified the requirements for expansion of certain nonconforming schools in farm zones.	660-033-0130(18)(b)
Oregon Laws 2019, chapter 307, sections 2 and 3	Section 3 repealed Section 2 on January 2, 2022, removing special provisions for farm dwellings in conjunction with cranberry operations.	660-033-0135(11)
Oregon Laws 2019, chapter 433, sections 2, 3, and 4	Language in Section 3 clarifying effective dates for the new template test provisions has been removed to conform to statute. Section 4 repealed Section 2 on January 2, 2024, which had allowed a one-time opportunity which expired at the end of 2023.	660-006-0027(7)

These changes to rule are available for review in the Rulemaking Notice at:

https://www.oregon.gov/lcd/LAR/Documents/FarmForest_NoticeFilingTrackedChanges.pdf

III. Process

The department appointed a Farm and Forest Conservation Program Improvements RAC as directed by LCDRC in January 2024. The RAC consisted of individuals and organizations likely to be impacted by changes to the farm and forest conservation programs and people who also have a strong understanding and working knowledge of the history and structure of the state's farm and forest zoning-based land conservation programs. RAC members were selected from applicants to a solicitation open to all interested persons. Selections were made based on information reported by the applicants to attain a RAC composition as described at initiation approval and also to reflect geographic and demographic diversity. All county planners that applied were included in the RAC.

The RAC included six county planners from various regions of the state. As the objective of the rulemaking is to provide clarity and achieve greater consistency in implementation, it was

important to the department to consider feedback from the people who interpret and implement LCDC-adopted administrative rules on a daily basis. County planners are responsible for explaining these rules to potential applicants and other members of the community, ensuring that applications contain sufficient information and evidence, and are the ones responsible for writing findings determining whether individual applications comply with the state's statutes and administrative rules.

The RAC also included several land use lawyers representing both development interests and conservation interests, several farmers, state agency staff, scholars, land trust organizations and interest groups. Staff have included the RAC roster as Attachment D.

Staff met with the RAC in five three-hour meetings between March 2024 and July 2024 to discuss the topics that are summarized above. The RAC also met on October 7, 2024, for the sole purpose of answering questions on next steps in the rulemaking process. Recordings of those meetings are available for viewing on the department's YouTube channel:

<https://www.youtube.com/@OregonDLCD/streams>

In developing the recommendations described above, staff carefully considered viewpoints expressed by RAC members during these meetings as well as written comments received both from the RAC and from the public. DLCS staff have posted written comments on the rulemaking website: <https://www.oregon.gov/lcd/lar/pages/farmforestrule.aspx>

IV. Recommended Action

The department recommended the commission adopt rule amendments as shown in Attachment A.

Recommended motion: I move the commission adopt rule amendments as recommended by the department and shown in Attachment A.

Optional approval motion: I move the commission adopt rule amendments as recommended by the department in Attachment A with the following changes: [identify changes].

V. Attachments

- A. Recommended Rule Amendments
- B. Notice of Proposed Rulemaking Including Statement of Need & Fiscal Impact
- C. Rulemaking Charge
- D. Rulemaking Advisory Committee Member Roster
- E. Memorandum on Cases Reviewed

- F.** Quick Reference Proposed Rule Language
- G.** Uses That are Both Specifically Allowed by a State Statute and as Home Occupations
- H.** Public Comments Received on the Draft Rule

SECTION 3.010. EXCLUSIVE FARM USE, EFU ZONE

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

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

B. Uses Permitted Outright, not subject to review. In an EFU zone, the following uses and their accessory uses are permitted without a zoning permit.

1. Farm use, as defined in ORS 215.203, is allowed outright without Zoning Permit review except dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.283(1). For the purpose of this section, farm use does not include customary accessory uses and structures over 100 square feet (e.g. barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit.
2. Propagation or harvesting of a forest product.
3. Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
4. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
5. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
6. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

7. Climbing and passing lanes within the right of way existing as of July 1, 1987.
8. Creation of, restoration of, or enhancement of wetlands.
9. Firearms training facility in existence on September 9, 1995.
10. Parking of up to seven log trucks.
11. 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.
12. Utility facility service lines subject to Subsection F.9.
13. 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.

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

1. Agricultural buildings customarily provided in conjunction with farm use.
2. Fire service facilities providing rural fire protection services.
3. An expedited single-event agritourism or commercial event permit as described in subsection L(1) or L(2) of this Article.
4. Operations for the exploration for minerals as defined by ORS 517.750.
5. Alteration, restoration, or replacement of a lawfully established dwelling subject to Subsection F.18 and Section K.
6. A site for the takeoff and landing of model aircraft subject to Subsection F.12.

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

uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

1. An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735(2).
2. A facility for the processing of farm crops, biofuel~~or~~, poultry or rabbits subject to Subsection F.1.
3. Dog training classes or testing trials subject to Subsection F.4.
4. Farm stands subject to Subsection F.5.
5. A winery subject to ORS 215.452-.456
6. A cider business as provided in ORS 215.451
7. Agri-tourism and other commercial events or activities subject to Section L of this Article.
8. Land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids subject to Subsection F.8.
9. Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection F.10.
10. Churches, and cemeteries in conjunction with churches, subject to Subsection F.17. This use is not permitted on high-value farmland except that existing churches on high-value farmland may be expanded subject to Subsection F.19.
11. Dwelling customarily provided in conjunction with farm use subject to Subsection F.18 and Section G.
12. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse if the farm operator does, or will, require the assistance of the relative in the management of the farm use subject to Subsections F.3, and F.18.
13. Accessory farm dwellings for year-round and seasonal farm workers subject to Subsection F.18 and Section H.
14. One single-family lot of record dwelling on a lawfully created lot or parcel subject to Subsection F.18 and Section I.

15. Single-family residential dwelling, not provided in conjunction with farm use subject to Subsection F.18 and Section J.
16. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 and listed on the National Register of Historic Places subject to Subsection F.18.
17. Residential home as defined in ORS 197.660, in existing dwellings, subject to Subsection F.18.
18. Room and board arrangements for a maximum of five unrelated persons in existing residences subject to Subsection F.18.
19. Confined animal feeding operation, as defined by the Oregon Department of Agriculture, subject to Subsection F.20.
20. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
21. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
22. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
23. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.
24. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.
25. Alteration, restoration, or replacement of a lawfully established dwelling that has been destroyed, demolished, or improperly removed subject to Subsection F.18 and Subsection K.

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

1. A facility for the primary processing of forest products subject to Subsection F.2.
2. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.
3. Temporary hardship dwelling subject to Subsection F.18 and Article 7.

4. Home occupations subject to F.21 and as provided in Article 6.
5. Commercial dog boarding kennels, as provided in Article 6, or dog training classes or testing trials that cannot be established under Subsection D.3.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Subsection D.2, but excluding activities in conjunction with a marijuana crop, and subject to F.6.
8. Guest ranches subject to temporary provisions relating to guest ranches in ORS 215 and OAR 660-033-0120.
9. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.
10. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
11. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
12. Processing of other mineral resources and other subsurface resources.
13. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities subject to Subsection F.7.
14. Utility and transmission towers over 200 feet in height.
15. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities subject to Subsection M.1.
16. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection M.2.
17. Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection M.3.
18. A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. This use is not permitted on high-value farmland except that existing facilities on high-value farmland may be expanded subject to Subsection F.19 and Article 6.

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

20. Living history museum and subject to Subsections F.13 and F.17.

21. Public parks and playgrounds subject to Subsections F.14 and F.17.

22. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

23. Operations for the extraction and bottling of water.

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

25. Private parks, playgrounds, hunting and fishing preserves, and campgrounds subject to Subsections F.15 and F.17. A “private park” means an area devoted to low-intensity, outdoor, recreational uses for which enjoyment of the outdoors in an open space, or on land in its natural state, is a necessary component and the primary focus. This use is not permitted on high value farmland except that existing private parks on high value farmland may be expanded subject to Subsection F.19.

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

27. 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.

28. Child care facilities, preschool recorded programs or school-age recorded programs consistent with ORS 215.283(2)(dd).

a. Authorized under ORS 329A.250 to 329A.450.

b. Primarily for the children of residents and workers of the rural area in which the facility or program is located; and,

c. Co-located with a community center or a public or private school allowed under this subsection.

29. Roads, highways and other transportation facilities and improvements not allowed under subsections B, C, D and E of this section may be established, subject to the approval of the county, in areas zoned for exclusive farm use subject to:

a. Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

~~27.b.~~ ORS 215.296

F. Use Standards

1. Farm product processing as allowed in ORS 215.255.

a. A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility.

b. 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.

c. 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.

d. 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.

~~1-e.~~ A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

2. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses as defined in Section 1.030 of this Ordinance. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section means timber grown upon a tract where the primary processing facility is located.

3. To qualify for a relative farm help dwelling:

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

b. A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.

4. Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:

a. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and

b. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.

5. A farm stand may be approved if:

a. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; The operator of the farm stand shall submit to the county evidence of compliance with the annual sales requirement. Such evidence shall consist of an IRS tax return transcript and any other information county may require to document ongoing compliance with this section or any other condition of approval. and

b. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

c. As used in this Section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation or grown on the farm operation and other farm operations in the local agricultural area.

d. As used in this Subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

e. As used in this Section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.

f. A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.

g. Farm Stand Development Standards

(1) Adequate off-street parking will be provided pursuant to the requirements in Article 4 of this Ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

7. A personal-use airport, as used in this Section, prohibits aircraft other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

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

9. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

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

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

a. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.

