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**PART 1 - GENERAL PROVISIONS****§ 36.0000- TITLE.**

This Chapter shall be known and may be cited as the Zoning Ordinance of Multnomah County, Oregon.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.0005 DEFINITIONS**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

**Accessory Alternative Energy System --** A system accessory to a primary structure or use that converts energy into a usable form such as electricity or heat, and conveys that energy to uses allowed on the premises. An Accessory Alternative Energy System is a solar thermal, photovoltaic or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the property.

**Accessory Building -** A subordinate building, the use of which is clearly incidental to that of the main building on the same lot.

**Accessory Dwelling Unit (ADU) –** An interior, attached, or detached dwelling unit, the use of which is clearly accessory and incidental to that of a lawfully established single-family dwelling on the same Lot of Record. For purposes of this definition, interior means the ADU is located within a building that was not originally designed or used as an ADU. Attached means at least a portion of one wall or floor of the ADU is connected to a building. Detached means the ADU is not connected to any other building. A structure that qualifies as an apartment, duplex dwelling, two-unit dwelling, multi-plex dwelling structure, an accessory building, or an accessory structure is not an ADU.

**Accessory Use –** A lawful use that is customarily subordinate and incidental to a primary use on a lot.

**Access Easement –** An easement granted for the purpose of ingress and egress which crosses a property or properties owned by others.

**Accessway –** A private road which is not a part of a lot or parcel and which provides access to more than one lot or parcel.

**Agri-Tourism Event -** A commercial event or activity that is incidental and subordinate to the existing farm use and that is significantly and directly related to and supportive of that farm use. Any assembly of persons for such an event or activity shall be for the purpose of taking part in agriculturally based operations, events or activities such as classes about animal or crop care, cooking or cleaning farm products, or tasting farm products; learning about farm or ranch operations; or other similar events and activities relating to the farm uses on that farm. Farm-to-plate meals are agri-tourism events if more than 50 percent of the food making up the farm-to-plate meal comes from farm crops or livestock grown on the farm or on other farms within the “local agricultural area” as that term is defined in MCC 36.6775. Agri-tourism does not include commercial events or activities that are not incidental and subordinate to the existing farm use and do not directly relate to and support that use, including but not limited to celebratory gatherings, weddings, concerts, corporate retreats, sporting events, amusement park rides, or similar activities where the primary focus is the underlying cause for the event or activity rather than the farm operation.

**Agriculture -** The tilling of the soil, the raising of crops, dairying and/or animal husbandry, but not including the keeping or raising of fowl, pigs, or furbearing animals unless such is clearly incidental to the principal use of the property for the raising of crops.

**Agricultural Building –** Pursuant to ORS 455.315 and any amendments made thereto, means a structure located on a farm and used in the operation of the farm for:

- (a) Storage, maintenance or repair of farm or forest machinery and equipment;
- (b) The raising, harvesting and selling of crops or forest products;

(c) The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees;

(d) Dairying and the sale of dairy products; or

(e) Any other agricultural, forestry or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use, the preparation and storage of forest products and the disposal by marketing or otherwise, of farm produce or forest products.

(f) *Agricultural and forest practice building* does not include a dwelling, a structure used for a purpose other than growing plants in which 10 or more persons are present at any one time, a structure regulated by the State Fire Marshal pursuant to ORS chapter 476, a structure used by the public, or a structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

#### **Agricultural Land -**

(a) Land of predominantly Class I, II, III and IV soils, as identified in the Soil Capability Classification System of the United States Soil Conservation Service.

(b) Other land suitable for farm use, taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices; and,

(c) Land in other soil classes which is necessary to permit farm practices to be undertaken on adjacent or nearby lands.

**Agricultural Support Service** - As used in the rural communities of Orient and Pleasant Home, a commercial or industrial use that provides products or services to farm operations in the rural area. Examples include farm equipment sales,

service, and rental, feed store, farm chemical sales.

**Airport** - See Aircraft Landing Field.

**Aircraft Landing Field** - Any landing area, runway or other facility designed, used or intended to be used either publicly or by any person or persons for the landing or taking off of aircraft and including all necessary taxiways, aircraft storage, tie-down areas, hangars, and other necessary buildings and open spaces.

**Alteration** - May be a change in construction or a change of occupancy. When the term is applied to a change in construction, it is intended to apply to any change, addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to change of occupancy from one trade or use to another or from one division of trade or use to another.

**Alteration (Structural)** - Any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders.

**Apartment** - Any building or portion thereof used for or containing three or more dwelling units.

**Applicant** - The record owner or owners of a unit, area or tract of land proposing land development activities covered by this Chapter and includes the authorized representative of the record owner or owners.

**Approval Authority** - The Planning Commission, Hearings Officer or Planning Director authorized to grant approvals as specified by this Chapter.

**Archeological Resource** - A district, site, building, structure or artifact which possesses material evidence of life and culture of the prehistoric and historic past.

**Base Flood** - A flood of such magnitude as to have a one percent probability of being equaled or exceeded in any given year.

**Base Flood Level** - The elevation of a Base Flood, referenced to the National Geodetic Vertical Datum of 1929 (NGVD).

**Board** - The Board of County Commissioners of Multnomah County, Oregon.

**Buffer** – See *Setback*.

**Building** - Any structure used or intended for supporting or sheltering any use or occupancy.

**Building Height -**

(a) The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade.

2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in Item (1) above is more than 10 feet above the lowest grade.

(b) The height of a stepped or terraced building is the maximum height of any segment of the building, or as amended by the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations.

**Building Line** - A horizontal line that coincides with the front side of the main building.

**Building Permit** - A permit required pursuant to Multnomah County Code Chapter 29, certifying compliance with all applicable building regulations.

**Business Operator** – The person who registers for a Type A Home Occupation or obtains approval to conduct a Type B or Type C Home Occupation or a Home Based Business and holds a majority ownership interest in the business, lives full-time in the registered dwelling unit on the lot, and is responsible for strategic decisions and day-to-day operations of the business.

**Camp** – See Campground.

**Campground** – An area improved with a campsite and/or used for an overnight temporary stay for vacation, recreational or emergency purposes that may be occupied by a tent, travel trailer or recreational vehicle or other similar piece of equipment, but not for residential purposes.

**Campsite** - An area improved for the purpose of locating a tent, travel trailer or recreational vehicle or other similar piece of equipment used for vacation, recreational or emergency purposes, but not for residential purposes. A campsite may include such improvements as picnic benches, water, electrical & sewage hook-ups, grills, fire rings, etc. or as otherwise allowed in the general district.

**Car Wash (Convenience)** - Mechanical facilities for the washing or waxing of private automobiles, light trucks and vans, but not commercial fleets, as an accessory use to an automobile service station.

**Clinic** - A place in which out-patients are given health related treatment and in which one or more health related professionals practice.

**Commercial Use**- As used in the rural communities of Orient and Pleasant Home, commercial use means the use of land primarily for the retail sale of products or services, including offices. It does not include warehouses, freight terminals, or wholesale distribution centers.

**Commission** - The Planning Commission established under this Chapter.

**Community Plan** - The Community Plan or Rural Area Plan of a specific area adopted as a component of the Comprehensive Plan.

**Comprehensive Plan or Plan** - The Comprehensive Plan adopted by Multnomah County, including any plan or plan element adopted as a component of the Comprehensive Plan. Comprehensive Plan shall have the meaning set forth in subsection (4) of ORS 197.015; shall be directed to the elements listed in the statewide use planning goals adopted pursuant to ORS 197.240; shall include framework, development and operational plans based on an inventory and cultural data; shall be prepared under the supervision of the Director of Land Use Planning and may include maps, a text, or both.

**Conditional Use** - A use which may be permitted by the Approval Authority following action proceedings, upon findings by the authority that the approval criteria have been met or will be met upon satisfaction of conditions of approval.

**Cooking Facilities** – Facilities such as a range, stove, oven, hotplate, microwave, or similar facilities, but not including a facility designed primarily for room heating, such as a wood or pellet stove.

**Corner Lot** - See Lot (Corner).

**Cottage Industry** - A processing, assembling, packaging or storage industry, generally employing fewer than 20 persons, conducted wholly within an enclosed building located on a site isolated from other such uses, generating low traffic volumes and with little or no noise, smoke, odor, dust, glare or vibration detectable at any property line.

**County Road** – A public road that is maintained by the County and has been designated as a county road under ORS 368.016.

**Customer** – Has its common meaning and includes a client as well as each person visiting the premises of a business for business reasons that is not an employee of the business.

**Daily Care** – Daily care includes but is not limited to bathing, grooming, eating, medication management, walking and transportation. Daily care does not include financial management or the improvement or maintenance of property.

**Date of Creation and Existence** – As used in the EFU and CFU districts and applicable only to certain standards for approval of a dwelling in those districts, 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 of Record 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 of record or tract.

**Day Nursery** - A facility for the provision of care during a portion of a 24-hour day for five or more children not related to nor the wards of the attending adult. A Day Nursery with 12 or fewer children is distinguished from Family Day Care either by:

- (a) Location in a non-residential structure; or,
- (b) Provision of care by someone other than a resident of the home.

**Development** – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or removal of vegetation.

**Director** - The Director of Multnomah County Department of Environmental Services or the Director's delegate.

**Drive-In** - An establishment so developed with a driveway, drive-up or drive-through facility or parking area that services are supplied in whole or in part to a customer in a motor vehicle, or in the case of self-service food or drink, for consumption outside the building.

**Driveway** – See private driveway.

**Dwelling Unit** - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Dwelling (Duplex or Two-Unit)** - A detached building designed for two dwelling units, whether in separate or single ownership.

**Dwelling (Single Family Detached)** - A detached building designed for one dwelling unit including Mobile Homes under the provisions as specified within the district.

**Dwelling (Multi-Plex Structure)** - See Multi-plex Dwelling Structure.

**Duplex Dwelling** - See Dwelling (Duplex or Two Unit).

**Educational Institution** - A college or university supported by public or private funds, tuitions, contributions or endowments, giving advanced academic instruction as approved by a recognized accrediting agency, including fraternity and sorority houses, excluding elementary and high schools, and trade and commercial schools.

**Elementary School** - See School (Primary, Elementary or High).

**Emergency/Disaster** - A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

**Emergency/Disaster Response** - Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

**Employee** – Has its common meaning in addition to which each participant in the promotion of a business constitutes one employee, whether participating full or part time and whether a resident or non-resident of a dwelling unit on the lot

authorized for a Type A, Type B or Type C Home Occupation or a Home Based Business use.

**Equine facility** – Pursuant to ORS 455.315(2) [2005] and any amendments made thereto, means a building located on a farm and used by the farm owner or the public for: Stabling or training equines; or Riding lessons and training clinics.

**Erosion** - The process of the gradual wearing away of land masses.

**Existence** - To continue to be in being; to remain.

**Expansion** – Any change in the external dimensions of the building or structure and any change to the external footprint.

**Exterior Lighting** – Artificial outdoor illumination as well as artificial outdoor illuminating devices or fixtures, whether permanent or temporary, including, but not limited to, illumination and illuminating devices or fixtures emanating from or attached to: the exterior of buildings, including under canopies and overhangs; structures, such as poles, fences or decks; the interior or exterior of open-air structures or buildings, such as gazebos, pergolas, and breezeways; and the ground, a tree or other natural feature.

**Family** -

(a) Any one of the following shall be considered a family when living together as a single housekeeping unit within a dwelling unit (excluding servants):

1. An individual or two or more persons related by blood, marriage, legal adoption, foster care or guardianship; or,
2. A group of not more than five (5) unrelated persons; or,
3. Residential Home - A residence for (5) or fewer unrelated mentally or physically handicapped persons and staff

persons who need not be related to each other or any other home resident. A residential home must be registered as an Adult Care Home with Multnomah County Department of Aging and Disability Services pursuant to Chapter 25 of the Multnomah County Code.

(b) Each group described herein or portion thereof, shall be considered a separate family.

**Family Day Care** - A residence where 12 or fewer children are provided care during a portion of a 24-hour day by an adult residing within said residence. Minor children of the provider shall be included in the 12-child limit if also cared for in the home.

**Fast Food Service** - The retail sales in a building of convenience food or specialty menu items, and ordered and served at a counter or window whether for consumption on or off the premises, when the facility is designed primarily to serve customers arriving by automobile. Such food items include, but are not limited to, dairy products, donuts, fish and chips, fried chicken, hamburgers, hot dogs, ice cream, pizza, sandwiches, soft drinks or tacos.

**Feed Lot** - Any pen, corral or structure wherein livestock are maintained in close quarters for the purpose of fattening for market.

**Fill** - The addition of any material to land other than a structure or landscaping.

**Findings** - A written statement of facts, conclusions and determinations based on the evidence presented in relation to the approval criteria and prepared by the Approval Authority in support of a decision.

**Flag Lot** - A lot or parcel which includes a private driveway as part thereof.

**Flood** - A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, or the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Level** - The surface elevation of flood waters.

**Flood Plain** - Those land areas which are susceptible to inundation by flood waters.

**Floor Area** - The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

**Forest Land** - The designation of forest lands shall be according to the United States Forest Service Manual Field Instructions for Integrated Forest Survey and Timber Management Inventories Oregon, Washington and California, 1974 and shall include:

(a) Land composed of existing forested land suitable for commercial forest uses;

(b) Other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation;

(c) Land on which extreme conditions of climate, soil and topography require the maintenance of vegetative cover; and,

(d) Other forested land in urban and agricultural areas which provides an urban buffer, wind break, wildlife and fisheries habitat, livestock habitat, scenic corridor or recreational use.

**Forest Practices Setback** – A type of dimensional *setback* in the forest zoning districts that provides for separation between structures and property lines. This *setback* assures that accepted forestry practices can occur on adjacent properties without the adjacent property owner needing to alter those practices due to the close proximity of a dwelling or structure.

**Front Lot Line** - See Lot Line (Front).

**Frontage** - That portion of a lot on one side of a street between two intersecting streets, accessways or other rights-of-way (crossing or terminating), measured along the line of the street, or, for a dead-end street or an accessway, all the property between an intersecting street or other right-of-way and the dead-end of the street or accessway.

**Front Yard** - See Yard (Front).

**Grade (Adjacent Ground Elevation)** - The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or, when the property line is more than five feet from the building, between the building and a line five feet from the building, or as amended by the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations.

**Grazing** - The use of land for pasture of horses, cattle, sheep, goats, and/or other domestic herbivorous animals, alone or in conjunction with agricultural pursuits.

**Group Care Facility** - A building or buildings on contiguous property used to house six or more handicapped or socially dependent persons. This definition includes the definitions of Residential Care Facility, Residential Training Facility, and Residential Treatment Facility contained in ORS 443.400(5), (7) and (9).

**Habitable dwelling** - An existing dwelling that:

- (a) Has intact exterior walls and roof structure;
- (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (c) Has interior wiring for interior lights;
- (d) Has a heating system; and
- (e) Was lawfully established.

**Health Hardship** – A specific person’s need for daily supervision due to cognitive impairment and/or a specific person’s need for assistance

with daily care as a result of age, physical impairment and/or poor health.

**Hearings Officer** - A person appointed to conduct public hearings and take action in action proceedings as specified by this Chapter.

**Heritage Tract Dwelling** - A type of single family detached dwelling in the EFU and the CFU zoning districts with approval criteria that includes a requirement for ownership of the lot or parcel prior to January 1, 1985. The complete description of approval standards are in the use sections of the districts.

**High School** - See School (Primary, Elementary or High).

**Highway (State)** - Any road or highway designated as such by law or by the Oregon Transportation Commission; includes both primary and secondary State highways.

**Historical Building** - Any building or structure designated under a local government landmark or historic district ordinance, or entered in the National Register of Historic Places, or listed in the Oregon State Inventory of Historical Sites, Buildings, and Properties Approved for Nomination to the National Register of Historic Places by the State of Oregon Advisory Committee on Historic Preservation.

**Historical Resources** - Those districts, sites, buildings, structures and artifacts which have a relationship to events or conditions of the human past.

**Horticulture** - The cultivation of plants, garden crops, trees and/or nursery stock.

**Hotel** - Any building containing six or more rooms designed to be used, or which are used, by paying guests for sleeping purposes.

**Industrial Use** - As used in the rural communities of Orient and Pleasant Home, industrial use means the use of land primarily for the manufacture, processing, storage, or wholesale distribution of products, goods, or materials. It does not include commercial uses.

**Junk Yard** - The use of more than 200 square feet of the area of any lot, or the use of any portion of that half of any lot, but not exceeding a depth or width, as the case may be, of 100 feet which half adjoins any street, for the dismantling or wrecking of automobiles or other vehicles or machinery, or for the storage or keeping of the parts or equipment resulting from such dismantling or wrecking or for the storage or keeping of junk, including scrap metals or other scrap material.

**Kennel** - Any lot or premises on which four or more dogs, more than six months of age, are kept.

**Large Acreage Dwelling** - A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement for single ownership of 160 contiguous forest zoned acres or single ownership of 200 forest zoned acres in Multnomah County or adjacent counties that are not contiguous. The complete description of approval standards are in the use sections of the districts.

**Large Fill** - The addition of more than 5,000 cubic yards of material to a site.

**Large Winery.**

(A) A farm operation that owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard; and

(B) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in subsection A of this definition; and

(C) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine from grapes in at least three of the five calendar years before the winery was established as a large winery.

**Lawfully established dwelling** - A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualifying permitted work completed.

**Loading Space** - An off-street space or berth on the same lot or parcel with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise or materials and which space or berth abuts upon a street, alley or other appropriate means of access and egress.

**Lot** - A unit of land created by a subdivision of land, see definition in MCC 36.7705. Depending upon the context in which the term appears in this Chapter, a Lot may also mean a lot, parcel (result of partitioning), unit of land (lawfully created by deed or land sale contract) or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

**Lot Area** - The total horizontal area within the lot lines of a lot, but not including the private driveway area of a flag lot.

**Lot (Corner)** - A lot which occupies an interior angle of less than 136 degrees, formed by the intersection of two streets or a street and an accessway.

**Lot Coverage** - The area of a lot covered by a building or buildings, expressed as a percentage of the total lot area.

**Lot Lines** - The lines bounding a lot, but not the lines bounding the private driveway portion of a flag lot.

**Lot Line (Front)** - In the case of an interior lot, a line separating the lot from the street or accessway; in the case of a corner lot, a line separating the narrowest frontage of the lot from a street or accessway; and in the case of a flag lot, the lot line closest to and most nearly parallel with the street which serves the lot. A minimum front lot line length is a dimensional requirement to assure that a parcel or lot has sufficient street frontage and lot width near the street to accommodate a safe access driveway and reasonable building area after considering the required side yards.