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

- (a) Technical and engineering feasibility;

(b) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and nonresource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state and federal agencies.

(2) Costs associated with any of the factors listed in Subsection (1) may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

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

(4) The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Article 6. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

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

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

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

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

- (a) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
- (b) The associated transmission line is co-located with an existing transmission line;
- (c) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
- (d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad that is located above the surface of the ground.

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

- (a) Technical and engineering feasibility;
- (b) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
- (c) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
- (d) Public health and safety; or
- (e) Other requirements of state or federal agencies.

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

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

11. Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Subsection F.19.

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

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

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

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

12. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this Section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section. An owner of property used for the purpose authorized in this Section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this Section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

13. A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.

14. Public parks may include:

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

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

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

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

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

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

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

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

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

(8) Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.

c. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:

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

(2) Dining halls (not restaurants).

15. Private Campgrounds are subject to the following:

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

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

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

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

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

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

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

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

a. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

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

c. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this ordinance.

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

19. Expansion standards. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, including but not limited to OAR 660-033-0130(18)(b). An existing golf course may be expanded consistent with the requirements of Subsection F.16 and Article 6.

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

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

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

(1) A residential structure is lawfully sited; or

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

21. Home occupations and the parking of vehicles are allowed in the EFU zone, subject to OAR 660-033-0130(14) as follows:

a. Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located.

b. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time employees.

c. The county may only approve a use provided in OAR 660-033-0120 as a home occupation if:

(1) The scale and intensity of the use is no more intensive than the limitations and conditions otherwise specified for the use in OAR 660-033-0120, and

(2) The use is accessory, incidental and subordinate to the primary residential use of a dwelling on the property.

G. Dwellings Customarily Provided in Conjunction with Farm Use

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

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

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

(2) 320 acres and designated rangeland

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

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

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

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

a. The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:

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

(2) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon;~~and~~

~~(2)~~(3) The applicant shall submit to the county an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirements as provided in OAR 660-033-0135(3), and

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

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

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

- (1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
- (2) Only gross income from land owned, not leased or rented, shall be counted; and
- (3) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

3. Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is currently employed for the farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and

a.b. The applicant shall submit to the county an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirements as provided in OAR 660-033-0135(4), and

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

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

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

- (1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
- (2) Only gross income from land owned, not leased or rented, shall be counted; and
- (3) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

4. Farm Capability Standards.

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

- (1) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile from the perimeter of the subject tract;
- (2) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Subsection (1);
- (3) The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in Subsection (1);
- (4) The subject lot or parcel on which the dwelling is proposed is not less than 20 acres;
- (5) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
- (6) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
- (7) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection (3).
- (8) In determining the gross sales capability required by Subsection (3):
 - (a) The actual or potential cost of purchased livestock shall be deducted from the total gross sales attributed to the farm or ranch tract;
 - (b) Only actual or potential sales from land owned, not leased or rented, shall be counted; and
 - (c) Actual or potential gross farm sales earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- b. In order to identify the commercial farm or ranch tracts to be used in Subsection (1), the potential gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the county pursuant to OAR 660-033-0135(2)(c).

5. Additional Farm Income Standards.

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

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

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

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

c. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

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

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

b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;

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

d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;

e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

f. The Oregon Department of Agriculture has approved the following:

(1) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(2) A Producer License for the sale of dairy products under ORS 621.072.

g. As used in this Section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsections 2 or 3, whichever is applicable, from the sale of fluid milk.

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

a. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection 2 or 3, whichever is applicable;

b. The subject lot or parcel on which the dwelling will be located is:

(1) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection 2 or 3, whichever is applicable; and

(2) At least the size of the applicable minimum lot size under Section N;

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

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

e. In determining the gross income required by Subsection a and Subsection b:

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

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

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

H. Accessory Farm Dwellings

1. Accessory farm dwellings may be considered customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;

b. The accessory farm dwelling will be located:

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

(2) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;

(3) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;

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

(5) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

2. In addition to the requirements in Subsection 1, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:

(1) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(2) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

b. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

c. It is located on a commercial dairy farm as defined in Section 1.030; and

(1) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;

(2) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

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

~~(3)d.~~ The applicant shall submit to the county an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirements as provided in OAR 660-033-0135(4).

3. No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this Subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this ordinance, a parcel may be created consistent with the minimum parcel size requirements in Subsection N.1.

4. An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection D.15.
5. For purposes of this Subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.
6. Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.
7. No accessory farm dwelling unit may be occupied by a relative of the owner or operator of the farmworker housing. "Relative" means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.

I. Lot of Record Dwellings

1. A lot of record dwelling may be approved on a pre-existing lot or parcel if:
 - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in Subsection 5:
 - (1) Since prior to January 1, 1985; or
 - (2) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - b. The tract on which the dwelling will be sited does not include a dwelling;
 - c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;
 - d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;
 - e. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in Subsections 3 and 4; and
 - f. When the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.
2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

3. Notwithstanding the requirements of Subsection I.1.e, a single-family dwelling may be sited on high-value farmland if:

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

4. Notwithstanding the requirements of Subsection I.1.e, a single-family dwelling may be sited on high-value farmland if:

- a. It meets the other requirements of Subsections 1 and 2;
- b. The tract on which the dwelling will be sited is:
 - (1) Not high-value farmland defined in Section 1.030; and
 - (2) Twenty-one acres or less in size; and

c. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

d. The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

e. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:

(1) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(2) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

5. For purposes of Subsection 1, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

6. The county assessor shall be notified that the governing body intends to allow the dwelling.

7. An approved single-family dwelling under this Section may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.

8. The county shall provide notice of all applications for lot of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.

J. Dwellings Not in Conjunction with Farm Use

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

1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

2. For purposes of Subsection 1, a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:

a. Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;

b. An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices. This assessment applies practice by practice and farm by farm; and

c. An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a matter that is likely to have an important influence or effect on that operation.

d. For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.

e. For purposes of Subsection 1, potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under Subsection 1.

4.f. In the consideration of potentially mitigating conditions of approval under ORS 215.296(2), the County may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, not compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in Subsection 1.

2.3. Non-farm dwelling suitability standards.

a. The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

b. A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then it is not "generally unsuitable." A new parcel or portion of an existing lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

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

3.4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in (a) through (c) below. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in (a) through (c) below;

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

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

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

4.5. If a single-family dwelling is established on a lot or parcel as set forth in Subsection D.15, no additional dwelling may later be sited under the provisions of this Section.

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

- a. Meets the non-farm dwelling criteria in this section except Subsection J.3(2).
- b. The provisions of Subsection N are applicable if a non-farm parcel will be created for the non-farm dwelling.

K. Alteration, Restoration or Replacement of a Lawfully-established Dwelling

1. A lawfully established dwelling as described in ORS 215.291 may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:

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

(1) Intact exterior walls and roof structure;

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

(3) Interior wiring for interior lights;

(4) A heating system; and

(5) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.

b. Notwithstanding Subsection K.1.a(5), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

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

(2) The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

2. For replacement of a lawfully established dwelling under Subsection C.5:

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

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

- (2) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
 - (3) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
- b. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
 - c. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
3. A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
- a. The siting standards of Subsection b apply when a dwelling qualifies for replacement because the dwelling:
 - (1) Formerly had the features described in Subsection K.1.a;
 - (2) Was removed from the tax roll as described in Subsection K.1.b; or
 - (3) Had a permit that expired as described under Subsection K.4.c.
 - b. The replacement dwelling must be sited on the same lot or parcel:
 - (1) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
 - (2) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

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

4. A replacement dwelling permit that is issued under D.25:

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

(1) Formerly had the features described in Subsection K.1.a; or

(2) Was removed from the tax roll as described in Subsection K.1.b;

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

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

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

(2) Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

L. Agri-tourism and Other Commercial Events

~~The following agri-~~Agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established as one of four types, as listed below. For purposes of this section, a determination that an event or activity is 'incidental and subordinate' requires consideration of any relevant circumstances, including the nature, intensity, and economic value of the respective farm and event uses, that bear on whether the existing farm use remains the predominant use of the tract. A determination that an even tor activity is 'necessary to support' either the commercial farm uses or commercial agricultural enterprises in the area means that the events are essential in order to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area. OAR 660-033-0130(42)(a) and (b).:-

1. A single agri-tourism or other commercial event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

a. The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

b. The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

- c. The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;
- d. The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;
- e. The agri-tourism or other commercial event or activity complies with the standards described in Subsection 6.025(A);
- f. The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and
- g. The agri-tourism or other commercial event or activity complies with conditions established for:
 - (1) Planned hours of operation do not extend before 7 a.m. or after 11 p.m.
 - (2) Adequate off-street parking will be provided pursuant to the requirements in Article 4 of this ordinance.
 - (3) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
 - (4) All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
 - (5) No parking is permitted within the right-of-way.
 - (6) Approval is required from County Public Works regarding adequate egress and access. All egress and access points shall be clearly marked.
 - (7) Vision clearance areas at street intersections must be clear of obstruction, consistent with the requirements in Article 4 of this Ordinance.
 - (8) Permit approval is subject to compliance with the established sanitation requirements, the Department of Agriculture requirements, and the development standards of this zone.