**Lot Line (Rear)** - The line dividing one lot from another and on the opposite side of the lot from the front lot line; and in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.



**Lot Line (Side)** - Any lot line not a front or rear lot line.

**Lot of Record** – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 36.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or
4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division

code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

**Lot Width** - The 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.

**Maintenance** – An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope and configuration of a structure beyond its original design are not included.

**Manufactured Homes** - See Mobile home.

**May** - May is permissive.

**Mobile Home** - A structure transportable in one or more sections, which is designed to be used for permanent occupancy as a dwelling and which is not constructed to the standards of the uniform building code (the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations). Mobile homes include residential trailers and manufactured homes subject to the siting provisions as specified within the district:

(a) Residential Trailer - A mobile home which was not constructed in accordance with federal manufactured housing construction and safety standards (HUD), in effect after June 15, 1976. This definition includes the State definitions of Residential Trailers and Mobile Homes stated in the Oregon Revised Statutes (ORS) 446;

(b) Manufactured Home - A mobile home constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976;

(c) For flood plain management purposes (Chapter 29) only, the term Manufactured Home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Mortgage Lot** - An area of land created solely for the purposes of financing a dwelling. A Mortgage Lot is not a Lot of Record and shall not be conveyed separate from the Lot of Record out of which it was described. The tax roll accounts of the Mortgage Lot and the parent Lot of Record shall be consolidated into one account when title to both is secured. A Mortgage Lot may be created only in the EFU and CFU districts.

**Motel** - Same as Hotel.

**Multi-Plex Dwelling Structure** - A row house or town house apartment structure.

**Museum** - A building, room, etc. for preserving and exhibiting artistic, historical or scientific objects.

**New Structure** - Any structure for which a building permit is required after July 15, 1982.

**Nonconforming Use** - A legally established use, structure or physical improvement in existence at the time of enactment or amendment of the Zoning Code but not presently in compliance with the use regulations of the zoning district in which it is located. A use approved under criteria that have been modified or are no longer in effect is considered nonconforming.

**Nursing Home** - A building or part thereof in which:

(a) Convalescent and/or chronic care is rendered in exchange for compensation to two or more patients requiring regular on-premise physician or nurse care. Convalescent and/or chronic care includes, but is not limited to, the procedures commonly employed in nursing and caring for the sick;

(b) Persons who are acutely ill or are surgical or maternity cases are excluded;

(c) Qualified personnel and a consulting physician are available at all times; and,

(d) Isolation facilities are provided.

**One-Hundred Year Flood Plain** - Any land area susceptible to inundation by a flood which has a one percent probability of being equalled or exceeded in any given year.

**Parcel** - A unit of land created by a partitioning of land, see definition in MCC 33.7705. Depending upon the context in which the term appears in this Chapter, Parcel and Lot may at times be used interchangeably. The term, Parcel, also includes a unit of land (lawfully created by deed or land sale contract).

**Park-Model Recreational Vehicle** - A recreational vehicle built on a single chassis, mounted on wheels, and designed to facilitate movement from time to time but not intended to be towed on a regular basis and that does not exceed 400 square feet when in the set-up mode and designed to provide recreational seasonal or temporary living quarters which may be connected to utilities necessary for the operation of installed fixtures and appliances.

**Permitted Use** - A use permitted in a district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this Chapter.

**Planning Commission** - The Commission established under 36.0100.

**Planning Director** - The Director of the Land Use Planning Division or the Director's delegate.

**Premises** - A lot with or without buildings.

**Primary School** - See School (Primary, Elementary or High).

**Primary Use** - See Permitted Use.

**Principal Use** - The main use to which the premises is devoted and the primary purpose for which the premises exists.

**Private Driveway** – A private means of access to a public road or private road which is part of and provides access only to one lot or parcel.

**Private Road** – A private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

**Private Street** – See private road.

**Professional Office** - An office containing activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist or teacher, but not real estate or insurance sales.

**Public Road**– A road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

**Rear Lot Line** - See Lot Line (Rear).

**Rear Yard** - See Yard (Rear).

**Recordable form** - A form sufficient to create the parcel on the date the document was signed if the deed or land sales contract had been recorded with the office responsible for public records. Characteristics of recordable form include a complete description of the property, the consideration given, and verification of the transaction by a witness such as a Notary Public.

**Recreational Vehicle** – A vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers,

combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

- (a) Holding tank(s);
- (b) Liquid petroleum gas; or
- (c) A 110 to 240 volt electrical systems.

**Residential Care Facility** - See Group Care Facility.

**Residential Home** - See Family.

**Residential Trailer** - See Mobile Home.

**Residential Treatment Facility** - See Group Care Facility.

**Restoration** – To reconstruct a dwelling, building or structure after it has been damaged by fire, other casualty or natural disaster.

**Replacement** – The construction of a new dwelling, building or structure to replace or substitute for the lawfully established dwelling, building or structure. The removal of over 75% of the standing walls and roof structure of an existing dwelling, building or structure qualifies the rebuilding as a replacement dwelling, building or structure.

**Road** - The entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

- (a) Ways described as streets, highways, throughways, or alleys;
- (b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and
- (c) Structures such as bridges that provide for continuity of the right-of-way.

**School (Trade and Commercial)** - A building or land where instruction is given to pupils in arts, crafts or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

**School (Primary, Elementary or High)** - Including private or parochial, but not including nursery school, kindergarten or day nursery, except those operated in conjunction with a school.

**Service Station** - Any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

**Setback** – At times this term is used interchangeably with *yard*. However, *setback* (and *Buffer*) may also be a needed separation between a land use/structure and a feature of the land that could be adversely impacted by the land use/structure (e.g. between structures and wetlands). Other *setback* requirements are for such purposes as public safety or reduction of nuisances such as the distance needed between a guyed television transmission tower and the property line in order to provide an area for potential ice fall and tower failure or it may be a distance to reduce the level of adverse noise, odor, or visual impacts to sensitive land uses.

**Shall** - Shall is mandatory.

**Sight-Obscuring Fence** - A fence consisting of wood, metal or masonry, or an evergreen hedge or other evergreen planting, arranged in such a way as to obstruct vision.

**Side Lot Line** - See Lot Line (Side).

**Side Yard** - See Yard (Side).

**Single Family Detached Dwelling** - See Dwelling (Single Family Detached).

**Small-scale Low Impact Commercial or Industrial Use** - As used in the rural communities of Orient and Pleasant Home, these terms have the following meanings:

A small-scale low impact commercial use is one which takes place in a building or buildings not exceeding 4,000 square feet of floor space.

A small-scale low impact industrial use is one which takes place in a building or buildings not exceeding 10,000 square feet of floor space.

**State Highway** - See Highway (State).

**Story** - That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above an useable or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story, or as amended by the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations.

**Street** – See road.

**Structural Alteration** - See Alteration (Structural).

**Structure** - That which is built or constructed. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**Template Dwelling** - A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement that a certain number of parcels and dwellings exist within a 160-acre square (map template) centered on the subject tract. The complete description of requirements are in the use sections of the district.

**Temporary Dwelling** – A detached dwelling allowed to be placed on a lot or parcel for a limited amount of time in addition to the permanent, existing dwelling. A temporary dwelling shall be removed upon the expiration of the land use permit authorizing it.

**Timber Growing** - The growing of trees for the production of timber.

**Trade School** - See School (Trade and Commercial).

**Travel Trailer** – A non-motorized, towable recreational trailer which contains an Oregon Insignia of Compliance as a recreational vehicle. Motor homes, converted buses, van conversions, slide-in truck campers and folding camper trailers (“pop-up” campers) are not considered a travel trailer.

**Two-Unit Dwelling** - See Dwelling (Duplex or Two-Unit).

**Unit of Land** – A unit of land created by a deed or land sales contract in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations.

**Wetlands** - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

**Yard** – An open space, on a lot with a building and bounded on one or more sides by such building, such space being unoccupied and unobstructed from 30 inches above the ground upward, except as otherwise specified in the district. A yard satisfying the yard requirement for one building shall not satisfy the yard requirement for another building. The purpose of yards between buildings and property lines is to provide space, light, air circulation, and safety from fire hazards.

**Yard (Front)** - A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

**Yard (Rear)** - A yard extending across the full width of the lot between the most rear building other than an accessory building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of the building. Where there is no rear lot line, the depth of the rear yard shall be the distance from a ten foot line parallel to the front lot line, measured from one side line to the other.

**Yard (Side)** - A yard between any building and the side lot line, extending from the front yard to the rear yard, or front lot line to rear lot line where no front yard or rear yard is required. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the building.

(Ord. 1261, Amended, 07/26/2018; Ord. 1257, Amended, 06/07/2018; Ord. 1249, Amended, 07/13/2017; Ord. 1242, Amended, 02/23/2017; Ord. 1236, Amended, 09/22/2016; Ord. 1218, Amended, 05/21/2015; Ord. 1197, 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1187, Amended, 11/17/2011; Ord. 1186, Amended, 10/13/2011; Ord. 1179, Amended, 04/21/2011; Ord. 1176, Amended, 03/03/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1114, Amended, 05/29/2008; Ord. 1082, Amended, 09/28/2006; Ord. 1081, Amended, 09/28/2006; Ord. 1080, Amended, 09/21/2006; Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Re-org&Renum, 12/12/2002)



**§ 36.0010 DISTRICTS.**

The West of Sandy River Rural Area is hereby divided into the following districts:

(A) General or underlying districts:

- (1) EFU - Exclusive Farm Use District with a minimum lot size as specified by this Chapter.
- (2) CFU - Commercial Forest Use District with a minimum lot size of 80 acres.
- (3) MUA 20 - Multiple Use Agricultural District with a minimum lot size of 20 acres.
- (4) RR - Rural Residential District with a minimum lot size of 5 acres.
- (5) PH-RC - Pleasant Home Rural Center District with a minimum lot size of 1 acre.
- (6) OR - Orient Rural Center Residential with a minimum lot size of 1 acre.
- (7) OCI - Orient Commercial-Industrial District on a parcel adequate to support the use.

(B) Special Districts:

- (1) LF - Airport-Landing Field District.
- (2) O-P - Off-Street Parking and Loading District.
- (3) P-D - Planned-Development District
- (4) SEC - Significant Environmental Concern District.
- (5) HP - Heritage Preservation District.
- (6) SPA - Special Plan Area District.
- (7) PAM - Protected Aggregate & Mineral Sites.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.0015 ZONING MAP.**

(A) The designations, locations and boundaries of the respective districts and certain combinations thereof described in this Chapter are established as shown by appropriate color designations, symbol or short title identification upon the Multnomah County Zoning Map. The Zoning Map consists of a series of bound and indexed Sectional Zoning Maps numbered sheets until such time as the districts and subdistricts depicted on each respective Sectional Zoning Map are replaced by maps generated as electronic layers within a Geographic Information System (GIS). All GIS Zoning Maps replacing the Sectional Zoning Maps shall be legislatively adopted. The GIS-generated Zoning Maps depicting districts and subdistricts shall be periodically readopted to reflect more accurate mapping information as it becomes available. The Zoning Map and all pertinent information shown thereon is incorporated herein and is to be deemed as much a part of this Chapter as if fully set forth; however, if a conflict appears between the Zoning Map and the written portion of this Chapter, the written portion shall control.

(B) A paper version of the Zoning Map and each amendment thereto shall be and remain on file in the office of the Planning Director.

(1) The set of paper Zoning Maps with the cover page dated the 15<sup>th</sup> of November, 1962 and signed by the Board shall be deemed to be the accurate depiction of:

(a) The Zoning Maps first adopted for successive geographic areas from April 19, 1955 through December 11, 1958; and

(b) The Zoning Maps in effect from the date of first adoption through November 15, 1962.

(2) Unless clearly shown otherwise, a zoning district boundary that follows a public right-of way shall be deemed to follow the center-line of the public right-of-way.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)



***PART 2 - PLANNING AUTHORITY******GENERAL PROVISIONS*****§ 36.0055- POLICY AND PURPOSE.**

(A) The Board of County Commissioners of Multnomah County, Oregon, recognized that planning for county and community development is vital to:

- (1) Protect the citizenry from fire, flood, pollution and other health or safety hazards;
- (2) Prevent overcrowding and inefficient use of land;
- (3) Safeguard natural resources;
- (4) Provide communities and neighborhoods with a variety of living choices, adequate housing, amenities, stores, schools, parks and other public and private facilities;
- (5) Provide a transportation system meeting the needs of all citizens;
- (6) Provide for the location of industry and the creation of new and varied employment opportunities; and
- (7) Provide a framework and process in which decisions by individuals and governmental agencies can be coordinated and made in the best interests of the general public.

(B) Therefore, in accordance with ORS chapter 197 and 215 and the County Charter, the Board has determined that all decisions made by Multnomah County with respect to County development shall be predicated upon a comprehensive plan adopted and revised in the manner described in this Chapter.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.0060 SEVERABILITY.**

If any subsection, subdivision, phrase, clause, sentence or word in this chapter shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, that holding shall not invalidate the

remainder of this Chapter, but shall be confined to the subsection, subdivision, clause, sentence or word held invalid or unconstitutional.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.0065 APPLICABLE ADMINISTRATION AND PROCEDURES PROVISIONS.**

Multnomah County Code Chapter 37 provides the procedures by which Multnomah County reviews and decides upon applications for all permits relating to the use of land authorized by ORS chapters 92, 197, and 215 and those other permits processed through the Multnomah County Land Use Planning Division. These permits include all forms of land divisions, land use, and legislative enactment's and amendments to the Multnomah County Comprehensive Plan and Multnomah County Code.

(Ord. 1001, Reorg&Renum, 12/12/2002)

***PLANNING COMMISSION*****§ 36.0100- PLANNING COMMISSION ESTABLISHED.**

The Planning Commission is designated as the land use planning advisory body to the Board and shall have the powers and duties described in this chapter and such other powers and duties as may be imposed on it by state, federal or local law, rule or regulation.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.0105 MEMBERSHIP OF COMMISSION.**

(A) The Commission shall consist of nine members, who shall be appointed pursuant to law and the charter of Multnomah County to fill designated positions numbered 1 through 9.

(B) Members of the Commission shall be residents of the various geographic areas of the county and shall serve without compensation, except for reimbursement for duly authorized expenses.

(C) A member who ceases to be a resident of Multnomah County shall then cease to be a member of the Commission.

(D) No more than two members of the Commission shall be engaged principally, whatever be the form of doing business, in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of business, trade or profession.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0110 TERMS OF OFFICE OF COMMISSION MEMBERS.**

(A) Terms of office of Commission members shall be a maximum of four years, and the term of no more than three Commission members shall expire in any year. The term of a Commissioner may continue until a successor is appointed. The term of a newly appointed Commissioner shall be designated such that a staggered term expiration scheme is maintained.

(B) No Commission member shall serve more than two consecutive terms excluding completion of an unexpired term of less than two years, unless otherwise provided by unanimous concurrence of the Board.

(C) Appointments to uncompleted terms shall be limited to the remainder of the expiring Commissioner's term.

(Ord. 1192, Amended, 05/17/2012; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0115 VACANCIES AND REMOVAL OF COMMISSION MEMBERS.**

(A) Upon resignation, permanent disqualification or removal of any member of the Commission, the Chair of the Board shall, pursuant to the County Charter, appoint a successor to fill the remainder of the term.

(B) After a hearing, the Board or the Planning Commission may remove any member for cause, which may include misconduct or nonperformance of duty. Nonperformance may include lack of attendance, as defined by three

consecutive absences from Commission meetings, or five absences total during a calendar year.

(Ord. 1192, Amended, 05/17/2012; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0120 OFFICERS AND STAFF.**

(A) The Commission shall, at or before its first meeting in April each year, elect and install from among its members a chair and vice-chair. The Commission may elect and install from among its members a second vice-chair. If there is a vacancy in any officer position, the Commission shall fill such vacancy by appointing an officer at the first regular meeting following the vacancy.

(B) The Planning Director shall serve as staff for the Commission and its committees and shall provide such administrative and technical assistance as may be required.

(Ord. 1192, Amended, 05/17/2012; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0125 COMMITTEES.**

The presiding officer of the Commission shall appoint advisory and other subcommittees as considered appropriate or as directed by the Commission or the Board.

(Ord. 1192, Amended, 05/17/2012; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0130 ADMINISTRATION.**

(A) The conduct of meetings of the Commission shall be according to rules of order adopted by the Commission and filed with the Planning Director. The rules shall be effective 15 days after filing.

(B) The Planning Director shall maintain an accurate and permanent record of all proceedings before the Commission, including a verbatim recording of such proceedings. Failure to maintain an accurate and permanent record does not invalidate any action taken by the Commission except as otherwise provided at law.

(C) Five members of the Commission shall constitute a quorum for the conduct of business. Notwithstanding a lack of quorum, the Commission may act to continue a hearing or matter to a time and date certain for consideration by a quorum.

(D) The affirmative vote of at least five members of the Commission is required for approval of motions relating to a matter classified in MCC 37.0530 as a Type IV or PC matter or a matter concerning a proposal to name or rename a street. Except as otherwise provided, the affirmative vote of the majority of those members of the Commission present is required for all other action by the Commission. A member of the Commission that abstains or is disqualified from participating or voting in a matter before the commission is not "present" for purposes of determining the number of votes required to take action on a matter.

(Ord. 1192, Amended, 05/17/2012; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.0133**

(A) The Commission shall schedule meetings on a regular monthly basis. The Planning Commission may schedule special meetings at the request of the Planning Director. Any meeting may be cancelled for lack of quorum or agenda item. All meetings are open to the public, except executive sessions, and notice shall be given as required by law or rule. Failure to provide an open meeting or notice as required by law or rule does not invalidate any action taken by the Commission except as otherwise provided at law.

(B) The Commission may continue any proceeding. A proceeding continued to a date certain requires no additional notice unless additional notice is required by law or rule or is ordered by the Commission.

(C) The Commission may meet in executive session in accordance with state law. At the beginning of each executive session, the statutory authority for the meeting must be stated. The Commission will require that representatives of the news media and all other attendees are

specifically directed not to disclose specified information that is the subject of the executive session.