2. In the alternative to Subsections 1 and 3, the county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

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

3. In the alternative to Subsections 1 and 2, the county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

- a. Must be incidental and subordinate to existing farm use on the tract;
- b. May not, individually, exceed a duration of 72 consecutive hours;
- c. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
- d. Must comply with the standards described in Subsection 6.025(A);
- e. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and
- f. Must comply with conditions established for:

- (1) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;
 - (2) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
 - (3) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;
 - (4) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and
 - (5) Sanitation and solid waste
 - (6) Must comply with the requirements of L.8.
- g. A permit authorized by this Subsection shall be valid for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of Subsection 3, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.
4. In addition to Subsections 1 to 3, the county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with Subsections 1 to 3 if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:
- a. Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
 - b. Comply with the requirements of L.3.c, d, e, and f;
 - c. Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and
 - d. Do not exceed 18 events or activities in a calendar year.
5. A holder of a permit authorized by a county under Subsection 4 must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

a. Provide public notice and an opportunity for public comment as part of the review process; and

b. Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Subsection 4.

6. Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.

7. The authorizations provided by Subsection 3 are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

8. Conditions of Approval. Agri-tourism and other commercial events permitted under Subsections 3 and 4 are subject to the following standards and criteria:

a. A permit application for an agri-tourism or other commercial event or activity shall include the following:

(1) A description of the type of agri-tourism or commercial events or activities that are proposed, including the number and duration of the events and activities, the anticipated daily attendance and the hours of operation and, for events not held at wineries, how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract.

(2) The types and locations of all existing and proposed temporary structures, access and egress, parking facilities, sanitation and solid waste facilities to be used in connection with the agri-tourism or other commercial events or activities;

(3) Authorization to allow inspection of the event premises. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and the Exclusive Farm Use Zone and any other applicable laws or ordinances.

b. Approval Criteria.

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

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

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

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

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

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

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

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

(6) Overnight camping is prohibited.

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

(8) Transportation Management

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

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

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

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

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

(9) Health and Safety Compliance

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

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

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

M. Commercial Facilities for Generating Power

1. Commercial Power Generating Facility.

a. Permanent features of a power generation facility shall not preclude more than:

(1) 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or

(2) 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(3) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

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

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

(a) Dismantle all related aboveground equipment.

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

(c) Gravel shall be removed.

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

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

2. Wind Power Generation Facility.

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

(1) Temporary workforce housing described in Subsection L.2.a must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.

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

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

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

(a) Technical and engineering feasibility;

(b) Availability of existing rights of way; and

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

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

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

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

(5) The criteria of Subsection c are satisfied.

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

- (1) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
- (2) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
- (3) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
- (4) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
- d. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection M.2.c(4) are satisfied.
- e. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections c and d, the approval criteria of Subsection c shall apply to the entire project.
3. Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:
- a. "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

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

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

d. “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

e. “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this Section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

f. For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4 or the requirements of paragraph (7) are met. The governing body or its designate must find that:

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

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

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

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

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

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

(b) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(6) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(a) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(b) When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

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

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

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

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

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

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

g. For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

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

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

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

(c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

(2) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;

(3) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(a) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(b) When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

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

h. For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

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

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

(b) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

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

(3) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;

(4) The requirements of Subsection M.3.f(4) are satisfied, and;

(5) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures.

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

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

N. Land Divisions

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

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

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

- a. The nonfarm dwellings have been approved under Subsection J;
 - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - c. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection 1; and
 - d. The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection 1.
4. A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:
- a. The nonfarm dwellings have been approved under Subsection J;
 - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - c. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection 1 but equal to or larger than 40 acres;
 - d. The parcels for the nonfarm dwellings are:
 - (1) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber; and
 - (2) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level; and
 - e. The parcels for the nonfarm dwellings do not have established water rights for irrigation.
5. This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
6. This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

7. This Section does not allow a division or a property line adjustment of a lot or parcel that separates a use described in D.12, E.3, or E.4 from the lot or parcel on which the primary residential use exists.

8. This Section does not allow a division or a property line adjustment of a lot or parcel that separates a processing facility from the farm operation specified in Section D.2.

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

- a. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section H; and
- b. For historic property that meets the requirements of Section D.16.

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

a. A division of land may be approved provided:

(1) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and

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

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

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

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

(3) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

(4) May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

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

- a. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;
- b. The church has been approved under Subsection D.10;
- c. The newly created lot or parcel is not larger than five acres; and
- d. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection 1 either by itself or after it is consolidated with another lot or parcel.

12. Notwithstanding the minimum lot or parcel size described Subsection 1, a division for nonfarm uses other than nonfarm dwellings, may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

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

14. Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

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

- a. If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use.
- b. If the parcel does not contain a dwelling, it:
 - (1) Is not eligible for siting a dwelling, except as may be authorized in ORS 195.120;
 - (2) May not be considered in approving or denying an application for any other dwelling; and
 - (3) May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource use.

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

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

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

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

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

P. Transportation Impacts

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

SECTION 3.020. FOREST USE, FU ZONE

A. Purpose. The purpose of the Forest Use (FU) Zone is to protect and maintain forest lands for grazing, and rangeland use and forest use, consistent with existing and future needs for agricultural and forest products. The FU zone is also intended to allow other uses that are compatible with agricultural and forest activities, to protect scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.

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

B. Uses Permitted Outright, not subject to review. In an FU zone, the following uses and their accessory uses are permitted without a zoning permit.

1. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
2. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation.
3. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.
4. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
5. Farm use, as defined in ORS 215.203, is allowed outright without Zoning Permit review except dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.283(1). For the purpose of this section, farm use does not include customary accessory uses and structures over 100 square feet (e.g., barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which may be permitted subject to approval of a zoning permit.
6. Climbing and passing lanes within the right of way existing as of July 1, 1987.
7. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
8. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

9. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

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

1. An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use larger than 100 square feet. A person may not convert an agricultural building authorized by this section to another use.
2. Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.
3. Temporary portable facility for the primary processing of forest products.
4. Exploration for mineral and aggregate resources as defined in ORS chapter 517.
5. 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.
6. Private hunting and fishing operations without any lodging accommodations.
7. Towers and fire stations for forest fire protection.
8. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
9. Uninhabitable structures accessory to fish and wildlife enhancement.
10. Temporary forest labor camps.
11. An outdoor mass gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period.

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

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

2. Destination resorts, subject to ORS 197.435 to 197-467 and Goal 8.
3. Youth camps subject to OAR 660-006-0031.
4. Caretaker residences for public parks and public fish hatcheries subject to Subsection F11.
5. A large tract forest dwelling subject to Subsection F.1 and F.11.
6. Lot of record dwelling subject to Subsections F.2 and F.11.
7. A template dwelling subject to Subsection F.3 and F.11.
8. Alteration, restoration or replacement of a lawfully established dwelling subject to Subsections F.4 and F.11.

E. Conditional Uses

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

1. Log scaling and weigh stations.
2. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
3. A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative subject to F.11 and Article 7.
4. Parking of up to seven dump trucks and seven trailers.
5. Home occupations subject to Article 6.
6. Permanent facility for the primary processing of forest products subject to F.12.
7. Permanent logging equipment repair and storage.
8. Private seasonal accommodations for fee hunting operations subject to Subsections F.5.
9. Private accommodations for fishing occupied on a temporary basis may be allowed subject to Subsections F.6.
10. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Section C (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
11. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

12. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065, OAR 660-006-0025(5) and ORS 215.296.

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

14. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new parcels.

15. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.

16. Expansion of existing airports.

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

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

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

20. Reservoirs and water impoundments.

21. Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

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

23. Aids to navigation and aviation.

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

25. Fire stations for rural fire protection.

26. Cemeteries.

27. Public parks subject to Subsection F.9.

28. Private parks and campgrounds subject to Subsection F.10. A "private park" means an area devoted to low-intensity, outdoor, recreational uses for which enjoyment of the outdoors in an open space, or on land in its natural state, is a necessary component and the primary focus.

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

30. Roads, highways and other transportation facilities and improvements not allowed under subsections B, C, D and E of this section may be established, subject to the approval of the county, in areas zoned for forest use subject to:

a. Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

~~29.b.~~ ORS 215.296

F. Use Standards

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

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

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

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

(1) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(2) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

2. Lot of record dwelling

a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph d:

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

(2) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

b. The tract on which the dwelling will be sited does not include a dwelling;

c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

d. For purposes of this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

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

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

(2) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

f. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and

g. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

3. A single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

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

(1) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

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

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

(1) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

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

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

(1) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

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

(2)d. As used in this section, “center of the subject tract” means the mathematical centroid of the tract.

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

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

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

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

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

(a) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

(b) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.

(2) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

h.i. A proposed “template” dwelling under this ordinance is not allowed:

(1) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;

(2) Unless it complies with the requirements of Sections G and H;

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

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

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

(1) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(2) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

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

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

(1) Has intact exterior walls and roof structures;

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

(3) Has interior wiring for interior lights; and

(4) Has a heating system.

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

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

a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

b. Only minor incidental and accessory retail sales are permitted; and

c. Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

6. Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:

a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

b. Only minor incidental and accessory retail sales are permitted;

c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

d. Accommodations must be located within one-quarter mile of fish-bearing Class I waters.

7. A Commercial Utility Facility for the purpose of generating power shall not preclude more than 10 acres from use as a commercial forest operation.

8. Solid waste disposal facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under ORS 459.245, shall meet the requirements of Article 6, and shall comply with the following requirements.

a. The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Comprehensive Plan.

b. The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest and grazing dwellings(s) or a residential zone.

c. The facility shall be fenced when the site is located adjacent to dwelling(s) or a residential zone and landscaping, buffering and/or screening shall be provided.

d. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, including but not limited to requiring that the area surrounding the facility is kept free from litter and debris.

e. Access roads or easements for the facility shall be improved to the county's Transportation System Plan standards and comply with grades recommended by the Public Works Director.

f. The county may limit hours of operation for the facility to be compatible with adjacent uses.

g. Comply with other conditions deemed necessary.

9. Public parks may include:

a. All uses allowed under Statewide Planning Goal 4;

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

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

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

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

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

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

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

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

(8) Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.

c. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:

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

(2) Dining halls (not restaurants).

10. Private Campgrounds and Campsites.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

G. Siting Standards for Dwellings and Structures in Forest Zones

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

1. Dwellings and structures shall be sited on the parcel so that:

a. They have the least impact on nearby or adjoining forest or agricultural lands;

b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

- c. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - d. The risks associated with wildfire are minimized.
- 2. Siting criteria satisfying Subsection 1 may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.
- 3. The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:
 - a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
 - b. A water use permit issued by the Water Resources Department for the use described in the application; or
 - c. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.
- 4. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- 5. Approval of a dwelling shall be subject to the following requirements:
 - a. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;
 - b. The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
 - c. Stocking survey report:
 - (1) If the lot or parcel is more than 30 acres, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;

(2) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and

d. The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

H. Fire-Siting Standards for Dwellings and Structures

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

1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards that shall comply with the following:

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

b. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;

c. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and

d. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

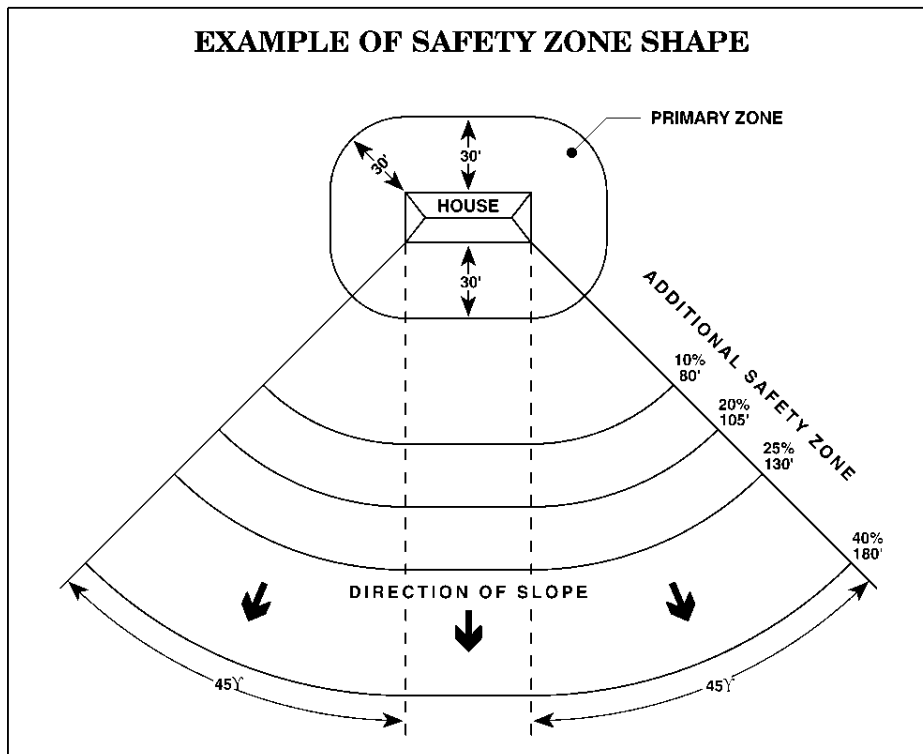
2. Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

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

TABLE 3.020-1 Minimum Primary Safety Zone

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

Figure 3.020-1



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

I. Land Divisions

1. The minimum parcel size for new forest parcels is 80 (eighty) acres.
2. New land divisions less than the parcel size in Subsection 1 may be approved for any of the following circumstances:
 - a. For the uses listed in the following subsections provided that such uses have been approved pursuant to Article 6 and the parcel created from the division is the minimum size necessary for the use.
 - (1) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
 - (2) Destination resorts, subject to ORS 197.435 to 197.467 and Goal 8.
 - (3) Log scaling and weigh stations
 - (4) Permanent facility for the primary processing of forest products subject to F.12.
 - (5) Permanent logging equipment repair and storage.
 - (6) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Subsection C.4 (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
 - (7) Television, microwave and radio communication facilities and transmission towers.
 - (8) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
 - (9) Reservoirs and water impoundments.
 - (10) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
 - (11) Commercial utility facilities for the purpose of generating power subject to Subsection F.7.
 - (12) Aids to navigation and aviation.
 - (13) Firearms training facility as provided in ORS 197.770(2).
 - (14) Fire stations for rural fire protection.
 - (15) Cemeteries.

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

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

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

(1) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres; and

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

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

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

c. To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection 1. Approvals shall be based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection 1 in order to conduct the forest practice. Parcels created pursuant to this paragraph:

(1) Are not eligible for siting of a new dwelling;

(2) May not serve as the justification for the siting of a future dwelling on other lots or parcels;

(3) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

(4) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

(a) Facilitate an exchange of lands involving a governmental agency; or

(b) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.

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

(1) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(2) Each dwelling complies with the criteria for a replacement dwelling under paragraph F.4.a;

(3) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;

(4) At least one dwelling is located on each parcel created under this paragraph; and

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

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

3. A lot or parcel may not be divided under paragraph 1.2.d if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel.

4. Restrictions

a. An applicant for the creation of a parcel pursuant to paragraph 2.b shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection 2.

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

5. A landowner allowed a land division under Subsection 2 shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

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

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

- a. If the parcel contains a dwelling, it must be large enough to support continued residential use.
- b. If the parcel does not contain a dwelling:
 - (1) It is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (2) It may not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use; and
 - (3) The owner of the parcel shall record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

J. Development Standards

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

1. Lot Size Standards. Lot size shall be consistent with the requirements of Section I.
2. Setbacks.
 - a. The front yard setback from the property line shall be 20 feet for property on a local street and 40 feet on a minor collector, 60 feet from a property line fronting on a major collector ROW, and 100 feet from a property line fronting on an arterial.
 - b. Each side yard setback shall be a minimum of 25 feet.
 - c. Rear yards shall be a minimum of 25 feet.
 - d. Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.
 - e. Big Game Range Restrictions. Standards found in Article 3 Section 3.200 Significant Resource Overlay Zone apply.
3. Height.
 - a. Dwellings shall not exceed a height of 35 feet.
 - b. Non-residential structures shall not exceed a height of 35 feet.

K. Transportation Impacts

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

MORROW COUNTY, OREGON ZONING ORDINANCE

ARTICLE 1. INTRODUCTORY PROVISIONS

SECTION 1.010. TITLE.

This Ordinance shall be known as the Morrow County Zoning Ordinance of 1980, amended March 6, 1985, amended and readopted in its entirety on November 7, 2001, and amended on January 8, 2025.

SECTION 1.020. PURPOSE.

The intent and purpose of this Ordinance is to promote the public health, safety and general welfare and to carry out the Comprehensive Plan of the County, the provisions of ORS Chapter 215, and the Statewide Planning Goals adopted pursuant to Oregon Revised Statutes (ORS) Chapter 197. Therefore, approvals granted pursuant to the provisions of this Ordinance shall be based on the following considerations among others: the characteristics of the various areas in the County, the suitability of an area for particular land uses, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of an area, needed access to particular sites in the County, natural resources, and the need for development or conservation thereof, and the public need for healthful, safe and aesthetic surroundings and conditions.

SECTION 1.030. DEFINITIONS.

As used in this ordinance, the following words and phrases shall have the meaning set forth in this section. Words and phrases not defined shall have the meaning commonly and ordinarily understood, as determined by the Planning Director, Planning Commission, or Board of Commissioners.

Accepted Farming Practice. A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use. As applied to composting operations on high-value farmland, "accepted farming practice" includes composting operations that either 1) compost only materials produced on the subject tract, or 2) compost materials brought from off-site and processed alone or in conjunction with materials generated on the subject tract, and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract.

Access. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

Accessory Dwelling Unit. A dwelling which is subordinate to and serves a primary building and is subordinate in area, extent, or purpose to the primary building and contributes to the comfort, convenience, or necessity of occupants of the primary building, and is located on the same lot as the primary building.

Accessory Use. A use incidental and subordinate to the main use of the property and located on the same lot as the main use.

Accessory Structure. A detached structure, the use of which is customarily incidental to that of the primary structure or the primary use of the land and which is located on the same lot or parcel as the primary structure or use.

Agricultural Building. Any structure that is considered to be an “agricultural building” as defined in Oregon Revised Statutes on a lot or parcel that is enrolled in a farm or forest deferral program with the County Assessor.

Agricultural Land. Lands classified by the U.S. Soil Conservation Service (SCS) as predominately Class I-VI soils, and other lands in different soil classes that are suitable for farm use taking into consideration soil fertility, suitability for grazing and cropping, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices. Lands in other classes that are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural land in any event.

Agri-tourism. A common, farm-dependent activity that promotes agriculture, any income from which is incidental and subordinate to a working farm. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally-based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals. Except for small, farm-themed parties, regularly occurring celebratory gatherings, weddings, parties or similar uses are not Agri-tourism.