(Ord. 1192, Add, 05/17/2012)

### **§ 36.0135 COORDINATION.**

(A) The Commission shall advise and cooperate with other planning commissions, hearings officers, agencies or bodies within the state, and shall, upon request or on its own initiative, make available advice or reports to the state or federal government or any regional association of governments, city, county, public officer or department on any problem comprehended within its powers and duties.

(B) All County officials, departments and agencies having information, maps and data considered by the Commission to be pertinent to its powers and duties shall make that information available for the use of the Commission upon request.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.0140 POWERS AND DUTIES OF COMMISSION.**

The Commission shall:

(A) Recommend to the Board the adoption, revision or repeal of a comprehensive plan or portions thereof;

(B) Report and recommend to the board the adoption, revision, amendment or repeal of zoning, subdivision, and other regulatory ordinances and regulations, intended to carry out part or all of a plan adopted by the board,

(C) Where appropriate, initiate actions under MCC Chapter 37, as amended;

(D) On request, provide written advisory opinions to the Board and Hearings Officer on the application of the Comprehensive Plan, zoning ordinance or other matter or regulation within the jurisdiction of the Commission to any proposed action before the Board or the Hearings Officer;

(E) Recommend to the Board the institution of injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove any existing or proposed unlawful location, construction, maintenance, repair, alteration or use of any building or structure or the existing or proposed unlawful subdivision or other unlawful partitioning or use of any land;

(F) Enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers on the land, as required to perform its functions;

(G) Consult with advisory committees, as appropriate, in regard to any matter within the powers and duties of the Commission; and

(H) Exercise such other powers and perform such other duties as may be given to the Commission by federal or state law or by this chapter or other ordinance.

(Ord. 1001, Reorg&Renum, 12/12/2002)

***PART 3 - ADMINISTRATION and  
ENFORCEMENT***

***PERMITS AND CERTIFICATES***

**§ 36.0510- TEMPORARY PERMITS**

(A) Notwithstanding the limitations of use as established by this Chapter in each of the several districts, the Planning Director may issue temporary permits, valid for a period of not more than one year after issuance, for structures, or uses which are of a temporary nature, such as:

- (1) Storage of equipment during the building of roads or developments;
- (2) Real estate office used for the sale of lots or housing in subdivisions;
- (3) Temporary storage of structures or equipment;
- (4) Sheds used in conjunction with the building of a structure;
- (5) Temporary housing; or
- (6) Other uses of a temporary nature when approved by the Planning Director.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.0515 TEMPORARY HEALTH  
HARDSHIP PERMIT**

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and or assistance with daily care to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling on a lot with a single-family dwelling on a renewable term. This use is temporary in nature and shall not increase the residential density in the rural plan area.

(B) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a temporary dwelling on a lot in conjunction with an existing single-family dwelling allowed in the zone subject to the following:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

(a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.

(b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.

(c) For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship.

(2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:

(a) The person identified in the application has a health hardship as defined in MCC 36.0005;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 36.0005; and

(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.

(3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance

during implementation of the Temporary Health Hardship Permit.

(4) The following criteria are satisfied:

(a) The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.

(b) The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject lot, unless an adjustment or variance pursuant to MCC 36.7601 through 36.7616 is approved. This distance shall be measured from the closest portion of each building.

(c) The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps.

(C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities,

(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

(3) In the EFU & CFU zones, the property owner shall record a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules and to conduct accepted farming practices.

(D) Expiration of the Temporary Health Hardship Permit. The Temporary Health Hardship Permit expires automatically two years after the date of final approval of the permit unless an extension is approved as set forth in (E) below.

(E) Extension of the Temporary Health Hardship Permit. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.

(F) Occupancy of the Temporary Dwelling. Occupancy of the temporary dwelling may occur only while the person for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit, end of the health hardship or the provision of supervision or assistance with daily care.

(Ord. 1186, Amended, 10/13/2011; Ord. 1082, Amended, 09/28/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.0520 HISTORICAL STRUCTURES AND SITES PERMITS**

The following requirements and procedures shall apply in addition to the provisions of the State Building Code, to a permit application under MCC Chapter 29, Building Regulations, concerning any historical landmark as defined in MCC 36.4755, or any building structure or premises classified HP under MCC 36.4700 or catalogued as a historic site or structure under the Historic Features Section of the Comprehensive Framework Plan.

(A) In addition to the other applicable provisions of this Chapter, approval of a building permit to enlarge, alter, repair, improve or convert a building or structure described in this Section or to erect, construct, locate or relocate a building or structure on any premises so described, shall also be subject to the applicable design review provisions of MCC 36.7000 through .36.7065.

(B) In addition to the final design review criteria listed in MCC 36.7050 and the standards and exceptions of MCC 36.7055 and 36.7060, approval of a final design review plan for a building or structure described in this Section shall be based on the following criteria:

(1) The appearance as to the design, scale, proportion, mass, height, structural configuration, materials, architectural details, texture, color, location and similar factors shall relate harmoniously with the historical characteristics of the premises and of any existing building or structure, consistent with Building Code requirements.

(2) The factors listed in subpart (B) (1) which have previously been changed and which significantly depart from the original historical character of the premises, building or structure, shall be restored to the maximum practical degree, within limitations of the scope of the work proposed under the permit.

(C) An application for a permit to remove or demolish a building or structure described in this Section shall be subject to the following:

(1) The permit shall not be issued for 120 days following the date of filing, unless otherwise authorized by the Board under subpart (7) of this subsection.

(2) The permit application shall be considered a Type IV decision to be initiated by the record owner or the owner's agent.

(3) Except as otherwise provided in this subsection, the application shall be subject to the applicable provisions of MCC Chapter 37.

(4) A hearing on the application shall be held by the Planning Commission.

(5) The decision of the Planning Commission shall be in the form of a recommendation to the Board.

(a) The Planning Commission may recommend measures to preserve the building or structure, with or without conditions, including by purchase, trade, relocation or by approval of a change of use notwithstanding the use limitations of the district;

(b) The Planning Commission may recommend removal or demolition of the building or structure based upon a finding that practical preservation measures are inadequate or unavailable.

(c) The Planning Commission recommendation shall be based upon findings in relation to the applicable policies of the Comprehensive Plan.

(6) The Planning Commission decision shall be submitted to the Clerk of the Board by the Planning Director not later than ten days after the decision is announced.

(7) The Board shall conduct a de novo hearing on the application under the notice and review procedures of a type IV decision and the approval criteria in (5) above. The Board may affirm, reverse, or modify the recommendation of the Planning Commission. The approval criteria of MCC 37.0705 shall not apply to the decision.

(8) In the event the Board fails to act on the application within the 120-day period specified in subpart (C) (1) of this subsection, the Building Official may issue the permit.

(D) Notwithstanding the provisions of MCC 29.009, action to abate an unsafe building nuisance or an abandoned drive-in business nuisance, by demolition or removal of a building or structure described in MCC 36.0520 shall be subject to the provisions of MCC 36.0520 (C).

(E) Exception. Abatement of an unsafe building or structure may proceed under MCC 29.009, upon a finding by the Director of Community Services that the condition of the building or structure is beyond practical repair or restoration or is a continuous threat to the safety of life or property which cannot otherwise be eliminated.

(Ord. 1079, Amended, 07/27/2006; Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0525 CERTIFICATE OF OCCUPANCY.**

(A) No building or structure, except single family and duplex dwellings, and no land shall be used or occupied, and no change in the existing occupancy of a building, structure or land or portion thereof shall be made, until a Certificate of Occupancy has been issued by the Planning Director or Director's delegate.

(B) Changes in the use of a building, structure or of land shall not be made except in compliance with the provisions of the Chapter.

(C) If it is found that the building, structure of land complies with the provision of this Chap

ter, the Planning Director or the Director's delegate shall issue a Certificate of Occupancy, which shall contain the following:

- (1) Building Permit or Land Use Permit Number;
- (2) The address of the building or premises;
- (3) The name and address of the owner;
- (4) A description of the portion of the building or land for which the Certificate is issued;
- (5) A statement that the described portion of the building or land complies with the requirements of the Chapter;
- (6) The name of the Building Official; and
- (7) The date of issuance.

(D) A Certificate of Occupancy as required in this Chapter may be the Certificate of Occupancy required under the Building Code when so indicated thereon.

(E) A temporary Certificate of Occupancy may be issued by the Planning Director or the Director's delegate for the use of a portion or portions of a building or land prior to the completion or occupation of the entire building or use.

(F) The Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Planning Director or the Director's delegate.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0530 BUS PASSENGER SHELTERS.**

(A) In addition to all other uses permitted in any district, bus passenger shelters (hereinafter shelters) intended for use by the general public and owned or controlled by a city, county, state or municipal corporation shall be allowed.



(B) Prior to installing a shelter, the sponsor shall notify owners of property located within 150 feet of the center point of the proposed site location that the sponsor intends to apply to the Planning Director for authority to install a shelter. Thereafter, the sponsor may submit to the Planning Director an application which shall include a plot plan setting out the location of and plans and specifications for the proposed shelter. With the consent of the Director, more than one shelter location may be included in an application.

(C) Within 30 days after the application, the Planning Director shall review it in light of the effects on:

- (1) Surrounding land uses;
- (2) Vehicular traffic and pedestrian safety;
- (3) Drainage;
- (4) Native or landscaped vegetation;
- (5) Public and private utilities;
- (6) Road construction and maintenance;
- (7) Access or egress from adjacent property; and
- (8) Compliance with the applicable building code.

(D) If the application is approved, the shelter may be installed. If the application is not approved, the sponsor shall be given written notice of that determination and the basis therefore.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.0535 RESPONSES TO AN EMERGENCY/DISASTER EVENT.**

Responses to an emergency/disaster event are allowed in all zoning districts when in compliance with the following standards:

(A) General standards for all response activities.

(1) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, and/or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

(2) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life, property, public services or the environment, an extension of no more than two years may be granted by the Planning Director.

(3) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

(4) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake, or riparian area within Multnomah County as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

(B) Notification Requirements.

(1) Actions taken in response to an emergency/disaster event, as defined in MCC

36.0005, are allowed in all land use designations, subject to the following notification requirements.

(a) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

(b) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.

(c) At a minimum, the following information shall be required at the time of notification:

1. Nature of emergency/disaster event.
2. Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).
3. Location of emergency/disaster response activities.
4. Estimated start and duration of emergency/disaster response activities.

5. Contact person and phone number for the parties conducting emergency/disaster response actions.

(d) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

(2) Upon notification of an emergency/disaster response action, the Planning Director shall, as soon as possible:

(a) Review their natural resource inventory data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites, and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;

(b) Notify applicable agencies of all emergency/disaster response activities.

(3) Upon response from applicable agencies, the applicant shall take necessary measures based on the recommendations of the applicable agencies to minimize impacts to resources from emergency/disaster response actions. If the recommendations of the applicable agencies conflict with those of the County or other jurisdictions, the recommendations of the County shall prevail for the purposes of this section.

(C) Post-Emergency/Disaster Response Application Requirements.

(1) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Planning Director. In the case of an event with multiple responding parties, the agency providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by

mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration and no more than two (2) extensions shall be granted.

(2) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

(3) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500' of a known cultural resource (as determined in the notification process).

(4) Applications shall include the following information:

- (a) Applicant's name and address.
- (b) Location of emergency/disaster response.
- (c) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.
- (d) A map of the project area drawn to scale, at a scale of 1"=200' or a scale providing greater detail. The map shall include:
  - 1. North arrow and scale.
  - 2. Boundaries, dimensions and size of subject parcel(s).

3. Topography at a contour interval sufficient to describe the terrain of the project site.

4. Bodies of water, watercourses, and significant landforms.

5. Existing roads and structures.

6. New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

(e) An exception to the scale requirements of subsection (4)(d) may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1"=200' or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

(D) Post-Emergency/Disaster Response Site Review.

All applications for post-emergency/disaster response Site Review shall be processed pursuant to the procedural provisions of a Type II decision and in compliance with the approval criteria of this section.

(E) Post-Emergency/Disaster Response Approval Criteria.

Actions taken in all land use designations that are in response to an emergency/disaster event shall be reviewed for compliance with the following standards:

(1) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of

vegetation, as a result of emergency/disaster response actions.

(2) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension of up to one year.

(3) Spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action, shall either be:

(a) Removed from Multnomah County or deposited at a site within the Multnomah County where such deposition is, or can be, allowed, or

(b) Contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

(4) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall immediately cease work and contact the Planning Director and the State Historic Preservation Office (SHPO).

(5) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

(6) Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants, shall be maintained to the maximum extent practicable.

(a) When emergency/disaster response activities occur within wetlands,

streams, ponds, lakes, riparian areas, or the buffer zones of these areas, the applicant shall demonstrate the following:

1. All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes, or riparian areas.

2. Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

(b) Impacts to wetlands, streams, ponds, lakes, and riparian areas, and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

(c) If the Planning Director determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the Site Review decision.

(d) Unless addressed through (C) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan.

Rehabilitation Plans shall satisfy the following:

1. Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.
2. Planting plans shall be included that specify native plant species to be used, specimen quantities, and plant locations.
3. The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0540 TYPE A HOME OCCUPATION**

(A) Type A home occupation is a lawful commercial activity that is conducted within a dwelling unit by a business operator, is subordinate to the residential use of the dwelling unit, is registered with the Planning Director by completing and filing a form provided by the Planning Director, and complies with the following:

- (1) Type A home occupation shall not exceed 20 percent of the gross floor area of the dwelling and attached garage, or 500 sq. ft., whichever is less.
- (2) No more than one non-resident employee or two customers on the premises at any one time. A maximum of eight customer visits may happen per day.
- (3) Modifications to the dwelling to facilitate the use shall be limited to the alteration, replacement or addition of windows or doors or other typically used residential appurtenances.
- (4) No deliveries or pick-ups associated with the home occupation between the hours of 7 p.m. - 7 a.m. are permitted. Deliveries and pick-ups

shall occur on the premises only. The road serving the premises may not be used for loading or unloading purposes. No more than two pick-ups or deliveries shall occur on any given day.

(5) No outdoor storage or displays shall occur on the premises. Outdoor parking of the business vehicle, motor vehicle owned by the employee or customer is allowed. The use, parking or storing of any vehicle in excess of a gross vehicle weight of 11,000 pounds is prohibited.

(6) No signage shall be allowed, including temporary signage and those exempted under MCC 36.7420 with the exception of property numbers.

(7) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. This standard does not apply to vehicles entering or exiting the premises, but does apply to idling vehicles. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

(8) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including automobiles, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, and chain saws. No operation of a dispatch center where employees enter the premises for the purpose of being dispatched to other locations.

(B) Notwithstanding the transfer of approval rights in MCC 37.0770, registration of a Type A home occupation does not run with the land and is not transferred with ownership of the land. Registration of a Type A home occupation is personal to the business operator and specific to the registered dwelling unit. Registration of a Type A home occupation terminates automatically, immediately and without notification if the business owner ceases to reside full-time in the registered dwelling unit.

(C) Existing Type A Home Occupations that were registered prior to August 18, 2012, which complied with all provisions of the ordinance then in effect, may continue provided any alteration, expansion or establishment of a new home occupation shall be subject to the applicable home occupation regulations. The adoption of this ordinance is not intended to make these existing registrations non-conforming and proposals for alteration, expansion or establishment of a new Type A home occupation on the parcel shall be pursuant to this ordinance.

(Ord. 1197, 02/16/2013)

### **§ 36.0550 TYPE B HOME OCCUPATION**

(A) Type B home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

(1) The on-site business functions of the home occupation shall take place entirely within a dwelling unit or enclosed accessory building on the premises, except for employee and customer parking and allowed signage. No outdoor storage, business activities or displays shall occur outside of an enclosed building.

(2) Type B home occupation shall not exceed 25 percent of the total gross floor area of the dwelling, attached garage and accessory buildings, or 1,000 sq. ft., whichever is less.

(3) The home occupation shall not employ more than one non-resident employee. There shall be no more than two customers on the premises at any one time.

(4) No more than a total of 20 vehicle trips per day by customers of the home occupation, delivery service providers serving the home occupation and the employee may be authorized through the review process. No deliveries or pick-ups associated with the home occupation between the hours of 7 p.m. – 7 a.m. are permitted. Deliveries and pick-ups shall occur on the premises only.

The road serving the premises may not be used for loading or unloading purposes. No more than two pick-ups or deliveries shall occur on any given day.

(5) In addition to the required residential parking, the premises has on-site parking pursuant to MCC 36.4100–36.4215 to accommodate the total number of employees and customers proposed to be on the premises at any one time. The use, parking or storing of any vehicle in excess of a gross vehicle weight of 11,000 pounds is prohibited.

(6) Notwithstanding MCC 36.7400–36.7505, only one, non-illuminated, identification sign not to exceed two square feet in area may be attached to a building used for the business.

(7) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. This standard does not apply to vehicles entering or exiting the premises, but does apply to idling vehicles. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

(8) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including automobiles, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, and chain saws.

(9) No building or structure is proposed to be constructed or modified in a manner that would not otherwise be allowed in the zoning district. Buildings or structures used as part of the home occupation shall not have or require a building code occupancy rating other than R-3 or U as determined by the building official.

(10) In the CFU and EFU zone districts, the home occupation will not unreasonably interfere with other uses permitted in the general district and the use will:

(a) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

(b) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel.

(B) Each approval issued by the approval authority shall be specific for the particular home occupation and reference the business operator, number of employees allowed, the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.

(C) Notwithstanding the transfer of approval rights in MCC 37.0770, approval of a Type B home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type B home occupation is personal to the business operator and specific to the authorized premises. Approval of a Type B home occupation terminates automatically, immediately and without notification if the business owner ceases to reside full-time on the authorized premises.

(D) The Type B home occupation may continue for a period of three years from date of the final decision provided it is in compliance with the approved permit. At the end of the three year period, the right to operate the Type B home occupation from the property expires automatically unless the permit is renewed for an additional three year period pursuant to the following:

(1) The Type B home occupation has been conducted in full compliance with the permit for a preponderance of the time since the prior approval.

(2) Each renewal period shall be for a three year period from the last expiration date. The Type B home occupation may be renewed an unlimited number of times.

(3) To obtain a renewal of the Type B home occupation, the business operator shall use the forms provided by the Planning Director and shall submit the application prior to expiration of the permit. Provided the renewal application is

submitted on or before the expiration date, the business operator may continue the Type B home occupation pending the County's final decision on the renewal request.

(4) A Type B home occupation renewal shall be processed pursuant to the Type II approval process in MCC 37.0530.