Alley. A street or right of way that affords only a secondary means of access to property.

Associated Transmission Lines.: Transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

Automobile, Boat, Manufactured Dwelling, Trailer, and Recreational Vehicle Sales. An open area, other than a street, used for the display, sale, or rental of new or used automobiles, boats, manufactured dwellings, trailers or RV's and also used for servicing such vehicles within an enclosed space.

Automobile Service Station. A building or portion thereof or land used for the retail sale of automobile fuel, oil and accessories, and service.

Automobile Wrecking Yard. A premises used for the storage or sale of used automobile or truck parts or for the storage, dismantling or abandonment of junk, obsolete automobiles, trailers, Recreational Vehicles, trucks, machinery, or parts thereof. Outdoor storage of more than three unlicensed, inoperative vehicles shall be considered a wrecking yard. For purposes of this ordinance, more than three unlicensed vehicles may be stored within a fully enclosed building and will not be considered a wrecking yard. For purposes of this ordinance, the storage of farm equipment, vehicles, machinery, and parts on land zoned Exclusive Farm Use, if not visible from outside the property boundaries, shall not be considered a wrecking yard and shall be exempt from this definition.

Auxiliary. As used in the Forest Use Zone, means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

Average Electric Generating Capacity: The peak generating capacity of the facility divided by the factors for wind facilities, for geothermal energy facilities, or for all other energy facilities.

Basement. A story partly underground. A basement shall be counted as a story in building height measurement when the floor level directly above is more than 6 feet above the average level of the adjoining ground.

Bed and Breakfast Facility. An accessory use in a single-family dwelling in which lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. A bed and breakfast facility must be within the residence of the operator and be compliant with the requirements of Oregon Administrative Rule. A bed and breakfast facility may be reviewed as either a home occupation or as a room and board operation.

Boarding House. A building or portion thereof, other than a motel, restaurant, or hotel, where meals or lodging or both are provided for compensation for more than four persons, other than a family.

Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

Camper Cabin. A camp structure with no permanent foundations or plumbing, located within a camping area and intended for occupancy by one to eight persons.

Campground. An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

Carrying Capacity. Level of use that can be accommodated and continued without irreversible impairment of natural resources productivity, the ecosystem, and the quality of air, land, and water resources.

Childcare Center. A childcare facility that cares for more than 16 children and is certified under ORS 329A.280.

Commercial Activity in Conjunction with Farm Use. The processing, packaging, treatment and wholesale distribution, and storage of a product primarily derived from farm activities in the local agricultural community. Also, retail sales of products, supplies and services to the agricultural community that support the production and harvesting of agricultural products.

Commercial Dairy Farm. A commercial dairy farm is a dairy operation in a resource zone that owns a sufficient number of producing dairy animals capable of earning an income from the sale of fluid milk.

Commercial Power Generating Facility. A facility for the production of energy and its related or supporting facilities that:

1. Generates energy using means such as solar power, wind power, fuel cells, hydroelectric power, thermal power, geothermal power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones that allow "Farm Use" and 215.283(1)(r) and 215.283(2)(a) in the EFU zone;
2. Is intended to provide energy for sale; and
3. Does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

Commercial Tree Species. Trees recognized for commercial production under rules adopted by the State Board of Forestry.

Commercial Truck. A truck or tractor unit used for the transportation of persons for compensation or profit; or is designed or used primarily for the transportation of property.

Community Water System. A domestic water supply source or distribution system that serves or is designed to serve more than three single residences or other users for the purpose of supplying water for household uses, but is neither a municipal water supply system nor a public utility water supply system, and must have legal financial provisions for long-term operation and maintenance.

Community Sewage System. A sewage disposal system that serves or is designed to serve more than 10 single residences or other users for the purpose of disposing of household liquid wastes, but is neither a municipal nor a public utility sewage disposal system, and must be approved by the appropriate government agency and must have legal and financial provisions for long-term operation and maintenance.

Contiguous Land. Parcels of land that abut each other, or are connected in such a manner as to form a single block of land.

Cubic Foot Per Acre: The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

Cubic Foot Per Tract Per Year: The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

Data Center. A facility used to house computer systems and associated components.

Date of Creation and Existence. When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

Dwelling, Multi-Family. A building or portion thereof, designed for occupancy by three or more families living independently of each other.

Dwelling, Single-Family. A detached building containing one dwelling unit and designed for occupancy by one family only.

Dwelling, Two-Family. A building containing two dwelling units and designed for occupancy by two families.

Dwelling Unit. One or more rooms in a building designed for occupancy by one family and having not more than one cooking facility.

Easement. A grant of the right to use a parcel of land or portion thereof for specific purposes where ownership of the land or portion thereof is not transferred.

Energy Generation Area: An area within which the effects of two or more small generating plants may accumulate so the small generating plants have effects of a magnitude similar to a single generating plant of 35 megawatts average electric generating capacity or more. An “energy generation area” for facilities using a geothermal resource and covered by a unit agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be defined in that unit agreement. If no such unit agreement exists, an energy generation area for facilities using a geothermal resource shall be the area that is within two miles, measured from the electrical generating equipment of the facility, of an existing or proposed geothermal electric power generating plant, not including the site of any other such plant not owned or controlled by the same person.

Event, Temporary. A temporary event is one that is held primarily on or is using public property that has an expected attendance of more than [50], but no more than [500] people, that will not continue for more than [72] hours in any three-month period, and that will be located in a rural or resource area. Temporary Events are permitted through a [ministerial process and are not considered “outdoor mass gatherings” as defined by ORS 433.735 or Agri-tourism events as provided for by ORS 215.283(4).

Family. An individual or two or more persons related by blood, marriage, legal adoptions, or legal guardianship, living together as one housekeeping unit using one kitchen, and providing meals or lodging to not more than three additional unrelated persons, including servants; or a group of not more than five unrelated persons living together as one housekeeping unit using one kitchen.

Family Child Care Home. A registered or certified childcare facility in a dwelling that cares for not more than 16 children, including children of the provider, in accordance with ORS 329A.

Farm Use. The current employment of land, including that portion of such land under buildings, 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, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics, and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance, and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in pertinent sections of this Ordinance. "Farm use" does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees. The terms farm, farming, and farm use shall be interpreted and applied in a manner consistent with ORS 215.203. (MC-C-8-96) (MC-03-05)

The term "preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products.

The term "products or by-products raised on such land" includes products or by-products raised on the farm operation where the preparation occurs or products or by-products raised on other farmland provided:

- A. The preparation is occurring only on a tract currently employed for a farm use or farm uses other than preparation; and
- B. Such products or by-products are prepared in the same facilities as and in conjunction with products or by-products raised on the farm operation where the preparation occurs.

Farmworker Housing. Housing limited to occupancy by farmworkers and their immediate families, no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

Farm Operator. A person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

Farm or Ranch Operation. All lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in this article.

Farm Stand Structure. A structure that is designed and used for the sale of farm crops and livestock as provided in the Exclusive Farm Use Zone. A food stand is considered to be a farm stand structure.

Fee-based activity to promote the sale of farm crops or livestock (as applied to farm stands). An agri-tourism activity as defined herein that is directly related to the sale of farm crops or livestock sold at the farm stand, and that meets the standards of the Exclusive Farm Use Zones.

Fire Break. A break in the ground cover fuels intended to prevent the spread of fire as specified by the appropriate fire protection agency or the Commission.

Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, the unusual and rapid accumulation or runoff of surface waters from any source, mudslides that are proximately caused or precipitated by accumulations of water on or under the ground, and the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water on or under the ground, and the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural or man-made body of water accompanied by a severe storm or by some similarly unusual and unforeseeable event that results in flooding as defined herein above.

Flood Base. Inundation during periods of higher than normal stream flow, high winds, high intensity storms, or any combination thereof that has a 1 percent chance of being equaled or exceeded in any given year.

Flood Hazard Area. The relatively flat area or lowlands adjoining the channel of a river, stream, other watercourse, lake, or reservoir that has been or may be covered by a Base Flood.

Flood Hazard Boundary Map. An official map of the community furnished by the Federal Insurance Administration, labeled a Flood Hazard Boundary Map and delineating the boundaries of the special hazard areas.

Forest Lands. Lands composed of existing and potential forest lands, which are suitable for commercial forest uses, including the production of trees and the processing of forest products, other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation, lands where extreme conditions of climate, soil, and topography require the maintenance of vegetative cover irrespective of use, and other forested lands in urban and agricultural areas that provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors, and recreational use.

Forest Lands. As defined in Goal 4, are those lands acknowledged as forest lands, or, in the case of a plan amendment. Forest lands shall include:

1. Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and
2. Other forested land that maintain soil, air, water, and fish and wildlife resources.

Forest Operation. Any commercial activity relating to the growing or harvesting of any forest tree species.

Forest Use. Includes the production of trees and the processing of forest products, open space, buffers from noise, and visual separation of conflicting uses, watershed protection and wildlife and fisheries habitat, soil protection from wind and water, maintenance of clean air and water, outdoor recreational activities and related support services and wilderness values compatible with these uses, and grazing for livestock.

Freight Depot/Truck Terminal. An area and/or building where cargo is stored or where trucks load and unload cargo on a regular basis and trucks and/or trailers are parked when not in use. (MC-C-8-96)

Functional Classification. A system used to group public roadways into classes according to their purpose in moving vehicles and providing access.

Frontage. That portion of a property that abuts a public street.