(5) The Planning Director may consider minor modifications to the business activities authorized in (B) above and the conditions of approval if requested by the business operator as part of a Type B home occupation renewal application. A minor modification may be approved if it:

(a) Is consistent with the prior approval;

(b) Is consistent with MCC 36.0550(A); and

(c) Does not increase the intensity of use of the premises.

(Ord. 1257, Amended, 06/07/2018; Ord. 1197, 02/16/2013)

### **§ 36.0560- MARIJUANA BUSINESS**

(A) The purpose of this section is to protect and preserve the public health, safety and general welfare of the community by establishing restrictions on the siting and operation of Marijuana Businesses. The nature, extent, scope, and operation of Marijuana Businesses is authorized and prescribed by state law and administrative rule, not by this or any other County ordinance or act. No County ordinance or other act shall be interpreted as authorizing any person to engage in any activity prohibited by law nor shall any County ordinance or other act be applied in any manner that would authorize any person to engage in any activity prohibited by law. Accordingly, this section, through Table A and the other provisions of this section, imposes restrictions on the establishment and operation of Marijuana Businesses and does not constitute a separate source of authority for the establishment and operation of Marijuana Businesses. Nothing in this section regulates the personal use of marijuana.

(B) In construing this section, including the definitions of the terms given in paragraph (C), related provisions of state law and administrative rule provide relevant context.

(C) The following definitions apply to this section and to the implementation of this section through other provisions of the Multnomah County Code.

(1) The term “Marijuana Business” and its derivations means an enterprise authorized by state law involving medical or recreational marijuana production, medical or recreational marijuana processing, recreational marijuana wholesaling, medical marijuana dispensing, or retailing of recreational marijuana. Nothing in this section authorizes collocation of medical and recreational enterprises beyond that allowed under state law.

(2) The term “Outdoor Production” means producing marijuana:

- (a) In an expanse of open or cleared ground; or
- (b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

(3) The term “Indoor Production” means producing marijuana in any manner:

- (a) Utilizing artificial lighting on mature marijuana plants; or
- (b) Other than “outdoor production,” as that is defined in this section.

(D) A proposal for establishing, altering, expanding or replacing a Marijuana Business will be reviewed as specified in Table A below and is subject to the specified criteria therein as well as the criteria set forth in paragraph E of this section. For purposes of

MCC 36.7214, a proposal for the alteration or expansion of an existing building or structure by more than 400 square feet of floor area or ground coverage, or for replacement of a building or structure shall be deemed to have a greater adverse impact on the neighborhood. Where no review process for a particular Marijuana Business in a particular zoning district is specified in Table A, the Marijuana Business may not operate in that zoning district.



**Table A: Chapter 36**

X = Not Allowed

<b>Zoning District</b>	<b>Marijuana Production</b>	<b>Marijuana Processing</b>	<b>Marijuana Wholesaling</b>	<b>Marijuana Dispensing or Retailing</b>
CFU	Outdoor Production only 36.2020(C)	X	X	X
EFU	36.2620(A)	36.2625(L)	X	X
MUA-20	36.2820(B)	36.2830(B)(2)	X	X
RR	Indoor Production only and the total combined footprint of the Marijuana Business shall not exceed 2,500 square feet. 36.3120(B)	X	X	X
PH-RC	Indoor Production only 36.3320(A)	36.3330(B)(6)	36.3330(B)(4)	36.3330(B)(1)
OR	Indoor Production only and the total combined footprint of the Marijuana Business shall not exceed 2,500 square feet. 36.3420(B)	X	X	X
OCI	Indoor Production only 36.3520(B)	36.3525(C)	36.3525(B)(3)	36.3525(A)

(E) A Marijuana Business is required to meet the criteria referenced in Table A and must comply with the following:

(1) A Marijuana Business shall be located a minimum of 1,000 feet from a public or private school.

(a) The measurement in the Exclusive Farm Use zone shall be made using a straight line extending horizontally from the closest school property line to the closest part of any canopy area or building or structure used for marijuana production or marijuana processing.

(b) The measurement in all other zoning districts shall be made using a straight line extending horizontally from the closest point anywhere on the property line of the Marijuana Business property to the closest school property line.

(2) Outdoor marijuana canopies, buildings and structures used for indoor or outdoor marijuana production, and buildings and structures used for marijuana processing shall be located at least 100 feet from any property line, unless an adjustment or variance is approved. The distance shall be measured using a straight line extending horizontally from the closest part of the canopy area or building or structure used for marijuana production or marijuana processing to the closest property line. This 100 foot setback does not apply to a building or structure, or portion thereof, lawfully established within 100 feet of a property line prior to January 1, 2016.

(3) All Marijuana Business buildings must be equipped with an air filtration

system designed and verified by an Oregon licensed mechanical engineer to ensure no marijuana odor at property lines. The system must be operated and maintained in the manner designed and instructed by the Oregon licensed mechanical engineer. Doors and windows shall remain closed, except for the minimum length of time needed for ingress to or egress from the building. The air filtration system requirement does not apply to a building used as part of outdoor production.

(4) A Marijuana Business shall not produce or permit to be produced sound that is detectable at or beyond the property line of the lot or parcel on which the Marijuana Business is located. For purposes of this subsection, a sound is detectable if it can be detected by a reasonable person of ordinary sensitivities using the person's unaided hearing faculties.

(5) During the period commencing 30 minutes before sunset and ending 30 minutes after sunrise the following day, artificial lighting shall not be visible from outside a building or structure used for marijuana production.

(6) With respect to the establishment, alteration, expansion or replacement of a Marijuana Business supported by a building or other structure, MCC 36.4500 through MCC 36.4567 (Significant Environmental Concern) shall not apply to a building or structure lawfully established prior to January 1, 2016, but shall apply to all other buildings and structures in a Significant Environmental Concern subdistrict. The farm use exception in MCC 36.4520(A) from Significant Environmental Concern permit requirements shall apply only to

marijuana production in the Exclusive Farm Use Zoning District and shall not apply to a Marijuana Business in any other instance.

(7) Fences, walls or other barriers:

- (a) Shall be limited in area by being located no more than 20-feet in any direction from the outer extent of all areas used for Marijuana Business activities, including but not limited to buildings, structures, outdoor marijuana canopies, and areas used for off-street parking, loading, and storage.
- (b) Shall not be electrified, use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.
- (c) Shall not include plastic sheeting, knitted polyethylene, woven polypropylene, vinyl coated polyester, or similar materials.
- (d) No variance, adjustment, deviation or any other modification to these fencing standards is allowed.

(8) No more than one of each of the following Marijuana Businesses may be established on the same Lot of Record.

- (a) Marijuana production
- (b) Marijuana processing
- (c) Marijuana wholesaling
- (d) Marijuana retailing
- (e) Marijuana dispensary.

(9) The following uses are not allowed as a Home Occupation: Marijuana Business,

private or public research of cannabis, or laboratory for the testing of marijuana items.

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

- (a) A new dwelling used in conjunction with a marijuana crop.
- (b) A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop.
- (c) A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.

(Ord. 1255, Amended, 04/12/2018; Ord. 1232, Added, 03/31/2016)

**§ 36.0565 CONDITION OF APPROVAL – ACCESSORY STRUCTURES**

Prior to issuance of any development permit involving an Accessory Building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. (Ord. 1242, Added, 02/23/2017)

**§ 36.0570 DARK SKY LIGHTING STANDARDS**

(A) The purpose of the Dark Sky Lighting Standards in this section is to protect and promote public health, safety and welfare by preserving the use of exterior lighting for security and the nighttime use and enjoyment of property while minimizing the obtrusive aspects of exterior lighting uses that degrade the nighttime visual environment and negatively impact wildlife and human health.

(B) The following exterior lighting is exempt from the requirements of paragraph (C) of this section:

(1) Lighting lawfully installed prior to the effective date of this ordinance, provided that the building enlargement threshold in paragraph (C) of this section is not exceeded.

(2) Lighting used for safe pedestrian passage, installed at ground level (such as along walkways and stairs), provided that individual lights produce no more than 30 lumens.

(3) Lighting that shines for not more than 90 nights in any calendar year provided that individual lights produce no more than 70 lumens.

(4) (4) Lighting which shines for not more than 60 nights in any calendar year associated with discrete farming practices as defined in ORS 30.930 and agricultural use as defined in OAR 603-095-0010, except that permanent lighting on buildings, structures or poles associated with farm practices and agricultural use is subject to the requirements of this section. For purposes of this exemption, “discrete farming practices” does not include farm stand or agri-tourism events or activities.

(5) Lighting which shines for not more than 60 nights in any calendar year associated with discrete forest practices as defined by ORS chapter 527 (The Oregon Forest Practices Act), except that permanent lighting on buildings, structures or poles associated with forest practices is subject to the requirements of this section.

(6) Lighting which shines for not more than 60 nights in any calendar year associated with theatrical, television, and performance activities. For purposes of this exemption, theatrical, television, and performance activities do not include farm stand or agri-tourism events or activities.

(7) Lighting in support of work necessary to protect, repair, maintain, or replace existing structures, utility facilities, service connections, roadways, driveways, accessory uses and exterior improvements in response to emergencies pursuant to the provisions of

MCC 36.0535, provided that after the emergency has passed, all lighting to remain is subject to the requirements of this section.

(8) Lighting used by a public agency in service of a temporary public need, when such lighting cannot both serve the public need and comply with the standards in paragraph (C) of this section.

(9) Lighting required by a federal, state, or local law or rule, when such lighting cannot comply with both the law or rule and the standards in paragraph (C) of this section.

(10) Lighting used in support of public agency search and rescue and recovery operations.

(11) Traffic control devices in compliance with the Manual on Uniform Traffic Control Devices, when such lighting cannot both serve the public need and comply with the standards in paragraph (C) of this section.

(12) Lighting necessary to meet federal, state or local historic preservation standards when such lighting cannot both meet historic preservation standards and comply with the standards in paragraph (C) of this section.

(13) Underwater lighting.

(14) Lighting of national, state, and local recognized jurisdiction flags pursuant to the United States Flag Code or laws regulating the proper display of jurisdiction flags.

(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. "Fully shielded" means no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding. Shielding must be permanently attached.

(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.

(Ord. 1236, Added, 09/22/2016)

### ***PLANNING DIRECTOR***

#### **§ 36.0600- PLANNING DIRECTOR.**

Subject to the direction of the Board, the Planning Director or the Director's delegate shall perform the following duties:

(A) Schedule and assign proposed actions for hearings and review;

(B) Conduct all correspondence of the Planning Commission and Hearings Officer;

(C) Give notices as required by law and by this Chapter;

(D) Maintain dockets and minutes of all hearings;

(E) Compile and maintain all necessary records, files and indexes;

(F) Record all continuances, postponements, dates of giving notices and minutes and summaries of all actions taken by the Planning Commission;

(G) Record the decision of the Planning Commission and the Hearings Officer on each matter heard and the vote of each member of the Planning Commission, members absent or failing to vote, and the reasons for the decision;

(H) Provide copies of records to any party requesting the same upon the payment of a fee

therefor established by the Director of the Division of Land Use Planning and approved by the Board of County Commissioners;

(I) File orders and decisions of the Planning Commission and Hearings Officer with the Clerk of the Board;

(J) Perform such other functions as may be assigned by the Board.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0605 ENFORCEMENT.**

The Director of the Department of Community Services (DCS) and the Director's delegates shall be responsible for securing the enforcement of the provision of this Ordinance.

(Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 1032, Amended, 05/06/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### ***VIOLATIONS and ENFORCEMENT***

#### **§ 36.0910- VIOLATIONS AND ENFORCEMENT.**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDRC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

(Ord. 1032, Amended, 05/06/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.0920 SAVINGS CLAUSE.**

If the article, section, subsection, subdivision, phrase, clause, sentence or work in the ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of this ordinance, but shall be confined to the article, section, subsection, subdivision, phrase, clause, sentence or work held invalid or unconstitutional.

(Ord. 1001, Reorg&Renum, 12/12/2002)

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**PART 4 - ZONING DISTRICTS****COMMERCIAL FOREST USE CFU****§ 36.2000- PURPOSES.**

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land; the Commercial Forest Use policies of the West of Sandy River Rural Area Plan, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

One of the implementation tools to carry out the purposes of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.2005 AREA AFFECTED.**

MCC 36.2000 through 36.2110 shall apply to those lands designated CFU on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.2010 DEFINITIONS.**

As used in MCC 36.2000 through 36.2110, unless otherwise noted, the following words and their derivations shall have the following meanings:

*Auxiliary* - For the purposes of MCC 36.2020 (A) (2) to (3), the use or alteration of a structure or land which provides temporary help, or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An

auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

*Commercial Tree Species* - Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

*Contiguous* - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

*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 Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

*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 Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

*Forest Operation* - Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

*Same Ownership* - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control. For the purposes

this subsection, the seller of a property by sales contract shall be considered to not have possessory interest.

*Tract* - One or more contiguous Lots of Record in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

(Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.2015 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.2020 through 36.2030 when found to comply with MCC 36.2045 through 36.2110.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.2020 ALLOWED USES.

(A) The following uses pursuant to the Forest Practices Act and Statewide Planning Goal 4:

(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 or permanent on site structures which are auxiliary to and used during a particular forest operation per ORS 215 and 455.315. Conversion of these structures is subject to any applicable land use and building permit review procedures; or

(3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

(B) A temporary portable facility for the primary processing of forest products.

(C) Farm use, as defined in ORS 215.203.

(D) Alteration, maintenance, replacement or restoration of an existing lawfully established *habitable dwelling* as defined in MCC 33.0005 and located within 100-feet from an existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling shall be removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(E) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including a public or private wildlife and fisheries resources conservation area.

(F) An uninhabitable structure accessory to fish and wildlife enhancement.

(G) A caretaker residence for a public park or a fish hatchery.

(H) Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.

(I) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(J) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result.

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



(L) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within a 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.

(M) A lookout tower for forest fire protection.

(N) A water intake facility, canal and distribution lines for farm irrigation and ponds.

(O) A temporary forest labor camp.

(P) Exploration for mineral and aggregate resources as defined in ORS Chapter 517.

(Q) Exploration for geothermal resources.

(R) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

(S) Type A home occupations pursuant to the definition and restrictions of MCC 36.0540.

(T) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds, including shipping containers used for storage only;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and

(n) Similar structures.

(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

(a) More than one story;

(b) Cooking Facilities;

(c) A toilet;

(d) Bathing facilities such as a shower or bathing unit;

(e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or

(f) A closet built into a wall.

(5) Compliance with MCC 36.0565 is required.

(6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.

(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(U) Actions taken in response to an emergency/disaster event as defined in MCC 36.0005 pursuant to the provisions of MCC 36.0535.

(V) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single family dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.) Ord 977 2/7/02.

(W) Signs, as provided in this chapter.

(X) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 36.0005;

(b) The system meets all special district requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

(c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(Ord. 1242, Amended, 02/23/2017; Ord. 1218, Amended, 05/21/2015; Ord. 1197, 02/16/2013, Ord. 1192, Amended, 05/17/2012; Ord. 1179, Amended, 04/21/2011; Ord. 1176, Amended, 03/03/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2025 REVIEW USES.**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(B) The following dwellings:

(1) A *Large Acreage Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 36.2035;

(2) A *Template Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 36.2040(A);

(3) A *Heritage Tract Dwelling* pursuant to all applicable approval criteria, including but not limited to MCC 36.2040(B).

(C) A temporary dwelling for health hardship pursuant to all applicable approval criteria, including but not limited to MCC 36.0515 and 36.2056.

(D) An asphalt and concrete batch plant accessory to a specific highway project pursuant to MCC 36.2045.

(E) A mobile home during the construction or reconstruction of a residence allowed under MCC 36.2020 (D) or 36.2025 (A) or (B), provided that the mobile home is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the dwelling pursuant to all applicable approval criteria, including but not limited to MCC 36.2045, 36.2056 and 36.2061.

(F) Off-street parking and loading as required by MCC 36.4100 through 36.4215.

(G) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 36.2070.

(H) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(I) Wireless communications facilities that employ concealment technology or co-location as described in MCC 35.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(J) Lots of Exception pursuant to all applicable approval criteria, including but not limited to MCC 36.2065, 36.2073 and 36.7700 et seq.

(K) Consolidation of Parcels and Lots pursuant to MCC 36.7794.

(L) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 36.2020 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC 36.0565 is required.

(M) A Type B home occupation when approved pursuant to MCC 36.0550.

(Ord. 1242, Amended, 02/23/2017; Ord. 1197, 02/16/2013; Ord. 1186, Amended, 10/13/2011; Ord. 1179, Amended, 04/21/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1097, Amended, 07/26/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.2030 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) The following Community Service Uses pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 36.2045, 36.2050, 36.2056, 36.2061, and 36.6000 through 36.6020. The applicable criteria of 36.6010 shall be limited to (A) through (H) for uses in this section.

(1) Private park and private campground. In addition to the approval standards listed in MCC 36.2030(A) above, a private campground shall be subject to the following:

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

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The 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.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(2) Cemetery.

(3) Fire station for rural and forest fire protection.

(4) Aid to navigation and aviation.

(5) Water intake facility, related treatment facility, pumping station, and distribution line. The term "distribution line" includes water conduits and water transmission lines.

(6) Reservoir and water impoundment.

(7) New distribution line (e.g., gas, oil, geothermal) with a right-of-way 50 feet or less in width or new electric transmission line with a right-of-way width of up to 100 feet as specified in ORS 772.210.

(8) Forest management research and experimentation facility as defined by ORS 526.215.

(9) State and Local Parks.

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and

2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035;

3. A "State Park" is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

(10) Utility facility for the purpose of generating power provided the facility not pre-

clude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.

(11) Radio and television transmission towers subject to the definitions, restrictions and standards in MCC 36.6010, 36.6015 (A) (8) and 36.6100 through 36.6130 and wireless communications facilities when found to satisfy the requirements of MCC 36.6175 through 36.6188.

(12) Refuse dump or sanitary landfill for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

(13) Regional Sanitary Landfill for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation subject to the definitions, restrictions and standards in MCC 36.6200 through 36.6230.

(14) Private hunting and fishing operation without any lodging accommodations.

(15) Private seasonal accommodations for a fee hunting operation or fishing, provided:

(a) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(b) Only minor incidental and accessory retail sales are permitted;

(c) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons or fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

(d) Accommodations for fishing must be located within 1/4 mile of fish bearing Class I waters.

(16) Mining, processing and production of geothermal resources.

(B) The following uses pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 36.2045, 36.2050, 36.2056, 36.2061, 36.6300 through 36.6335, and 36.6500 through 36.6535. The applicable criteria of 36.6315 shall be limited to (1) through (7) for the uses in this section:

(1) Mining and processing of aggregate and other mineral or subsurface resources as defined in ORS Chapter 517;

(2) Permanent facility for the primary processing of forest products;

(3) Permanent logging equipment repair and storage;

(4) Log scaling and weigh stations;

(5) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels;

(6) 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;

(7) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels; and

(8) Expansion of aircraft landing areas auxiliary to forestry practices, notwithstanding the provisions of MCC 36.4010 through 36.4035.

(C) Type C home occupations pursuant to all applicable approval criteria, including but not limited to MCC 36.6655 through 36.6665.

(Ord. 1197, 02/16/2013; Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

#### § 36.2035 LARGE ACREAGE DWELLING.

A large acreage dwelling may be sited on a tract, subject to the following:

(A) The lot or lots in the tract meet(s) the lot of record standards of MCC 35.2075 (A) and (B);

(B) The property consists of:

(1) A single tract of at least 160 contiguous acres in one ownership within Multnomah County and all zoned for forest use; or,

(2) Two or more tracts of at least 200 combined acres in one ownership that are not contiguous, but are in Multnomah County or adjacent counties, and all zoned for forest use;

(C) There is no other dwelling on the tract and no other dwellings are allowed on other lots (or parcels) that make up the tract,

(D) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.

(E) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;

(F) Proof of a long-term road access use permit or agreement shall be provided 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 Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;

(G) A condition of approval 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, provided, however, that:

(1) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

(2) 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. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;

(3) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department 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 pursuant to ORS 321.372;

(H) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995) has been recorded with the county Division of Records;

(1) The covenants, conditions and restrictions as specified in "Exhibit A" above shall specify that it is not lawful to use the acreage of the subject tract to qualify another tract for the siting of a dwelling;

(2) The covenants, conditions and restrictions as specified in "Exhibit A" are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County and any other county where the property subject to the covenants, conditions and restrictions is located;

(3) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027.

(I) The dwelling meets the applicable development standards of MCC 36.2056 and 36.2061.  
(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.2040 TEMPLATE AND HERITAGE TRACT DWELLINGS.**

(A) A template dwelling may be sited on a tract, subject to the following:

(1) The lot or lots in the tract shall meet the lot of record standards of MCC 36.2075;

(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with the development standards of MCC 36.2056 and 36.2061;

(3) The tract shall meet the following standards:

(a) If the tract is predominantly composed of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or
- (b) If the tract is predominantly composed of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and
1. The lot upon which the dwelling is proposed to be sited and at least all or part of 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and
  2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or
- (c) If the tract is predominantly composed of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and
1. The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and
  2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.
- (d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy (a) through (c) above.
- (e) There is no other dwelling on the tract,
- (f) No other dwellings are allowed on other lots (or parcels) that make up the tract;
- (g) Except as provided for a replacement dwelling, all lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and
- (h) No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;
- (i) Pursuant to the definition of “Date of Creation and Existence” in MCC 36.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 36.2040(A), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.
- (j) Pursuant to the definition of “Date of Creation and Existence” in MCC 36.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the “other lawfully created lots” existing on January 1, 1993 standard in MCC 36.2040(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.
- (k) “Within” as used in the context of (a)2., (b)2. and (c)2. shall mean that all of the dwellings or any part of the dwellings are in the 160-acre square.



(4) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.

(5) Proof of a long-term road access use permit or agreement shall be provided 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 Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;

(6) A condition of approval 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, provided, however, that:

(a) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

(b) 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. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;

(c) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department 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 pursuant to ORS 321.372;

(7) The dwelling meets the applicable development standards of MCC 36.2056 and 36.2061;

(8) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;

(9) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995), or a similar form approved by the Planning Director, has been recorded with the county Division of Records;

(a) The covenants, conditions and restrictions shall specify that:

1. All lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and

2. No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the tract is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands;

(c) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).

(B) A heritage tract dwelling may be sited, subject to the following:

(1) On a tract:

(a) That is not developed with a single family residence, and

(b) That is not capable of producing 5,000 cubic feet per year of commercial tree species based on soil type, and

(c) That is located within 1,500 feet of a dedicated public right-of-way that provides or will provide access to the subject tract. The road within the public right-of-way shall be maintained to the standards set forth in the County Right-of-Way Access Permit and be, as applicable, either paved or surfaced with rock. The road shall not be:

1. A U.S. Bureau of Land Management road; or

2. A U.S. 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.

(d) For which deeds or other instruments creating the lots or parcels were recorded with the County Recorder, or were in recordable form prior to January 1, 1985;

(e) That is comprised of lots or parcels that were lawfully created and pursuant to the definition of "Date of Creation and Existence" in MCC 36.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 36.2040(B), any reconfiguration after

November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling;

(f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, the tract was acquired and owned continuously by the present owner:

1. Since prior to January 1, 1985; or

2. By devise or by intestate succession from a person who acquired the lot or parcel since prior to January 1, 1985.

3. 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.

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

(2) 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.

(3) When the tract on which the dwelling will be sited consists of more than one lot or parcel, the remaining lots or parcels shall be consolidated into a single lot or parcel prior to the issuance of any development permits.

(4) Prior to the issuance of any development permits the owner of the tract shall 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, provided, however, that:

(a) The Transportation and Land Use Planning Department shall notify the County Assessor of the above condition at the time the dwelling is approved;

(b) 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. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;

(c) Upon notification by the Assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, it 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 pursuant to ORS 321.372;

(5) The dwelling meets the applicable development standards of MCC 36.2056 and 36.2061.

(Ord. 1098, Amended, 08/16/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.2045 USE COMPATIBILITY STANDARDS.**

Specified uses of MCC 36.2025 (D) and (E) and MCC 36.2030 (A), (B) and (C) may be allowed upon a finding that:

(A) The use will:

(1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

(2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(B) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

(Ord. 1186, Amended, 10/13/2011; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.2050 BUILDING HEIGHT REQUIREMENTS**

(A) Maximum structure height – 35 feet.

(B) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

(Ord. 1079, Add, 07/27/2006)

#### **§ 36.2056 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES**

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Table 1

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Replaced or restored dwelling in same location &/or less than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	May maintain current nonconforming setback(s) if less than 30 ft. to property line	30	30	Property owner is encouraged to establish Primary to the extent possible
Replaced or restored dwelling in same location & greater than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	Nonconforming setback(s) of less than 30 ft. to property lines that existed as of August 26, 2006 may be maintained	30	30	Primary is required, except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of August 26, 2006, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006
At least a portion of the replaced or restored dwelling is within 100 ft. of existing dwelling	N/A	30	30	Primary required; Maintenance of vegetation in the Secondary is required to the extent possible
Replaced or restored dwelling over 100 ft. from existing dwelling	Meet current setback standards	30	130	Primary & Secondary required
At least a portion of the Temporary Health Hardship Dwelling is within 100 ft. of existing dwelling	N/A	30	30	Primary required
Temporary Health Hardship farther than 100 ft. from existing dwelling	N/A	30	130	Primary and Secondary required
At least a portion of the mobile home during construction or reconstruction of a residence is within 100 ft. of dwelling	N/A	30	30	Primary required
Mobile home during construction or reconstruction of a residence farther than 100 ft. of dwelling	N/A	30	130	Primary and Secondary required

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Template Dwelling	N/A	30	130	Primary & Secondary required
Heritage Tract Dwelling	N/A	30	130	Primary & Secondary required
Large Acreage Dwelling	N/A	30	130	Primary & Secondary required
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required
Accessory structures located more than 100 ft. from the dwelling	N/A	30	130	Primary & Secondary required
Addition to an existing structure	Nonconforming setback(s) of less than 30 ft. to property lines that existed as of May 21, 2011 may be maintained	30	30	Primary is required, except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of May 21, 2011, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006.
Other Accessory structures	N/A	30	130	Primary & Secondary required
Other Structures	N/A	30	130	Primary & Secondary required

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Fencing and Retaining Walls	N/A	Subject to all other applicable Code provisions, a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall	Subject to all other applicable Code provisions, a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall	N/A
Property Line Adjustment; Lot of Exception; Land Divisions.	May maintain current nonconforming setback to existing structures	30	30	On tracts with required Primary & Secondary FSZ as part of a land use decision, both shall be maintained.

(A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.

(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 36.2110 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

(C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional setback requirements in consultation with the Road Official

(D) Fire Safety Zones on the Subject Tract

(1) Primary Fire Safety Zone

(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance In Feet
Less than 10	No additional required
Less than 20	50 additional
Less than 25	75 additional
Less than 40	100 additional

(c) The building site must have a slope less than 40 percent.

(2) Secondary Fire Safety Zone

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of 36.2110.

(3) No requirement in (1) or (2) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.

(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).

(Ord. 1263, Amended, 10/11/2018; Ord. 1179, Amended,

04/21/2011; Ord. 1079, Add, 07/27/2006)

**§ 36.2061 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES.**

All dwellings and structures shall comply with the approval criteria in (B) through (D) below except as provided in (A). All exterior lighting shall comply with MCC 36.0570:

(A) For the uses listed in this subsection, the applicable development standards are limited as follows:

(1) Expansion of existing dwelling.

(a) Expansion of 400 square feet or less additional ground coverage to an existing dwelling: Not subject to development standards of MCC 36.2061;

(b) Expansion of more than 400 square feet additional ground coverage to an existing dwelling: Shall meet the development standards of MCC 36.2061(C);

(2) Replacement or restoration of a dwelling.

(a) Replacement or restoration of a dwelling that is within the same footprint of the original dwelling and includes less than 400 square feet of additional ground coverage: Not subject to development standards of MCC 36.2061;

(b) Replacement or restoration of a dwelling that is within the same footprint of the original dwelling with more than 400 square feet of additional ground coverage: Shall meet the development standards of MCC 36.2061(C);

(c) Replacement or restoration of a dwelling that is not located within the footprint of the original dwelling but it is located where at least a portion of the replacement dwelling is within 100 feet of the original dwelling: Shall meet the development standards of MCC 36.2061(C);

## (3) Accessory buildings.

(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 36.2061(C);

(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 36.2061(B)&(C);

## (4) Temporary dwellings.

(a) A temporary health hardship mobile home located within 100 feet of the existing dwelling: Not subject to development standards of MCC 36.2061;

(b) A temporary health hardship mobile home located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 36.2061(B)&(C);

(c) A temporary mobile home used during construction or reconstruction of a dwelling located within 100 feet of the dwelling under construction: Not subject to development standards of MCC 36.2061;

(d) A temporary mobile home used during construction or reconstruction of a dwelling located farther than 100 feet of the dwelling under construction: Shall meet the development standards of MCC 36.2061(B)&(C);

(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

(1) The structure shall satisfy the following requirements:

(a) To meet the Forest Practices Setback, the structure shall be located a minimum

of 30-feet from a front property line adjacent to a county maintained road and 130-feet from all other property lines;

(b) The structure shall be located in a cleared area of at least 10,000 square feet that meets the tree spacing standards of a primary fire safety zone;

(c) The entirety of the development site is less than 30,000 square feet in total cleared area, not including the driveway;

(d) The structure is sited within 300-feet of frontage on a public road and the driveway from the public road to the structure is a maximum of 500-feet in length;

(e) The local Fire Protection District verifies that their fire apparatus are able to reach the structure using the proposed driveway; or

(2) The structure shall satisfy the following requirements:

(a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 36.2056;

(b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;

(d) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and



(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the fire apparatus access standards of the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source;

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

(1) If the water supply is unavailable from public sources, or sources located entirely on

the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(2) 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; or

(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.

(Ord. 1236, Amended, 09/22/2016; Ord. 1186, Amended, 10/13/2011; Ord. 1179, Amended, 04/21/2011; Ord. 1079, Amend&Renum, 07/27/2006, from 36.2105; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002

### **§ 36.2063 LOT SIZE REQUIREMENTS**

(A) The minimum lot size for new parcels or lots shall be 80 acres, except as provided in MCC 36.2065, 36.2070, 36.2075, and 36.2080.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

(C) The minimum Front Lot Line Length is 50 feet, except for flag lots as provided in MCC 36.7895(D).

(Ord. 1079, Add, 07/27/2006)

### **§ 36.2065 LOTS OF EXCEPTION.**

An exception to permit the creation of a lot of less than the minimum 80 acre parcel size for new parcels may be authorized as provided in (A) or (B) below and subject to the following:

(A) A small parcel for an existing dwelling may be established subject to the following:

- (1) The Lot of Record to be divided is larger than 80 acres;
- (2) The Lot of Exception will contain a dwelling which lawfully existed prior to January 25, 1990;
- (3) The Lot of Exception will be no larger than 5 acres;
- (4) The division will create no more than one lot which is less than 80 acres;
- (5) The division complies with the dimensional requirements of MCC 36.2056; and
- (6) The parcel not containing the dwelling is not entitled to a dwelling. A condition of approval shall require that covenants, conditions and restrictions which preclude future siting of a dwelling on the parcel shall be recorded with the county Division of Records. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.

(B) A parcel that contains two dwellings may be divided provided that:

- (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 ORS 215.213 (1)(t) or 215.283 (1)(s);
- (3) Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;
- (4) At least one dwelling is located on each lot or parcel created under this paragraph;

(5) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Multnomah County Recorder. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use;

(6) The new property line proposed to divide the existing parcel shall be located such that:

- (a) Forest Practices Setback dimensional requirements in MCC 36.2056 are met as nearly as possible considering parcel size and location of existing dwellings and other structures;
- (b) Adverse impacts on forest practices will be minimized. Factors to consider in that evaluation include the location of: existing and potential logging access roads, existing and potential log landing areas, steep topography, and the size of the respective timber management areas; and

(7) The development standards for dwellings and structures in MCC 36.2061, the exception standards for secondary fire safety zones in MCC 36.2110, and the land division requirement that "the tentative plan complies with the area and dimensional requirements of the underlying zoning district" shall not apply as approval criteria. The land division shall be reviewed as either a Category 1 or 3 land division, as applicable;

(C) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this section. The record shall be readily available to the public.

(D) Land Divisions for Park and Open Space.

(1) The governing body of a county or its designee may approve a proposed division of land in a forest zone or a mixed farm and forest zone to create two parcels if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a non-for-profit land conservation organization, to purchase one of the resulting parcels as provided in this section.

(2) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

(a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use of other allowed use of the parcel; or

(b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

(3) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:

(a) Establishing a dwelling on the parcel or developing the parcel for any use not

authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and

(b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(4) If a proposed division of land under this section results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the division.

(E) A landowner allowed a land division under this section shall sign a statement that shall be recorded with the Multnomah County Recorder, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(Ord. 1114, Amended, 05/29/2008; Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Re-org&Renum, 12/12/2002)

#### **§ 36.2070 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT**

(A) Pursuant to the applicable provisions in MCC 33.7790, an adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

(1) The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;

(2) The resulting lot configuration is at least as appropriate for the continuation of the existing commercial forest practices in the area as the lot configuration prior to adjustment;

(3) The new lot line is in compliance with the dimensional requirements of MCC 36.2056; and

(4) Neither of the properties is developed with a dwelling approved under the provisions for a mobile home on a Health Hardship, or a dwelling for the housing of help required to carry out a farm or forest use; and

(5) If the properties abut a street, the required access requirements of MCC 36.2073 are met after the relocation of the common property line.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.2073 ACCESS.

All lots and parcels in this district shall abut a public street or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 36.2075(C).

(Ord. 1187, Amended, 11/17/2011; Ord. 1079, Amend&Renum, 07/27/2006, from 36.2090; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.2075 LOT OF RECORD.

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

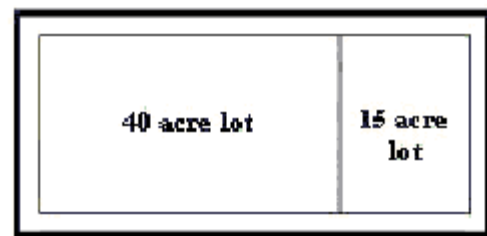
(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a

minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder in individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

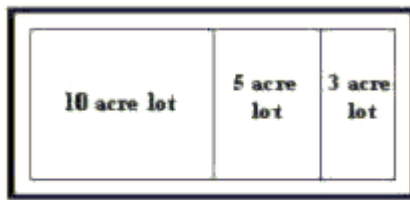
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



**Example 1:**  
**One 55 acre Lot of Record**



**Example 2:**  
**One 40 acre Lot of Record and**  
**one 30 acre Lot of Record**



**Example 3:  
One 18 acre Lot of Record**

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or
  - (3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.
  - (4) Exceptions to the standards of (A)(2) above:
    - (a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.
    - (b) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot Size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.
  - (B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:
    - (1) July 10, 1958, F-2 zone applied;
    - (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
    - (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;
    - (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;
    - (5) February 20, 1990, Lot of Record definition amended, Ord. 643;
    - (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;
    - (7) May 16, 2002, Lot of Record section amended, Ord. 982;
- (C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 36.2073, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.
- (D) The following shall not be deemed a Lot of Record:
  - (1) An area of land described as a tax lot solely for assessment and taxation purposes;
  - (2) An area of land created by the foreclosure of a security interest;
  - (3) A Mortgage Lot;
  - (4) An area of land created by court decree.  
(Ord. 1114, Amended, 05/29/2008; Ord. 1080, Amended, 09/21/2006; Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2080 LOT SIZE FOR CONDITIONAL USES.**

Lots less than the minimum specified in MCC 36.2063(A) may be created for the uses listed in MCC 36.2020(R) and 36.2030(A)(1) through (6), (9) through (13), and (16) and (B)(1) through (4), after approval is obtained pursuant to MCC 36.2045 and based upon:

(A) A finding that the new lot is the minimum site size necessary for the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties; and

(C) Consideration of the purposes of this district. (Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2085 OFF-STREET PARKING AND LOADING.**

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 36.4100 through 36.4215.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2095 SEWAGE, STORM WATER, WATER SYSTEMS AND GRADING REQUIREMENTS**

(A) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source shall be provided on the lot.

(1) Sewage and storm water disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Storm water/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

(B) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

(Ord. 1079, Add, 07/27/2006)

### **§ 36.2107 SINGLE FAMILY DWELLINGS CONDITION OF APPROVAL - PROHIBITION ON CLAIMS ALLEGING INJURY FROM FARM OR FOREST PRACTICES**

As a condition of approval of a single family dwelling, the landowner for the dwelling 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.