Grade (ground level). The average of the finished ground elevation at the centers of all walls of a building; in case walls are parallel to and within 5 feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

Golf Course. An area of land with highly maintained natural turf laid out for the game of golf with a series of holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards.

Height of Building. The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points on other types of roofs.

High-Value Farmland.

1. Land in a tract composed predominantly of soils that are:
 - a. Irrigated and classified prime, unique, Class I or II; or
 - b. Not irrigated and classified prime, unique, Class I or II.
2. High-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa.

Home Occupation. A limited business activity that is accessory to a residential use. Home occupations are conducted primarily within a residence or a building normally associated with uses permitted in the zone in which the property is located and are operated by a resident or employee of a resident of the property on which the business is located. Clerical or administrative activity conducted not for the principal purpose of direct monetary gain, but rather to support a business not located on the same site as the dwelling, does not constitute a home occupation, e.g., transcription, bookkeeping, telephone contact.

Irrigated. Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this ordinance, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.

Kennel. A lot or building in which 4 or more dogs, cats, or other animals at least 4 months of age are kept commercially for board, propagation, training, or sale.

Livestock. Domestic animals of types customarily raised or kept on farms for profit or other purposes.

Livestock Feeding Yard (Commercial Feedlot). An enclosure designed for the purpose of concentrated feeding or fattening of livestock for commercial slaughter.

Livestock Sales Yard. An enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment, or other means.

Living History Museum. A facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.

Loading Space. An off-street space within a building or on the same lot with a building, used for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and having direct access to a street or alley.

Lot. A single unit of land created by a subdivision of land that is intended as a unit for disposition, transfer of ownership or interest, or for development.

A. Lot Area. The total horizontal net area within the lot lines of a lot to mean that square footage of a lot that is free from public and private road right-of-ways or easements.

B. Lot, Corner. A lot abutting on two or more streets, other than alleys, at their intersection, provided the angle of intersection of the abutting streets does not exceed 135 degrees.

C. Lot Depth. The average horizontal distance between the front and rear lot lines.

D. Lot Line. The property line bounding a lot.

E. Lot Line, Front. The lot line separating a lot from a street other than an alley and, in the case of a corner lot, the shortest lot line along a street other than an alley.

F. Lot Line, Rear. The lot line opposite and most distant from the front lot line. In the case of an irregular, triangular, or other odd shaped lot, a line 10 feet in length within the lot, parallel to, and at a maximum distance from the front lot line.

G. Lot Line, Side. Any lot line other than a front or rear lot line bounding a lot.

H. Lot, Through or Double Frontage. A lot having frontage on two parallel or approximately parallel streets other than alleys.

I. Lot Width. The average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Medical Hardship. A temporary circumstance caused by serious illness or infirmity, and authorized by a licensed medical practitioner (Medical Doctor, Physicians Assistant or Nurse Practitioner).

Mining. All or any part of the process of mining minerals including removal of overburden and the extraction of natural mineral deposits by any method by which more than 1,000 cubic yards of minerals are extracted on land planned for farm use and 5,000 cubic yards of minerals are extracted on land planned for forest or industrial use or by which at least one acre of land is affected within a period of 12 consecutive months, including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits (except those constructed for use as access roads). Surface mining does not include:

- A. Excavations of sand, gravel, clay, rock or other similar materials conducted by the landowner or tenant for the primary purpose of construction, reconstruction or maintenance of access roads on the same parcel, or on an adjacent parcel that is under the same ownership as the parcel that is being excavated;
- B. Excavation or grading operations, reasonably necessary for farming;
- C. Nonsurface effects of underground mining;
- D. Removal of rock, gravel, sand, silt or other similar substances removed from the beds or banks of any waters of this State pursuant to a permit issued under ORS 196.800 to 196.900; or
- E. Excavations or reprocessing of aggregate material, or grading operations, within the highway right of way reasonably necessary for the construction reconstruction or maintenance of a highway as defined in ORS 801.305. (MC OR-1-2013)

Mobile Home or Manufactured Dwelling.

A. A Residential Trailer, a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, is intended for human occupancy, is being used for residential purposes, and was constructed before January 1, 1962.

B. A Mobile House, a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, is intended for human occupancy, is being used for residential purposes, was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

C. A Manufactured Home, a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, is intended for human occupancy, is being used for residential purposes, and was constructed in accordance with Federal Manufactured Housing Construction and Safety Standards regulations in effect at the time of construction. (ORS 446.003(17))

D. Does not mean any building or structure subject to Structural Specialty Code adopted pursuant to ORS 455.100-450.

E. For the purposes of this document, it shall be immaterial whether such units or their components are placed on property for a temporary, semi-permanent, or permanent residence, or that the wheels are removed and the unit or component(s) are supported on posts, footings, or a foundation. This definition does not include Recreational Vehicles.

Mobile or Manufactured Home Park. Any place where 2 or more mobile or manufactured homes are parked within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

Mobile or Manufactured Home Subdivision. A subdivision intended to be occupied primarily or exclusively by mobile or manufactured homes.

Municipal Water Supply System. A domestic water supply source and distribution system owned and operated by a city or a county, or owned and operated by a special district or other public corporation that has independent tax-levying powers to support the system.

Natural Hazard Area. An area that is subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, groundwater, flash flooding, erosion and deposition, landslides, earthquakes, weak foundation soils, and other hazards unique to a local or regional area.

Net Metering Power Facility. A facility for the production of energy that:

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

New Construction. Any structure for which the "start of construction" commenced on or after the effective date of this ordinance.

Non-Commercial/Stand Alone Power Generating Facility. A facility for the production of energy that is similar to a net metering power facility except that :

1. Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to; and
2. Operates as a standalone power generator not connected to a utility grid.

Natural Resources Conservation Service (NRCS) Web Soil Survey. Official source of certified soils data available online that identifies agricultural land capability classes, developed and maintained by the Natural Resources Conservation Service.

Nursing Home. Any home, institution, or other structure maintained or operating for the nursing and care of four or more ill or infirm adults not requiring hospital care or hospital facilities.

Open play field. A large, grassy area with no structural improvements intended for outdoor games and activities by park visitors. The term does not include developed ballfields, golf courses or courts for racquet sports.

Open Space. Consists of lands used for agricultural or forest uses, and any land area that would, if preserved and continued in its present use, conserve and enhance natural or scenic resources; protect air or streams or water supply; promote conservation of soils, wetlands, beaches, or marshes; conserve landscaped areas, such as public or private golf courses: that reduce pollution and enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or other open space, or geological and archaeological sites; promote orderly urban development; and minimize farm and non-farm conflicts.

Outdoor Mass Gathering. A gathering that is an actual or reasonably anticipated assembly of more than 3,000 [more than 500] persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities allowed under separate provisions.

Owner. The owner of the title to real property or the authorized agent thereof, or the contract purchaser of real property of record as shown on the last available complete tax assessment roll or county recorder's records.

Parcel. A single unit of land created by a partition plat governed by the Morrow County Subdivision Ordinance. A parcel may also be a single unit of land described by deed and created prior to the establishment of the Morrow County Subdivision Ordinance (June 6, 1980).

Parking Space. A clear, off-street area for the temporary parking or storage of one automobile.

Person. A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

Personal Use Airport. An airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

Preparation. Preparation includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products.

Primary or Principal Use. The first use to which property is or may be devoted, and to which all other uses on the premises are derived as accessory or secondary uses. As used relative to dwelling units, the primary dwelling would be the first dwelling unit to be located on a specific parcel or lot.

Primary Processing of Forest Products. The initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.

Principally Engaged In Farm Use. As it refers to primary farm dwellings and accessory farm dwellings, a person is principally engaged in the farm use of the land when the amount of time that an occupant of the dwelling is engaged in farm use of the property is similar to the average number of hours that is typically required for a full-time employee of the relevant type of farm use, whether that person is employed off the farm or not. Only one resident of a household need meet the “principally engaged” test, or the test may be met collectively by more than one household member.

Private Park. Land that is used for low impact, casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above, but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.

Processed. As it applies to farm stands, processed crops and livestock means farm products that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, including the addition of incidental ingredients, but not including the conversion of farm products into food items that are prepared on-site or intended for on-site consumption.

Processing, Mineral: Processing, as defined by ORS 517.750, includes, but is not limited to, crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and Portland cement concrete located within the operating permit area. (MC OR-1-2013)

Products or by-products raised on such land. Those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

Public or Semi-Public Use. A use owned or operated by a public, governmental, or non-profit organization for the benefit of the public generally. This does not include landfill sites, garbage dumps, or utility facilities.

Public Park. A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, state or federal agency, or park district and that may be designated as a public park in the Morrow County Comprehensive Plan and this Zoning Ordinance.

Recreation Facility or Area. An indoor or outdoor area devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, playgrounds, and other similar uses, whether the use of such area is limited to private membership or open to the public on payment of a fee, or an area designated by the landowner for picnicking and offered to the general public, whether or not a fee or charge is made for such accommodations.

Recreational Vehicle (RV). A unit with or without motive power, that is designed for human occupancy and is to be used temporarily for recreational, seasonal or emergency purposes. Recreational vehicles include:

- A. Truck Camper. A portable unit which has a roof, floor and sides and is designed to be loaded on and off the bed of a truck or pick-up truck.
- B. Camping Trailer. A vehicle unit mounted on wheels and constructed with collapsible partial side walls which fold when the unit is towed by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.
- C. Travel Trailer. A vehicular unit which has a roof, floor and sides and is mounted on wheels, but which is not of such size or weight as to require special highway movement permits when towed by a motorized vehicle.
- D. Motor Home. A vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the complete vehicle.