(Ord. 1079, Renumbered, 07/27/2006, from 36.2055; Ord. 1036, Add, 05/13/2004)

### **§ 36.2110 EXCEPTIONS TO SECONDARY FIRE SAFETY ZONES**

(A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of 36.2110 (B) when:

(1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or

(2) The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road serving two or more properties; or

(3) The proposed dwelling or structure is proposed to be clustered with a legally existing dwelling or structure.

(B) Exceptions to secondary fire safety zones shall only be granted upon satisfaction of the following standards:

(1) If the proposed secondary fire safety zone is between 50 and 100 feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or

(2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and

(3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and

(4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC 36.2110 (B) (1) are utilized, or

(5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of MCC 36.2110 (B) (2) are utilized.

Exception: Expansions of existing single family dwellings as allowed by MCC 36.2025 (A) shall not be required to meet this standard, but shall satisfy the standard of MCC 36.2061(C)(3).

(6) All accessory structures within the fire safety zone setbacks required by MCC 36.2056, and all accessory structures within 50 feet of a dwelling, shall have a central monitored alarm system.

(7) All accessory structures within 50 feet of a building shall have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction or constructed with noncombustible materials on the exterior side.

(8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all under-floor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban-Wildland Interface Code Class 1 Ignition Resistant Construction as adopted August, 1996, or as

later amended, or underfloor protection in accordance with Section 504.6 of that same publication.

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy-timber construction.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

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***EXCLUSIVE FARM USE, EFU*****§ 36.2600- PURPOSE.**

The purposes of the Exclusive Farm Use District are to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic and wildlife resources, to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related and compatible uses which are deemed appropriate. Land within this district shall be used exclusively for farm uses as provided in the Oregon Revised Statutes Chapter 215 and the Oregon Administrative Rules Chapter 660, Division 33 as interpreted by this Exclusive Farm Use code section.

One of the implementation tools to carry out the purpose of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.2605 AREA AFFECTED.**

MCC 36.2600 through 36.2690 shall apply to those areas designated EFU on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.2610 DEFINITIONS.**

As used in MCC 36.2600 through MCC 36.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

*Area:* As used in ORS 215.203 for the production of biofuel, "area" is limited to Clark and Skamania counties in Washington State, Multnomah, Columbia, Washington, Clackamas, Yamhill, Hood River and Marion counties in Oregon.

*Campground* is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential pur

poses. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

*Commercial agricultural enterprise* consists of farm operations that will:

- (1) Contribute in a substantial way to the area's existing agricultural economy; and
- (2) Help maintain agricultural processors and established farm markets.

When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and the method by which it is marketed shall be considered.

*Commercial photovoltaic solar power generation facility* means 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, and 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. A photovoltaic solar power generation facility does not include a net metering pursuant to ORS 757.300 and OAR chapter 860, division 39 or Feed-in-Tariff project pursuant to ORS 757.365 and OAR chapter 860, division 84.

*Contiguous* refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

*Deferred replacement permit* is a building permit for replacement of an existing dwelling that allows construction of a replacement dwelling at any time. The *deferred replacement permit* may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant. The 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.

*Farm Operator* means 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.

*High-value farm land* means land in a tract composed predominately of soils that are:

- (1) Irrigated and classified prime, unique, Class I or Class II; or
- (2) Not irrigated and classified prime, unique, Class I or Class II; or
- (3) Willamette Valley Soils in Class III or IV including:
  - (a) Subclassification IIIe specifically, Burlington, Cascade, Cornelius, Latourell, Multnomah, Powell, Quatama;
  - (b) Subclassification IIIw specifically, Cornelius;
  - (c) Subclassification IVe, specifically, Cornelius, Latourel, Powell, and Quatama.

Location and the extent of these soils are as identified and mapped in "Soil Survey of Multnomah County, published by the Soil Conservation Service, US Department of Agriculture, 1983."

The soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement or report pursuant to ORS 215.710(5).

*Private School* means privately owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

*Public School* means publicly owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

*Same Ownership* - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control. For the purposes of this subsection, the seller of a property by sales contract shall be considered to not have possessory interest.

*Suitable for farm use* means land in Class I-IV or "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands".

*Tract* means one or more contiguous lots or parcels in the same ownership.

(Ord. 1192, Amended, 05/17/2012; Ord. 1114, Amended, 05/29/2008; Ord. 1098, Amended, 08/16/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.2615 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.2620 through 36.2630 when found to comply with MCC 36.2660 through 36.2690.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.2620 ALLOWED USES.**

(A) Farm use, as defined in ORS 215.203.

(B) Buildings other than dwellings customarily provided in conjunction with farm use.

(C) The propagation or harvesting of forest products.

(D) 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. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(E) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732 (1)(a) or (b).

(F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and 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 will occur, or no new land parcels result.

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

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

(J) A replacement dwelling to be used in conjunction with farm use if the existing dwelling

has been listed in a historic property inventory as defined in ORS 358.480(ORS 215.283(1)).

(K) Creation of, restoration or enhancement of wetlands.

(L) Alteration, restoration or replacement of a lawfully established habitable dwelling.

(1) In the case of a replacement dwelling:

(a) The existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling, or

(b) If the applicant has requested a *deferred replacement permit*, the existing dwelling must be removed or demolished within three months after the *deferred replacement permit* is issued. If, however, the existing dwelling is not removed or demolished within three months after the *deferred replacement permit* is issued, the permit becomes void.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another

dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

(M) Replacement of an existing lawfully established single family dwelling on the same lot not more than 200 feet from the original building site when the dwelling was unintentionally destroyed by fire, other casualty or natural disaster. The dwelling may be reestablished only to its previous nature and extent, and the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements. A building permit must be obtained within one year from the date of the event that destroyed the dwelling.

(N) Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, wholly within an EFU district may be maintained, enhanced or expanded:

(1) Use is subject to MCC 36.2640.

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 36.4100 through MCC 36.4215, MCC 36.6020 (A), MCC 36.7000 through MCC 36.7060 and MCC 36.7450.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

(O) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds, including shipping containers used for storage only;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and

(n) Similar structures.

(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

- (a) More than one story;
- (b) Cooking Facilities;
- (c) A toilet;
- (d) Bathing facilities such as a shower or bathing tub;
- (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or
- (f) A closet built into a wall.

(5) Compliance with MCC 36.0565 is required.

(6) The combined footprints of all Accessory Buildings on a Lot of Records shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.

(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(P) Structures or fenced runs for the shelter or confinement of poultry or livestock.

(Q) Type A home occupation pursuant to MCC 36.0540.

(R) Actions taken in response to an emergency/disaster event as defined in MCC 36.0005 pursuant to the provisions of MCC 36.0535.

(S) A Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single family dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.) Ord 977 2/7/02.

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

(U) Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 36.4100 through 36.4215 (off-street parking), MCC 36.6020(A) (yards), MCC 36.7000 through MCC 36.7060 (design review), and MCC 36.7450 (signs).

(V) 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.

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

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

(X) On-site filming and activities accessory to on-site filming if the activity would involve no more than 45 days on any site within any one-year period or does not involve erection of sets that would remain in place for longer than any 45-day period. On-site filming and activities accessory to on-site filming may be considered to include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

Temporary facilities may be used as temporary housing for security personnel.

"On-site filming and activities accessory to on-site filming" includes: filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming and production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way. On-site filming and activities accessory to on-site filming" does not include: facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that requires a building permit.

(Y) Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS

468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

(Z) Signs, as provided in this chapter.

(AA) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 36.0005;

(b) The system meets all special district requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

(c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(BB) A single, one-day agri-tourism event subject to MCC 36.6850.

(Ord. 1261, Amended, 07/26/2018; Ord. 1242, Amended, 02/23/2017; Ord. 1198, Amended, 03/14/2013; Ord. 1197; 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1186, Amended, 10/13/2011; Ord. 1176, Amended, 03/03/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1098, Amended, 08/16/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Re-org&Renum, 12/12/2002)

### § 36.2625 REVIEW USES.

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height provided:

(1) Radio and television towers 200 feet and under when found to satisfy the requirements of ORS 215.275 "Utility facilities necessary for public service; criteria; mitigating impact of facility" and MCC 36.6100 through 36.6130.

(2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 36.6175 through 36.6188.

(3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.

(a) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility"; and

(b) The facility satisfies the requirements of MCC 36.4100 through 36.4215, MCC

36.6020(A), 36.7000 through 36.7060 and 36.7450.

[Amended 2001, Ord. 958 § 1]

(B) Deleted 2001, Ord. 958 §1.

(C) A farm help dwelling for a relative on real property used for farm use if the dwelling is:

(1) Located on the same lot or parcel as the dwelling of the farm operator; and is

(2) Occupied by a relative of the farm operator or the farm operator's spouse, if the farm operator does or will require the assistance of the relative in the management of the farm use. Qualifying relatives include, child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.

(3) Notwithstanding ORS 92.010 to 92.190 or the minimum lot size requirements of MCC 36.2660, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. However, pursuant to MCC 36.2675(D), the area of land with the homesite created by the foreclosure shall not be deemed a Lot of Record, and shall be subject to all restrictions on development associated with that designation.

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least

\$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years, or the average farm income earned on the tract in the best three of the last five years; and

(b) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on land designated for exclusive farm use that is owned by the farm or ranch operator, or that is on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land owned by the farm or ranch operator that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

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 which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and
4. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements.

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

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

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.



5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions that have been filed in the county deed records pursuant to this subsection and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(2) Not high-value farmland soils, 160 acres. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The parcel on which the dwelling will be located is at least 160 acres; and

(b) The subject tract is currently employed for farm use, as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(d) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract.

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value

farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract [the median size of commercial farm and ranch tracts shall be determined pursuant to OAR 660-33-135(3); and

(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this section; and

(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this section; and

(d) The subject lot or parcel on which the dwelling is proposed is not less than ten acres; and

(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract; and

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section.

(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years, or the average farm income earned on the tract in the best three of the last five years, or the lower of the following:

1. At least \$40,000 in gross annual income from the sale of farm products; or
2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land owned by the farm or ranch operator that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

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

2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income. This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and

3. Only gross income from land owned, not leased or rented, shall be counted; and

4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

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

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record

required by this subsection shall be readily available to the public in the county planning office.

(5) Commercial dairy farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(a) The subject tract will be employed as a commercial dairy operation that owns a sufficient number of producing dairy animals capable of earning the following from the sale of fluid milk:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income or the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

2. On land identified as high-value farmland, at least \$80,000 in gross annual income; and

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

(c) Except as permitted by 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(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; and

(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 a permit for a “confined animal feeding operation” under ORS 468B.050 and 468B.200 to 468B.230 and has approved a Producer License for the sale of dairy products under ORS 621.072.

(g) “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 OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk.

(6) Move to a new farm. 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 farm or ranch operation that earned the gross farm income in at least three of the last five years, in each of the last two years, or the average farm income earned on the tract in the best three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(b) The subject lot or parcel on which the dwelling will be located is a minimum lot size of 80 acres and is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(c) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(e) In determining the gross income required by subsections (a) and (b) of this subsection:

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.

(E) Accessory farm dwellings, which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

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

- (2) The accessory farm dwelling shall be located:

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

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

- (c) On a lot or parcel on which the primary farm dwelling is not located, when:

1. The accessory farm dwelling is limited to only a manufactured dwelling; and

2. A deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party; and

3. The manufactured dwelling may remain if it is reapproved; or

- (d) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as such farm labor housing may exist on the farm or ranch operation that is registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

- (e) 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 80 acres in area and the lot or parcel complies with the applicable gross farm income requirements in MCC 36.2625(E)(4) below; and

- (3) 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; and

- (4) In addition to the requirements in (1) through (3) in this section, 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, and produced in the last two years or three of the last five years, or the average farm income earned on the tract in the best three of the last five years, or 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 the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(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, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years, three of the last five years or the average farm income earned on the tract in the best 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 by OAR 660-033-0135(11); and

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

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

3. A Producer License for the sale of dairy products under ORS 621.072 has been obtained.

(5) The approval authority shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of MCC 36.2625 (D), a parcel may be created consistent with the minimum parcel size requirements in MCC 36.2660.

(F) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land not identified as high-value farmland when:

(1) The lot or parcel on which the dwelling will be sited meets the following requirements:

(a) A deed or other instrument creating the lot or parcel was recorded with the Department of General Services, or was in recordable form prior to January 1, 1985; and

(b) The lot or parcel satisfies all applicable laws when the lot or parcel was created; and

(c) The lot or parcel was acquired and owned continuously by the present owner:

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; and

(2) The tract on which the dwelling will be sited does not include a dwelling; and

(3) The proposed dwelling is not prohibited by, and will comply with, the requirements of the Comprehensive Plan, land use regulations, and other provisions of law; and

(4) The lot or parcel on which the dwelling will be sited does not lie within an area designated by the Comprehensive Plan as a Big Game habitat area; and

(5) 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 parcel when the dwelling is allowed; and

(6) The County Assessor shall be notified when the permit is approved.

(7) Approval of the dwelling would not:

(a) Exceed the facilities and service capabilities of the area; and

(b) Materially alter the stability of the overall land use pattern of the area; and

(c) Create conditions or circumstances that are found to be contrary to the purpose or intent of the Comprehensive Plan or MCC Chapter 36.

(8) For purposes of this subsection, and of dwellings considered under MCC 36.2630 (J) and (K), the following definitions apply:

(a) 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, nephew, step-parent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(b) 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.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

(G) A farm stand subject to 36.6770 through 36.6785.

(H) A winery, as described and regulated in ORS 215.452, and subject to MCC 36.6800 – 36.6820, including uses and activities listed in MCC 36.6815.

(I) Off-street parking and loading pursuant to MCC 36.4100 through 36.4215.

(J) Lot Line Adjustment pursuant to the provisions of MCC 36.2670.

(K) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(L) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall

not be applied in a manner that prohibits the siting of the processing facility. The siting standards are the requirements of MCC 36.4100 through MCC 36.4215 (off-street parking), MCC 36.2660(C), (D) & (E) (yards), and MCC 36.7450 (signs).

(M) Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(N) State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the provisions for Design Review in 36.7000 through 36.7060, and any other applicable zoning code requirements; and

- (1) Accessory facilities including but not limited to parking areas, may only be allowed in the EFU zone if there is no alternative location in another zone and;
- (2) Accessory facilities which must be located in the EFU zone, shall be of a size and scale that is consistent with the rural character of the area.

(O) Consolidation of Parcels and Lots pursuant to MCC 36.7794.

(P) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 36.2620, Allowed Uses, but which meet the following provisions:

- (1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory

dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities. The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(5) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(6) Compliance with MCC 36.0565 is required.

(Q) Existing schools may be enhanced subject to the requirements for Design Review in MCC in 36.7000 – 36.7060, Off-street Parking in MCC 36.4100 - 4215, and the applicable provisions of MCC 36.2640. Enhancement includes alteration of school facilities that do not add enclosed structures that could increase the design capacity of the school or that do not extend school-related activities closer to the boundary of the tract.

(R) A temporary dwelling for health hardship pursuant to MCC 36.0515 and 36.2660.

(S) A Type B home occupation when approved pursuant to MCC 36.0550.

(T) A large winery, as described and regulated in ORS 215.453.



(U) A winery may carry out up to 18 days of agri-tourism or other commercial events in a calendar year on the tract occupied by the winery, subject to MCC 36.6820.

(V) Agri-tourism events subject to MCC 36.6855.

(Ord. 1261, Amended, 07/26/2018; Ord. 1249, Amended, 07/13/2017; Ord. 1248, Amended, 07/13/2017; Ord. 1242, Amended, 02/23/2017; Ord. 1197, 02/16/2013; Ord. 1186, Amended, 10/13/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1114, Amended, 05/29/2008; Ord. 1100, Amended, 09/27/2007; Ord. 1098, Amended, 08/16/2007; Ord. 1097, Amended, 07/26/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.2630 CONDITIONAL USES

The following uses may be permitted when found by the approval authority to satisfy the applicable provisions in MCC 36.6300 to 36.6335 or the criteria listed for the use:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 36.2625(L) above. Uses under this provision shall be subject to the approval criteria in MCC 36.6315(1) through (7).

(B) Operations conducted for:

(1) 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 under this section; and

(2) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

(C) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. The use shall meet the provisions in MCC 36.2640.

(D) Type C home occupation as provided for in MCC 36.6655 through 36.6665.

(E) A facility for the primary processing of forest products, provided that such facility is compatible with farm uses described in ORS 215.203 (2).

Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature.

The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.

Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(F) Transmission towers over 200 feet in height subject to the requirements of MCC 36.6100 through MCC 36.6130.

(G) Dog kennels. Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

(H) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission subject to the approval criteria in MCC 36.6315(A) through (H). In accordance with ORS 215.283(2)(p) 2006, notice of all applications shall be mailed to the State Department of Agriculture at least 20 calendar days prior to any initial hearing on the application.

(I) Public road and highway projects subject to the approval criteria in MCC 36.6010(A) through (H) including;

(1) 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; and

(2) 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 re-

quired but not resulting in the creation of new land parcels.

(J) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: MCC 36.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of MCC 36.2625 (F) (1) through (8); and

(2) 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. 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 demonstrate that a lot of parcel cannot be practicably managed for farm use. 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. 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; and

(3) The dwelling will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(4) The dwelling will not materially alter the stability of the overall land use pattern of the area.

(K) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: 36.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of 36.2625 (F) (1) through (8); and

(2) The tract on which the dwelling will be sited is:

(a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and

(b) Less than twenty-one acres in size; and

(c) Is bordered on at least 67% 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) Is not a flag lot and the tract is bordered on at least 25% 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 flag lot 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. For purposes of this section, the center of the subject tract is 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 flaglot. 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. As used in this subsection:

1. “Flag lot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and
2. “Geographic center of the flag lot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

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

(M) Park and ride lots.

(N) Realignment of roads, subject to the following limitations and the approval criteria in MCC 36.6315 and MCC 36.6340:

- (1) “Realignment” means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.
- (2) The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan.

(O) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway, subject to the following limitations and the approval criteria in MCC 36.6315 and MCC 36.6340:

- (1) The roads shall be limited to two travel lanes.
- (2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(P) Transportation facilities, services and improvements that serve local travel needs, and which:

- (1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 “Transportation Improvements on Rural Lands;” and
- (2) Satisfy the approval criteria in MCC 36.6315 and MCC 36.6340:

(Q) Rural schools as provided in this subsection. “Rural schools” means 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. Establishment and expansion of rural schools shall meet the requirements for approval of Community Service Uses in MCC 36.6000 – 36.6020 in lieu of the Conditional Use Provisions of MCC 36.6330 – 36.6335 and, if located within three miles of an urban growth boundary, the additional requirements set forth in MCC 36.2640.