Recreational Vehicle (RV) Park. An area or tract of land used or designed to accommodate two or more Recreational Vehicles, tents or outfits, including cabins, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee. RV Parks could be occupied indefinitely if certain conditions are met.

Relative. Child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.

Renewable Energy Facility. Includes the following:

- A. A solar photovoltaic power generation facility.
- B. Geothermal energy at a single plant or within a single energy generation area.
- C. Wind energy at a single plant or within a single energy generation area.

Right of Way. The area between the boundary lines of a street, road, or easement.

Road or Street. A public or private way created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes.

Roadway. That portion of a street or road right of way developed for vehicular traffic.

Setback (yard). An open space on a lot, which is unobstructed from the ground upward except as otherwise provided in this Ordinance.

- A. Setback, Front. A setback 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.

B. Setback, Rear. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building.

C. Setback, Side. A setback between the front and rear yards measured horizontally and at right angles from the side lot line to the nearest point of a building.

D. Setback, Street Side. A setback adjacent to a street between the front setback and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building.

Skirting. A weather resistant material used to enclose the space below the manufactured structure.

Sign. An identification, description, illustration, or device that is affixed to or represented, directly or indirectly, on a building, structure, or land, and that directs attention to a product, place, activity, person, institution, or business. Each display surface of a sign other than two surfaces parallel and back to back on the same structure shall be considered a sign.

Sleeping Unit. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Stable. A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration or profit, or such a facility for the keeping of horses not owned by the occupants of the premises whether or not a fee is charged.

Start of Construction. The first placement of permanent construction of a structure (other than a mobile or manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the preparation, such as clearing, grading and filling. It does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile or manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundations. For mobile or manufactured homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile or manufactured homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the mobile or manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Storage Structures for Emergency Supplies. Structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.

Structure. Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure. Also anything constructed, erected or air-inflated, permanent or temporary, which requires location on the ground. Among other things, structure includes buildings, walls, fences, billboards, poster panels, food stands, in ground swimming pools, and parking lots. Retaining walls less than four (4) feet in height are not considered structures for the sake of general property line setbacks.

Tax Lot. A unit of land assigned by the Department of Revenue for the sole purpose of real estate taxation.

Temporary Structure or Use. A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.

Tract. One or more contiguous lots or parcels under the same ownership.

Traffic Impact Analysis (TIA). A study conducted to identify the impacts from a new development or increased use of an existing facility. (MC-C-8-98)

Trailer. Any portable unit designed and built to be towed on its own chassis, consisting of frame and wheels and that does not fall within the definitions of Recreational Vehicle, Residential Trailer, Mobile House, or Manufactured Home. This definition includes boat trailers, bunk trailers, portable schoolrooms, and industrial, commercial or public offices and accessory uses.

Travelers Accommodations. Any establishment having rooms or apartments rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental or use of facilities.

Truck Stop. Any building, premise or land in or on which the service of dispensing motor fuel or other petroleum products directly into trucks or motor vehicles is rendered. A truck stop may include the sale of accessories or equipment for trucks or similar motor vehicles and may also include the maintenance, servicing, storage, or repair of commercially licensed trucks or motor vehicles.

Use. The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

Utility Facilities Necessary for Public Service. Any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facility, and other similar facilities.

Utility Facility Service Lines. Utility lines of the necessary voltage to serve the area, including those up to 230 kilovolts, and associated facilities or structures that ultimately end at the point where the utility service is received by the customer, and that are located on one or more of the following:

1. A public right-of-way;

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

Youth Camp. A facility either owned or leased, and operated by a state or local government, or a nonprofit corporation, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.

Yurt. A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

Zoning Permit. An authorization issued prior to the issuance of a building permit, or commencement of a use that is allowed outright, or has received prior land use approval, stating that the proposal is consistent with the clear and objective requirements of the corresponding land use zone, and prior approvals, if applicable.

SECTION 1.040. COMPLIANCE WITH ORDINANCE PROVISIONS.

A. A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied, or used only as this ordinance permits.

B. No lot area, yard, or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance.

C. No lot area, yard, or other open space that is required by this ordinance for one use shall be used as the required lot area, yard, or open space for another use.

SECTION 1.060. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restriction.

SECTION 1.070. ADMINISTRATIVE TERMINOLOGY AND CONSTRUCTION.

A. Terminology. The word "County" shall mean the County of Morrow, Oregon. The words "County Court" and "Court" as well as "Board of Commissioners" and "Board" shall mean the Morrow County Board of Commissioners. The words "Planning Commission" and "Commission" shall mean the County Planning Commission of the County of Morrow duly appointed by the Morrow County Board of Commissioners. The words "Planning Director," "County Roadmaster," "County Clerk," "County Surveyor," "Tax Collector," and "Assessor" shall mean the Planning Director, County Roadmaster, County Clerk, County Surveyor, Tax Collector, and Assessor of the County of Morrow, as applicable.

B. Construction. Words used in the present tense include the future tense; words used in the singular include the plural and words used in the plural include the singular; the word "shall" is mandatory; the word "may" is permissive; the masculine shall include the feminine and neutral.

SECTION 3.100. FLOOD HAZARD OVERLAY ZONE, FP

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

(1) APPLICATION OF PROVISIONS

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

(2) DEFINITIONS

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

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

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

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

"BASE FLOOD" means the flood have a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year-flood." Designation on maps always includes the letter A.

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

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

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

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

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

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

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

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

“FLOOD INSURANCE RATE MAP (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

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

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

“FLOODWAY” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Once established, nothing can be placed in the floodway that would cause any rise in Base Flood Elevation (i.e., 0.0 ft.)

“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 5.2-1(2).

“MANUFACTURED HOME” means a structure, transportable in one or more sections, which is

built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include park trailers, or Recreational Vehicles.

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

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

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

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

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

- (1) Before the improvement or repair is started, or
- (2) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences,

whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

(3) GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES.

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

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

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

3.3 PENALTIES FOR NONCOMPLIANCE.

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

- (1) \$500 in the case of a non-continuing offense; or
- (2) \$1000 in the case of a continuing offense.

3.4 ABROGATION AND GREATER RESTRICTIONS.

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

3.5 INTERPRETATION.

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

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

Statutes.

3.6 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Morrow County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(4) ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.1-1 Development Permit Required.

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

4.1-2 Application for Development Permit.

Application for a development permit shall be made on forms furnished by the Morrow County Planning Director and may include but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been flood proofed;
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Section 5.2-2; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- (5) All development in the Flood Hazard Overlay Zone may be required to submit an environmental assessment to determine whether the development would comply with the Federal Emergency Management Agency (FEMA) requirements to mitigate adverse impacts to threatened and endangered species.

4.2 DESIGNATION OF THE MORROW COUNTY PLANNING DIRECTOR.

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

4.3 DUTIES AND RESPONSIBILITIES OF THE PLANNING DIRECTOR.

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

4.3-1 Permit Review

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied;
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required;
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.3(1) are met.

4.3-2 Use of Other Base Flood Data.

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

4.3-3 Information to be Obtained and Maintained

- (1) Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 4.3-2, obtain and record on FEMA Form 81-31 the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved flood proofed structures:
 - (i) Verify and record on FEMA Form 81-31 the actual elevation (in relation to mean sea level), and
 - (ii) Maintain the flood proofing certifications required in Section 4.1(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 Alteration of Watercourses

- (1) Notify adjacent communities, the Department of State Lands, and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

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

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

4.4 VARIANCE PROCEDURE

4.4-1 Appeal Board

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.4-2 Conditions for Variances

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

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

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

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

(5) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

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

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

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

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

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

(5) PROVISIONS FOR FLOOD HAZARD REDUCTION

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

5.1-1 Anchoring

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

(2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas: guidebook for additional techniques).

5.1-2 Construction Materials and Methods

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

(2) All new construction and substantial improvements shall be

constructed using methods and practices that minimize flood damage.

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

5.1-3 Utilities

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

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

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

5.1-4 Subdivision Proposals

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

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

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

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

5.1-5 Review of Building Permits.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 4.3-2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc. where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

5.2 SPECIFIC STANDARDS.

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

5.2-1 Residential Construction

(1) New Construction and substantial improvement of any **residential**

structure shall have the lowest floor, including basement, elevated one-foot (1.0 ft.) or more above the base flood elevation.

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- (ii) The bottom of all openings shall be no higher than one foot above grade.
- (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

5.2-2 Non-residential Construction.

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

- (1) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.3-3(2).
- (4) Non-residential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2).
- (5) Applicants flood proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g., a building constructed for the base flood level will be rated as one foot below that level).

5.2-3 Below-Grade Crawl Spaces.

Morrow County will allow below-grade crawlspace construction provided that the

interior grade of the crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade and the height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point. Additionally there must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. (Reference: Crawlspace Construction for Buildings Located in Special Flood Hazard Areas, Federal Insurance Administration Technical Bulletin 11-01).

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

- (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (2) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
- (3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- (4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (5) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

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

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

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

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

5.2-4 Manufactured Homes.

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

5.2-5 Recreational Vehicles.

Recreational vehicles placed on sites are required to either:

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

5.3 BEFORE REGULATORY FLOODWAY

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

Flood more than one foot (1.0 ft.) at any point within the county.