- (1) New rural schools may be established and existing rural schools may be expanded on land not identified as high-value farmland.
- (2) Existing rural schools located on high-value farmland wholly within the EFU zone may be expanded on the same tract.

(R) Notwithstanding the authority in MCC 36.7200 – 36.7214 to expand a nonconforming use, but in addition and not in lieu of the authority therein to continue, alter, restore or replace a nonconforming use, schools located in an exclusive farm use zone that are no longer allowed under ORS 215.283 (1)(a), as in effect before January 1, 2010, but were established on or before January 1, 2009, and are not rural schools as defined in MCC 36.2630 (Q) may be expanded only if:

(1) The expansion meets the requirements for approval of Community Service Uses in MCC 36.6000 – 36.6020 in lieu of the Conditional Use Provisions of MCC 36.6330 – 36.6335 and, if located within three miles of an urban growth boundary, the requirements set forth in MCC 36.2640;

(2) The expansion occurs on the tax lot on which the use was established prior to January 1, 2009, or a tax lot contiguous thereto that was owned by the applicant on January 1, 2009.

(S) A commercial photovoltaic solar power generation facility may be allowed when:

(1) All lots and parcels involved in the tract are Lots of Record pursuant to MCC 36.2675.

(2) A photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise.

For purposes of applying the acreage standards above, 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 less 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.

(3) Will not force a significant change in accepted farm or forest practices or surrounding lands devoted to farm or forest use; and

(4) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(5) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject tract not occupied by project components.

(6) 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.

(7) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

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

(9) 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 projects 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

(10) 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 approval authority 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.

(Ord. 1197, 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1186, Amended, 10/13/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1098, Amended, 08/16/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.2640 LIMITATIONS TO THE DESIGN CAPACITY OF STRUCTURES**

(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 structure or group of enclosed structures described in subsection (A) within a tract that existed on (effective date of this ordinance) must be separated from other enclosed structures by at least one-half mile.

(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 section.

(Ord. 1186, Add, 10/13/2011)

#### **§ 36.2655 SINGLE FAMILY DWELLINGS CONDITION OF APPROVAL - PROHIBITION ON CLAIMS ALLEGING INJURY FROM FARM OR FOREST PRACTICES**

As a condition of approval of a single family dwelling, the landowner for the dwelling 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.

(Ord. 1036, Add, 05/13/2004)

#### **§ 36.2660 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

(A) Except as provided in MCC 36.2675, the minimum lot size for new parcels shall be 80 acres in the EFU district.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

- (a) The Yard being modified is not contiguous to a road.
- (b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and
- (c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the lot.

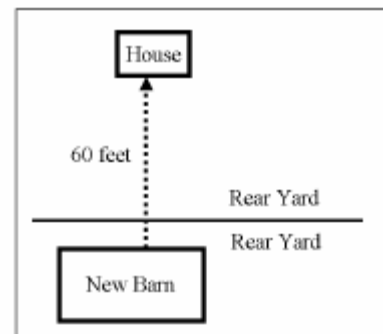
(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

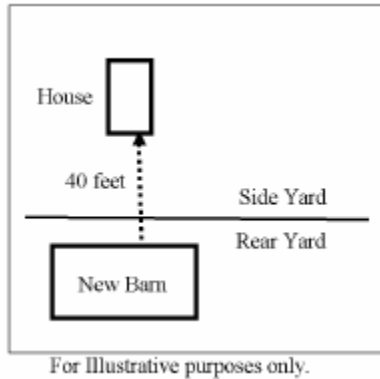
(H) *Agricultural structures and equine facilities* such as barns, stables, silos, farm equipment sheds, greenhouses or similar structures that do not exceed the maximum height requirement may have a reduced minimum rear yard of less than 30 feet, to a minimum of 10 feet, if:

(1) The structure is located at least 60 feet from any existing dwelling, other than the dwelling(s) on the same *tract*, where the rear property line is also the rear property line of the adjacent *tract*, or



For illustrative purposes only.

(2) The structure is located at least 40 feet from any existing dwelling, other than the dwelling(s) on the same *tract*, where the rear property line is also the side property line of the adjacent *tract*.



(3) Placement of an agricultural related structure under these provisions in (H) do not change the minimum yard requirements for future dwellings on adjacent property.

(I) All exterior lighting shall comply with MCC 36.0570.

(Ord. 1236, Amended, 09/22/2016; Ord. 1081, Amended, 09/28/2006; Ord. 1079, Amended, 07/27/2006; Ord. 1042, Amended, 07/08/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2665 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES.**

(A) Lots less than the minimum lot size specified in MCC 36.2660 (A) may be created for uses listed in MCC 36.2620(U) and MCC 36.2630 (C) based upon:

(1) The parcel for the nonfarm use is not larger than the minimum size necessary for the use;

(2) The nature of the proposed use in relation to its impact on nearby properties; and

(3) Consideration of the purposes of this district.

(B) Except as otherwise provided by MCC 36.2675, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(Ord. 1198, Amended, 03/14/2013; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2670 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT**

(A) Pursuant to the applicable provisions in MCC 36.7790, an adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

(1) All dwellings that were situated on the same lot prior to the adjustments must remain together on the reconfigured lot; and

(2) The following dimensional and access requirements are met:

(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements; and

(b) If the properties abut a street, the required access requirements of MCC 36.2690 are met after the relocation of the common property line; and

(3) The reconfigured lot areas will each:

(a) Be a minimum of 80 acres, or

(b) Retain the same lot area that existed prior to the exchange.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2675 LOT OF RECORD.**

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

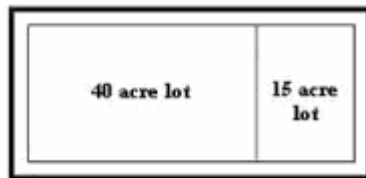
(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

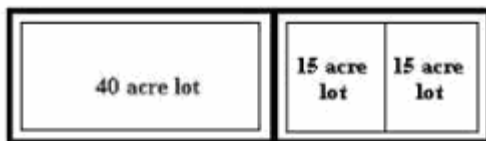
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

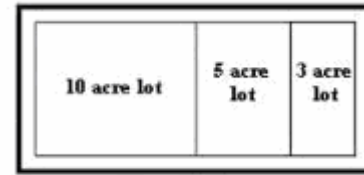
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



**Example 1:**  
**One 55 acre Lot of Record**



**Example 2:**  
**One 40 acre Lot of Record and**  
**one 30 acre Lot of Record**



**Example 3:**  
**One 18 acre Lot of Record**

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exception to the standards of (A)(2) above:

(a) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, RL-C zone applied, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;



(4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;

(7) May 16, 2002, Lot of Record section amended, Ord. 982;

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 36.2690 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

(Ord. 1114, Amended, 05/29/2008; Ord. 1080, Amended, 09/21/2006; Ord. 1036, Amended, 05/13/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2690 ACCESS.**

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 36.2675(C).

(Ord. 1187, Amended, 11/17/2011; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

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***MULTIPLE USE AGRICULTURE - 20, MUA-20*****§ 36.2800- PURPOSE.**

The purposes of the Multiple Use Agriculture District are to conserve those agricultural lands not suited to full-time commercial farming for diversified or part-time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential development and appropriate Conditional Uses, when these uses are shown to be compatible with the agricultural uses and character of the area, and the applicable County policies.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.2805 AREA AFFECTED.**

MCC 36.2800 to 36.2885 shall apply to those lands designated MUA-20 on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.2815 USES.**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.2820 through 36.2830 when found to comply with MCC 36.2855 through 36.2885.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.2820 ALLOWED USES.**

(A) A single-family detached dwelling on a Lot of Record, including a home built on or off-site. A home that has been constructed off-site shall meet the following requirements:

- (1) Construction shall comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 445.200 relating to mobile homes;
- (2) The dwelling shall be attached to a foundation for which a building permit has been obtained;
- (3) The dwelling shall have a minimum floor area of 600 square feet.

(B) Farm uses, as defined in ORS 215.203 (2) (a) for the following purposes only:

- (1) Raising and harvesting of crops;
- (2) Raising of livestock and honeybees; or,
- (3) Any other agricultural or horticultural purpose or animal husbandry purpose or combination thereof, except as provided in MCC 36.2830 (B).

(C) The propagation or harvesting of forest products.

(D) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

(E) Type A home occupations pursuant MCC 36.0540.

(F) Accessory Structures subject to the following:

- (1) Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district:
  - (a) Garages or carports;
  - (b) Pump houses;
  - (c) Garden sheds;
  - (d) Workshops;
  - (e) Storage sheds, including shipping containers used for storage only;
  - (f) Greenhouses;
  - (g) Woodsheds;
  - (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;
  - (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;

- (j) Sport courts;
  - (k) Gazebos, pergolas, and detached decks;
  - (l) Fences, gates, or gate support structures; and
  - (m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and
  - (n) Similar structures.
- (2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.
- (3) The Accessory Structure may contain one sink.
- (4) The Accessory Structure shall not contain:
- (a) More than one story;
  - (b) Cooking Facilities;
  - (c) A toilet;
  - (d) Bathing facilities such as a shower or bathing tub;
  - (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or
  - (f) A closet built into a wall.
- (5) Compliance with MCC 36.0565 is required.
- (6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.
- (7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.
- (8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use..
- (G) Family Day Care.
- (H) Actions taken in response to an emergency/disaster event as defined in MCC 36.0005 pursuant to the provisions of MCC 36.0536.
- (I) Signs, as provided in this chapter.
- (J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.
- (K) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:
- (1) All systems shall meet the following requirements:
    - (a) The system is an accessory alternative energy system as defined in MCC 36.0005;
    - (b) The system meets all special district requirements;
    - (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
  - (2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

## (3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

(c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

## (L) Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary,

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

(Ord. 1257, Amended, 06/07/2018; Ord. 1242, Amended, 02/23/2017; Ord. 1197, 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.2825 REVIEW USES.

Uses listed in this section may be permitted after required review as Type II decisions pursuant to MCC 37.0510 through 37.0800, or as specified for the use.

(A) Temporary uses when approved pursuant to MCC 36.0510 and 36.0515.

(B) Wholesale or retail sales of farm or forest products raised or grown on the premises or in the immediate vicinity, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Planning Director may be appealed to the approval authority, pursuant to the provisions of MCC Chapter 37.

(C) Property Line Adjustment pursuant to the provisions of MCC 36.2860.

(D) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary

structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(F) State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the provisions for Design Review in 36.7000 through 36.7060, and any other applicable zoning code requirements. Accessory facilities shall be of a size and scale that is consistent with the rural character of the area.

(G) Lots of Exception pursuant to the provisions of MCC 36.2860.

(H) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 36.2820 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(1) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(2) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(3) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(4) Compliance with MCC 36.0565 is required.

(J) A Type B home occupation when approved pursuant to MCC 36.0550.

(Ord. 1242, Amended, 02/23/2017; Ord. 1197, 02/16/2013; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1097, Amended, 07/26/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2830 CONDITIONAL USES.**

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

(A) The Community Service Uses listed in 36.6015 pursuant to the provisions of MCC 36.6000 through 36.6230.

(B) The following Conditional Uses pursuant to the provisions of MCC 36.6300 through 36.6660:

(1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005; or exploration, mining and processing of aggregate and other mineral or subsurface resources;

(2) Commercial processing of agricultural products primarily raised or grown in the region;

(3) Raising any type of fowl or processing the by-products thereof for sale at wholesale or retail;

(4) Feed lots;

(5) Raising of four or more swine over four months of age;

(6) Raising of fur bearing animals for sale at wholesale or retail;

(7) Commercial dog kennels; and

(8) Commercial processing of forest products primarily grown in the region.

(C) The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II or III soils:

(1) Planned developments for single-family residences, as provided in MCC 36.4300 through 36.4360 and the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004;

(D) Type C home occupation as provided for in MCC 36.6655 through 36.6665.

(E) Large Fills as provided for in MCC 36.6700 through 36.6720.

(Ord. 1197, 02/16/2013; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2855 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

All development proposed in this district shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 36.2860, 36.2870, 36.2875, and 36.4300 through 36.4360, the minimum lot size shall be 20 acres.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

## (C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

(a) The Yard being modified is not contiguous to a road.

(b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and

(c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

(H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.

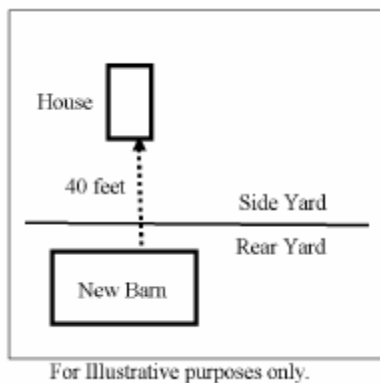
(I) *Agricultural structures and equine facilities* such as barns, stables, silos, farm equipment sheds, greenhouses or similar structures that do not exceed the maximum height requirement may have a reduced minimum rear yard of less than 30 feet, to a minimum of 10 feet, if:



(1) The structure is located at least 60 feet from any existing dwelling, other than the dwelling(s) on the same *tract*, where the rear property line is also the rear property line of the adjacent *tract*, or



(2) The structure is located at least 40 feet from any existing dwelling, other than the dwelling(s) on the same *tract*, where the rear property line is also the side property line of the adjacent *tract*.



(3) Placement of an agricultural related structure under these provisions in (I) do not change the minimum yard requirements for future dwellings on adjacent property.

(J) All exterior lighting shall comply with MCC 36.0570.

(Ord. 1236, Amended, 09/22/2016; Ord. 1081, Amended, 09/28/2006; Ord. 1079, Amended, 07/27/2006; Ord. 1042, Amended, 07/08/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2860 LOTS OF EXCEPTION AND PROPERTY LINE ADJUSTMENTS.**

(A) Lots of Exception

An exception to permit the creation of a parcel of less than 20 acres, out of a Lot of Record, may be authorized when in compliance with the requirements of MCC 36.2855(C) to (E). Any exception shall be based on the following findings:

(1) The Lot of Record to be divided has two or more permanent habitable dwellings;

(2) The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000;

(3) Each new parcel created by the partition will have at least one of the habitable dwellings; and

(4) The partition will not create any vacant parcels on which a new dwelling could be established.

#### **(B) Property Line Adjustment**

Pursuant to the applicable provisions in MCC 36.7790, the approval authority may grant a property line adjustment between two contiguous Lots of Record upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

(1) The following dimensional and access requirements are met:

(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements;

(b) If the properties abut a street, the required access requirements of MCC 36.2885 are met after the relocation of the common property line; and

(2) One of the following situations occurs:

(a) The lot or parcel proposed to be reduced in area is larger than 20 acres prior to the adjustment and remains 20 acres or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 40 acres in area prior to the adjustment and remains less than 40 acres in area after the adjustment.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2870 LOT OF RECORD.**

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, SR zone applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;

(6) May 16, 2002, Lot of Record section amended, Ord. 982.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.2860, 36.2875, and 36.4300 through 36.4360, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

(Ord. 1114, Amended, 05/29/2008; Ord. 1080, Amended, 09/21/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2875 LOT SIZES FOR CONDITIONAL USES.**

The minimum lot size for a Conditional Use permitted pursuant to MCC 36.2830, except subpart (C)(1) thereof, shall be based upon the requirements below. Parcels created to support a conditional use shall not be less than two acres in size, and the remainder parcel shall be not less than five acres.

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties; and

(C) Consideration of the purposes of this district.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2880 OFF-STREET PARKING AND LOADING.**

Off-Street parking and loading shall be provided as required by MCC 36.4100 through 36.4215.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.2885 ACCESS.**

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lots of Record described in MCC 36.2870(B).

(Ord. 1187, Amended, 11/17/2011; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**RURAL RESIDENTIAL, RR****§ 36.3100- PURPOSE.**

The purposes of the Rural Residential District are to provide areas for residential use for those persons who desire rural living environments; to provide standards for rural land use and development consistent with desired rural character, the capability of the land and natural resources; to manage the extension of public services; to provide for public review of non-residential use proposals and to balance the public's interest in the management of community growth with the protection of individual property rights through review procedures and flexible standards.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3105 AREA AFFECTED.**

MCC 36.3100 through 36.3185 shall apply to those lands designed RR on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3115 USES.**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.3120 through 36.3130 when found to comply with MCC 36.3155 through 36.3185.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3120 ALLOWED USES.**

(A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

(1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.

(2) The dwelling shall be attached to a foundation for which a building permit has been obtained.

(3) The dwelling shall have a minimum floor area of 600 square feet.

(B) Farm use, as defined in ORS 215.203 (2) (a) for the following purposes only:

(1) Raising and harvesting of crops;

(2) Raising of livestock and honeybees; or

(3) Any other agricultural or horticultural purpose or animal husbandry purpose or combination thereof, except as provided in MCC 36.3130 (B).

(C) The propagation or harvesting of forest products.

(D) Residential use consisting of a single family dwelling constructed on a Lot of Record.

(E) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

(F) Type A home occupations pursuant to MCC 36.0540.

(G) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds, including shipping containers used for storage only;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

- (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;
  - (j) Sport courts;
  - (k) Gazebos, pergolas, and detached decks;
  - (l) Fences, gates, or gate support structures; and
  - (m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and
  - (n) Similar structures.
- (2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.
- (3) The Accessory Structure may contain one sink.
- (4) The Accessory Structure shall not contain:
- (a) More than one story;
  - (b) Cooking Facilities;
  - (c) A toilet;
  - (d) Bathing facilities such as a shower or bathing tub;
  - (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or
  - (f) A closet built into a wall.
- (5) Compliance with MCC 36.0565 is required.
- (6) The combined footprints of all buildings to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.
- (7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.
- (8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.
- (H) Family Day Care.
- (I) Actions taken in response to an emergency/disaster event as defined in MCC 36.0005 pursuant to the provisions of MCC 36.0536.
- (J) Signs, as provided in this chapter.
- (K) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.
- (L) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:
- (1) All systems shall meet the following requirements:
    - (a) The system is an accessory alternative energy system as defined in MCC 36.0005;

(b) The system meets all special district requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

(c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(M) Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment,

deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

(Ord. 1257, Amended, 06/07/2018; Ord. 1242, Amended, 02/23/2017; Ord. 1197, 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1176, Amended, 03/03/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.3125 REVIEW USES.