5.4 FLOODWAYS

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

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments **shall not result in any increase** in flood levels during the occurrence of the base flood discharge.
- (2) If Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.

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To: Morrow County Board of Commissioners
 From: Tamra Mabbott, Planning Director
 CC: Planning Commission
 BOC Date: June 18, 2025
 RE: Monthly Planning Update

Mission Statement

Morrow County Planning Department provides guidance and support to citizens for short-term and long-range planning in land use, to sustain and improve the county's lands for future generations. Our goal is to foster development where people can live, work & play.

Summary of the May Planning Commission Meeting

Planning Commission held a meeting on May 27, 2025, in Heppner. The commission approved two Conditional Use Permits (CUP) to allow for the temporary operation of commercial trucking businesses. These are the 15th and 16th CUPs approved that permit a landowner to remain at their property and continue to operate their business with the understanding that the trucking business will relocate to an appropriately zoned commercial or industrial location. Additional Conditional Use Permit applications will be reviewed at the June meeting. They, too, are for the temporary operation of a commercial trucking business.

Renewable Energy

Two energy projects are under construction, the Wheatridge East Wind Energy project in the central county and the Tower Solar project just north of Boardman Airport. Staff have been working with one existing wind developer to navigate the permitting process to modify an existing project. Staff met with the developers for one of the smaller projects to coordinate on next steps and final permitting.

Planning Director Mabbott continues to participate in two energy project siting work groups, including the Renewable Northwest Advisory Group and the Oregon Department of Energy's "Developing Clean Electricity Generation and Transmission Policy Working Group."

Columbia River Heritage Trail Update

Planning staff and J-U-B Engineering held an online meeting on June 5, 2025, to discuss progress on the 2024-2025 Heritage Trail Master Plan update and prepare for an upcoming public open house event. An open house was originally planned for Tuesday, June 10, 2025, from 5:30-8:00 PM at the Irrigon Farmer's Market, but was postponed due to extreme heat. This event, which will be rescheduled for June or July, serves to communicate progress on the

plan update, share public comments received to date and provide a final opportunity for feedback. This consolidated input paired with pending updates to the City of Boardman's Park Master Plan will lead to the development of a Capital Improvement Plan this summer. The next internal meeting is scheduled for June 12, 2025.

Planning staff are also actively working with county maintenance and Fish & Wildlife to repair and replace damaged interpretive panels along the trail in the Irrigon vicinity.

Anyone interested in being involved in the trail plan update please contact Clint Shoemake, Planning Technician.

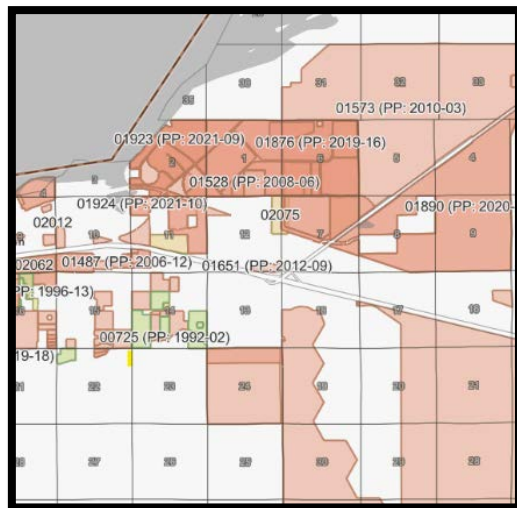
New Goal 3 Farmland and Goal 4 Forestland Administrative Rules

Planners are working on a new code update to implement the new Land Conservation & Development Commission (LCDC) farm (Exclusive Farm Use) and forest (Forest Use) rules. The statewide rules became effective January 1st and are applied directly, however, the code update will incorporate the language into the Morrow County Zoning Ordinance (MCZO). The code update process will begin with an informal work session with the Planning Commission at their June 24th meeting followed by a work session with the Board of Commissioners. The target date for the first hearing is the Planning Commission's July 29, 2025 meeting.

GIS Mapping and Drone

Work continues on the Morrow County Survey Explorer. The Survey Explorer system currently includes over 570 surveys, partition plats, and subdivisions, out of approximately 2,000 total surveys in the county's database. While not all surveys will be added to the system, a significant number will be included to support public access and research. Survey Corner Certificates are also being integrated, and additional records are being added regularly.

The goal is to launch the Survey Explorer in late June or early July, once more Field Corner Certificates have been entered. This remains an ongoing project with phased data entry and regular updates.



CODE COMPLIANCE

The Morrow County Compliance Planner has been working closely with property owners to help resolve current code violations and navigate the proper permitting process. Specifically, Conditional Use Permits (CUP) and Medical Hardship Permits. Currently, sixteen commercial trucking CUP applications have been reviewed and approved by the Morrow County Planning Commission in the last two years, and two more applications will be presented at the meeting held on June 24, 2025 in Irrigon.

WATER AND PLANNING ACTIVITIES

Water Advisory Committee

A summary of work on the implementation of the four water initiatives adopted by the Board of Commissioners in December 2024, as recommended by the Water Advisory Committee (WAC), is below.

Initiative 1: Update the comprehensive plan Goals 5 and 6. Assembling materials and soliciting volunteers to serve on a working group.

Initiative 2: Develop a Morrow County Drinking Water Program. Underway at the Public Health Department.

Initiative 3: Support Regional Water Planning; staff have included budget for this work.

Initiative 4: Partner in a Clean Water Consortium. This effort is underway with the formation and initial meetings of the Clean Water Consortium, led by Board Chair David Sykes. Planning Director Mabbott is a Board member and is continuing with various efforts to secure funding.

LUBGWMA

Work related to the LUBGWMA in May was primarily focused on review of Senate Bill 1154 which essentially would memorialize the interagency efforts implemented in the LUBGWMA over the past 18 months.

Planning Department's GIS Coordinator, Stephen Wreccsics, is hoping to wrap up the development of a new story map that includes information about the multiple aspects of nitrates, from public health implications, sources of contamination, land use-related matters, geology, and more.

Several coordination meetings between county staff and state agencies are set to finalize the content. When complete, the web address will be shared. The interagency goal is to have a comprehensive, single source to answer most questions about nitrates in the Lower Umatilla Basin.

EPA Grant - Morrow Umatilla County Drinking Water-ROADMAP

The Roadmap Steering Committee met on May 29th in Hermiston. Isaac Estrada (Consort) provided a brief summary of the survey findings, which included 100 responses. Surveys were mailed directly to landowners who live in four of the focus areas. Surveys were provided in Spanish and English. The purpose of the survey was to gauge level of general knowledge about nitrates and to better understand landowner preferences for water systems. Cost to install and operate a system ranked the highest over other concerns.

GSI Water Solutions Inc. and HDR engineers gave a presentation on public water system connection concepts and issues. Representatives from three of the four cities were present. The agenda and slide presentation of the Steering Committee is on the Planning Department webpage:

<https://www.co.morrow.or.us/planning/page/steering-committee>

Ronan Igloria, GSI Water Solutions Inc. and Tamra meet bi-monthly on the Roadmap Project. Staff and consultants are working on the implementation of the Outreach and Communication Plan for the project. During the second week of May, a team from GSI and IRZ Consulting conducted field work and tested 12 wells, two of which were retested from the prior effort. The Roadmap Project is still looking for more landowners who are willing to have their wells tested for research. Please contact the Planning Department if you live in the GWMA and are willing to have your well tested.

Clean Drinking Water Consortium (CWC)

Planning Director continues to attend CWC meetings.

West Glen Neighborhood and Area

Planning Director meets weekly with County Administrator and several consultants working to understand water and wastewater needs of the West Glen Subdivision and adjacent community and to coordinate outreach. Included in the weekly meetings is the Rural Engagement and Vitality Center (REV), a nonprofit organization affiliated with Eastern Oregon University (EOU), who is contracted to conduct outreach work and Meier Engineering which has developed a preliminary engineering design for extending water and sewer. REV has an outreach event scheduled for June 18th at the Boardman Senior Center. The bi-bilingual flyer is attached.

Additionally, Planning worked with Willamette Partnership (WP) to review their draft report, “West Glen Drinking Water Alternatives Viability Check” which outlines options for permanent clean drinking water other than via connection to a public water system. Additionally, Planning Director has reviewed related outreach materials. The report will be available for public review soon.

Transportation Planning

Tower Road Interchange Area Management Plan (IAMP)

The County continues to have regular meetings with Kittleson & Associates and Oregon Department of Transportation (ODOT) planners on the Tower Road IAMP project. The next Technical Advisory Committee (TAC) and Public Advisory Committee (PAC) meetings will be held at the Sage Center in Boardman on June 17th. The PAC and TAC members sketched several design options during the March 12th meetings. Since then, Kittleson & Associates, the consultant for the project, have developed and refined several interchange designs and preliminary operational analyses. Flyers prepared by Kittleson & Associates were sent to landowners in the area to gather public input on the proposed interchange designs, the survey runs through June 13th, see attached flyer. The interchange design proposals will be presented by Kittleson & Associates on June 17th.

A Scope of Work for the Morrow County Transportation System Plan (TSP) update is under development, together with ODOT Region 5 planners. Procurement for the project is expected to begin in Summer of 2025. Anyone interested in participating in serving on the transportation planning committee please contact Kaitlin Kennedy in the Planning Department. Planning and Public Works Departments are reviewing a grant program that may supplement the TSP update.

2025 Oregon Legislature

Planning Director continues to monitor various bills that relate to water and land use.