Uses listed in this section may be permitted after required review as Type II decisions pursuant to MCC 37.0510 through 37.0800, or as specified for the use.

(A) Temporary uses when approved pursuant to MCC 36.0510 and 36.0515.

(B) Wholesale or retail sales, limited to those products raised or grown on the premises, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Director may be appealed to the Hearings Officer pursuant to the provisions of MCC Chapter 37.

(C) Property Line Adjustment pursuant to the provisions of MCC 36.3160.

(D) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(F) State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the provisions for Design Review in 36.7000 through 36.7060, and any other applicable zoning code requirements. Accessory facilities shall be of a size and scale that is consistent with the rural character of the area.

(G) Lots of Exception pursuant to the provisions of MCC 36.3160.

(H) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.3120 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, acces-

sory dwelling unit, apartment, guest-house, housing rental unit, sleeping quarters or any other residential use.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC 36.0565 is required.

(J) A Type B home occupation when approved pursuant to MCC 36.0550.

(Ord. 1242, Amended, 02/23/2017; Ord. 1197, Amended, 02/16/2013; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1097, Amended, 07/26/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3130 CONDITIONAL USES.**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

(A) The Community Service Uses listed in 36.6015 pursuant to the provisions of MCC 36.6000 through 36.6230.

(B) The following Conditional Uses under the provisions of MCC 36.6300 through 36.6660:

(1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral or subsurface resources;

(2) Commercial processing of agricultural products, primarily raised or grown in the region;

(3) Raising of any type of fowl, or processing the by-products thereof, for sale at wholesale or retail;

(4) Feed lots;

(5) Raising of four or more swine more than four months of age;

(6) Raising of fur-bearing animals for sale at wholesale or retail;

(7) Commercial dog kennels;

(8) Planned Developments for single family residences as provided in MCC 36.4300 through 36.4360 and the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004;

(C) Type C home occupation as provided for in MCC 36.6655 through 36.6665.

(D) Large Fills as provided for in MCC 36.6700 through 36.6720.

(Ord. 1197, Amended, 02/16/2013; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3155 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

All development proposed in this district shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 36.3160, 36.3170, 36.3175 and 36.4300 through 36.4360, the minimum lot shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

- (a) The Yard being modified is not contiguous to a road.
- (b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and
- (c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.

- (1) Sewage and stormwater disposal systems for existing development may be offsite in easement areas reserved for that purpose.
- (2) Stormwater/drainage control systems are required for new impervious surfaces that are greater than 400 square feet in area. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

(G) Grading and erosion control measures sufficient to ensure that visible or measureable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

(H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (continuous or across the street) by:

- (1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or
- (2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.



(I) All exterior lighting shall comply with MCC 36.0570.

(Ord. 1242, Amended, 02/23/2017; Ord. 1236; Amended, 09/22/2016; Ord. 1079, Amended, 07/27/2006; Ord. 1042, Amended, 07/08/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3160 LOTS OF EXCEPTION AND PROPERTY LINE ADJUSTMENTS.**

(A) Lots of Exception

An exception to permit creation of a parcel of less than five acres, out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 36.3155(C) through (E). Any exception shall be based on the following findings:

- (1) The Lot of Record to be divided has two or more permanent habitable dwellings ;
- (2) The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000;
- (3) Each new parcel created by the partition will have at least one of the habitable dwellings; and
- (4) The partition will not create any vacant parcels on which a new dwelling could be established.

(B) Property Line Adjustment

Pursuant to the applicable provisions in MCC 36.7790, the approval authority may grant a property line adjustment between two contiguous Lots of Record upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

- (1) The following dimensional and access requirements are met:
  - (a) The relocated common property line is in compliance with all minimum yard

and minimum front lot line length requirements;

(b) If the properties abut a street, the required access requirements of MCC 36.3185 are met after the relocation of the common property line; and

(2) At least one of the following situations occurs:

- (a) The lot or parcel proposed to be reduced in area is larger than 5 acres prior to the adjustment and remains 5 acres or larger in area after the adjustment, or
- (b) The lot or parcel proposed to be enlarged in area is less than 10 acres in area prior to the adjustment and remains less than 10 acres in area after the adjustment.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3170 LOT OF RECORD.**

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;
- (2) July 10, 1958, F-2 zone applied;
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (4) October 6, 1977, RR zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;
- (7) May 16, 2002, Lot of Record section amended, Ord. 982.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.3185, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.3160, 36.3175, and 36.4300 through 36.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

(Ord. 1114, Amended, 05/29/2008; Ord. 1080, Amended, 09/21/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.3175 LOT SIZES FOR CONDITIONAL USES.**

The minimum lot size for a conditional use permitted pursuant to MCC 36.3130, except (B) (8) thereof, shall be based upon the requirements below. Parcels created to support a conditional use shall not be less than two acres in size, and the remainder parcel shall be not less than five acres.

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to the impacts on nearby properties; and

(C) Consideration of the purposes of this district.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.3180 OFF-STREET PARKING AND LOADING.**

Off-street parking and loading shall be provided as required by MCC 36.4100 through 36.4220.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.3185 ACCESS.**

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 36.3170(B).

(Ord. 1187, Amended, 11/17/2011; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

***PLEASANT HOME RURAL CENTER, PH-RC*****§ 36.3300- PURPOSE.**

The purposes of the Pleasant Home Rural Center District are to provide standards and review procedures which will encourage concentrations of rural residential development, together with small-scale low impact commercial and industrial uses that primarily serve the population of the immediate surrounding rural area and tourists traveling through the area.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3305 AREA AFFECTED.**

MCC 36.3300 through 36.3385 shall apply to those lands designated PH-RC on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3315 USES.**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.3320 through 36.3330 when found to comply with MCC 36.3355 through 36.3385.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3320 ALLOWED USES**

(A) Farm use, as defined in ORS 215.203(2)(a), for the following purposes only:

(1) Raising and harvesting of crops;

(2) Raising of livestock and honeybees; or

(3) Any other agricultural or horticultural purpose or animal husbandry purpose or combination thereof, except as provided in MCC 36.3330. This subsection does not permit the raising of fowl or fur-bearing animals for sale, the keeping of swine, or a feed lot.

(B) The propagation or harvesting of forest products.

(C) Residential use consisting of a single-family dwelling constructed on a Lot of Record.

(D) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

(E) Type A home occupations pursuant to MCC 36.0540.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds, including shipping containers used for storage only;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and

(n) Similar structures.

(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

- (a) More than one story;
- (b) Cooking Facilities;
- (c) A toilet;
- (d) Bathing facilities such as a shower or bathing tub;
- (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or
- (f) A closet built into a wall.

(5) Compliance with MCC 36.0565 is required.

(6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.

(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(G) Family Day Care.

(H) Actions taken in response to an emergency/disaster event as defined in MCC 36.0005 pursuant to the provisions of MCC 36.0535.

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

(K) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

- (a) The system is an accessory alternative energy system as defined in MCC 36.0005;
- (b) The system meets all special district requirements;
- (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

(c) The land owner signs and records a covenant stating they are responsible for

the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(Ord. 1242, Amended, 02/23/2017; Ord. 1197, 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1176, Amended, 03/03/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.3325 REVIEW USES.

(A) Residential use, consisting of a single-family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

(1) Construction shall comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 445.200 relating to mobile homes;

(2) The dwelling shall be attached to a foundation for which a building permit has been obtained;

(3) The dwelling shall have a minimum floor area of 600 square feet.

(B) Temporary uses when approved pursuant to MCC 36.0510 and 36.0515.

(C) Wholesale or retail sales, limited to those products raised or grown on the premises, subject to the following condition:

The location and design of any building, stand, or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Planning Director may be appealed to the approval authority pursuant to the provisions of MCC Chapter 37.

(D) Off-street parking and loading;

(E) Property Line Adjustment pursuant to the provisions of MCC 36.3360.

(F) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(G) Lots of Exception pursuant to the provisions of MCC 36.3360.

(H) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(I) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 36.2820 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC 36.0565 is required.

(K) A Type B home occupation when approved pursuant to MCC 36.0550

(L) Type C home occupation as provided for in MCC 36.6655 through 36.6660 and subject to Design Review.

(Ord. 1242, Amended, 02/23/2017; Ord. 1197, 02/16/2013; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1097, Amended, 07/26/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.3330 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable approval criteria and ordinance standards. Commercial and industrial uses shall be limited to small-scale low impact as defined in MCC 36.0005.

(A) Community Service Uses pursuant to the provisions of MCC 36.6000 through 36.6230.

(B) The following small-scale low impact Conditional Uses pursuant to the provisions of MCC 36.6300 through 36.6660:

(1) Rural service commercial uses such as local stores, shops, offices, repair shops, and similar uses including;

(a) Automobile Repair,

(b) Restaurant,

(c) Tavern

(d) Professional Office,

(e) Garden supply store,

(f) Hardware store,

(g) Retail bakery,

(h) Service station,

(i) Beauty and barber shop,

(j) Video tape rental,

(2) The following industrial uses that entail the manufacturing and processing of:

(a) Apparel and other finished products made from fabric;

(b) Millwork, veneer, plywood, and structural wood members;

(c) Wood containers;

(d) Wood products, not elsewhere classified;

(e) Furniture and fixtures;

(f) Stone, clay, glass products except: cement, ready-mix concrete, and minerals and earths ground or otherwise treated;

(g) Fabricated metal products;

(h) Household appliances;

(i) Electric lighting and wiring equipment;

(j) Communications equipment;

(k) Electronic components and accessories;

(l) Motor vehicle parts and accessories;

(m) Laboratory apparatus and analytical, optical, measuring, and controlling instruments;

(n) Food and kindred products.

(3) Freight trucking terminal, with or without maintenance facility;

(4) Wholesale trade;

(5) Automotive repair;

(6) Commercial or industrial uses allowable in the EFU or CFU district, and agricultural support services. These uses shall not be subject to the small-scale low impact requirement that defines the commercial or industrial uses of this section.

(7) Planned Developments pursuant to the provisions of MCC 36.4300 through 36.4360.

(Ord. 1197, Amended, 02/16/2013; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3355 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.**

All development proposed in this district shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 36.3360, 36.3370, 36.3375 and 36.4300 through 36.4360, the minimum lot size shall be one acre.

(B) Minimum Yard Dimensions – Feet

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from

all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

(a) The Yard being modified is not contiguous to a road.

(b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and

(c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(C) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

(D) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-

hour storm event is no greater than that before the development.



(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

(G) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the general area.

(H) All exterior lighting shall comply with MCC 36.0570.

(Ord. 1242, Amended, 02/23/2017; Ord. 1236, Amended, 09/22/2016; Ord. 1079, Amended, 07/27/2006; Ord. 1042, Amended, 07/08/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3360 LOTS OF EXCEPTION AND PROPERTY LINE ADJUSTMENTS.**

**(A) Lots of Exception**

An exception to permit creation of a parcel of less than one acre, out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 36.3355(B) through (D). Any exception shall be based on the following findings:

(1) The Lot of Record to be divided has two or more permanent habitable dwellings;

(2) The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000;

(3) Each new parcel created by the partition will have at least one of the habitable dwellings; and

(4) The partition will not create any vacant parcels on which a new dwelling could be established. (B) Property Line Adjustment

**(B) Property Line Adjustment**

Pursuant to the applicable provisions in MCC 36.7790, the approval authority may grant a property line adjustment between two contiguous Lots of Record upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

(1) The following dimensional and access requirements are met:

(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements;

(b) If the properties abut a street, the required access requirements of MCC 36.3385 are met after the relocation of the common property line; and

(2) At least one of the following situations occurs:

(a) The lot or parcel proposed to be reduced in area is larger than 1 acre prior to the adjustment and remains 1 acre or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 2 acres in area prior to the adjustment and remains less than 2 acres in area after the adjustment.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3370 LOT OF RECORD.**

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR and R zones applied;
- (2) July 10, 1958, F-2 zone applied;
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (4) October 6, 1977, RC zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change to RC for some properties, Ord. 395;
- (6) May 16, 2002, Lot of Record section amended, Ord. 982

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.3385, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.3360, 36.3375, and 36.4300 through 36.4360, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot of less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;
- (2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.  
(Ord. 1114, Amended, 05/29/2008; Ord. 1080, Amended, 09/21/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3375 LOT SIZES FOR CONDITIONAL USES.**

The minimum lot size for a Conditional Use permitted pursuant to MCC 36.3330, except for Planned Developments in subpart (C) thereof, shall be based upon:

- (A) The site size needs of the proposed use;
- (B) The nature of the proposed use in relation to its impact on nearby properties; and
- (C) Consideration of the purposes of this district.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3380 OFF-STREET PARKING AND LOADING.**

Off-street parking and loading shall be provided as required by MCC 36.4100 through 36.4215.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3385 ACCESS.**

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 36.3370(B).

(Ord. 1187, Amended, 11/17/2011; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

***ORIENT RURAL CENTER RESIDENTIAL, OR*****§ 36.3400- PURPOSE.**

The purposes of the Orient Rural Center Residential Zone are to provide standards and review procedures which will encourage concentrations of residential development for people who want to live in a rural setting close to small-scale, low impact commercial and industrial services, to provide for home occupations and marketing of home-grown products, and to provide standards for land use and development consistent with the desired rural character and capability of the land and natural resources.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3405 AREA AFFECTED.**

MCC 36.3400 through 36.3485 shall apply to those lands designated OR on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3415 USES.**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.3420 through 36.3430 when found to comply with MCC 36.3455 through 36.3485.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3420 ALLOWED USES.**

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in this ordinance.

(A) A single-family detached dwelling on a Lot of Record, including a home built on or off-site. A home that has been constructed off-site shall meet the following requirements:

(1) Construction shall comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 445.200 relating to mobile homes;

(2) The dwelling shall be attached to a foundation for which a building permit has been obtained;

(3) The dwelling shall have a minimum floor area of 600 square feet.

(B) Farm Use, as defined in ORS 215.203 (2)(a) for the following purposes only;

(1) Raising and harvesting of crops;

(2) Raising of livestock and honeybees; or

(3) Any other agricultural or horticultural purpose or animal husbandry purpose or combination thereof, except as provided in MCC 36.3430. This subsection does not permit the raising of fowl or fur-bearing animals for sale, the keeping of swine, or a feed lot.

(C) Propagation or harvesting of forest products.

(D) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

(E) Type A home occupations pursuant to MCC 36.0540.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds, including shipping containers used for storage only;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as:

- manure storage, feed storage, tack storage, and indoor exercise area;
  - (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;
  - (j) Sport courts;
  - (k) Gazebos, pergolas, and detached decks;
  - (l) Fences, gates, or gate support structures; and
  - (m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and
  - (n) Similar structures.
- (2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use..
- (3) The Accessory Structure may contain one sink.
- (4) The Accessory Structure shall not contain:
- (a) More than one story;
  - (b) Cooking Facilities;
  - (c) A toilet;
  - (d) Bathing facilities such as a shower or bathing tub;
  - (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or
  - (f) A closet built into a wall.
- (5) Compliance with MCC 36.0565 is required.
- (6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.
- (7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.
- (8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.
- (G) Family Day Care.
- (H) Actions taken in response to an emergency/disaster event as defined in MCC 36.0005 pursuant to the provisions of MCC 36.0535.
- (I) Signs, as provided in this chapter.
- (J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.
- (K) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:
- (1) All systems shall meet the following requirements:

- (a) The system is an accessory alternative energy system as defined in MCC 36.0005;
  - (b) The system meets all special district requirements;
  - (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
- (2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;
- (3) Wind Turbine Systems:
- (a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;
  - (b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.
  - (c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.
- (L) Accessory Dwelling Unit (ADU), subject to the following standards:
- (1) The ADU is sited entirely inside the urban growth boundary.
  - (2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.
  - (3) Transportation Impacts shall be mitigated per Multnomah County Road Rules.
- The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.
- (4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.
- (5) The ADU shall either be:
- (a) Attached to or located within the interior of a lawfully established single-family dwelling;
  - (b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);
  - (c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or
  - (d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in

the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

(Ord. 1257, Amended, 06/07/2018; Ord. 1242, Amended, 02/23/2017; Ord. 1197, Amended, 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1176, Amended, 03/03/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.3425 REVIEW USES.

Uses listed in this section may be permitted after required review as Type II decisions pursuant to MCC 37.0510 through 37.0800.

(A) Wholesale or retail sales, limited to those products raised or grown on the premises, subject to the following condition:

The location and design of any building, stand, or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area;

provided that the decision of the Planning Director may be appealed to the approval authority pursuant to the provisions of MCC Chapter 37.

(B) Property Line Adjustment pursuant to the provisions of MCC 36.3460.

(C) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(D) Type B home occupation pursuant to MCC 36.0550.

(E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(F) Temporary uses when approved pursuant to MCC 36.0510 and 36.0515.

(G) Lots of Exception pursuant to the provisions of MCC 36.3460.

(H) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.3420 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse,

housing rental unit, sleeping quarters or any other residential use.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC 36.0565 is required.

(J) Type C home occupation pursuant to MCC 36.6655 through 36.6660 and subject to Design Review.

(Ord. 1242, Amended, 02/23/2017; Ord. 1197, Amended, 02/16/2013; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1097, Amended, 07/26/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3430 CONDITIONAL USES.**

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

(A) Planned Developments pursuant to the provisions of MCC 36.4300 through 36.4360. If the property is outside of an "acknowledged unincorporated community", then the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004 shall also be satisfied.

(B) The following Community Service Uses pursuant to the provisions of MCC 36.6000 through 36.6020:

(1) Public school;

(2) Fire station;

(3) Power substation or other public utility building or use.

(4) State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the approval criteria in 36.6010(A) through (H). Accessory facilities shall be of a size and scale that is consistent with the rural character of the area.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3455 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

All development proposed in this district shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 36.3460, 36.3470, and 36.3475, and 36.4300 through 4360, the minimum lot size shall be one acre.

(B) Minimum Yard Dimensions - Feet

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

- (a) The Yard being modified is not contiguous to a road.
- (b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and
- (c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(C) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

(D) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

(G) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area.

(H) All exterior lighting shall comply with MCC 36.0570.

(Ord. 1242, Amended, 02/23/2017; Ord. 1236, Amended, 09/22/2016; Ord. 1079, Amended, 07/27/2006; Ord. 1042, Amended, 07/08/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3460 LOTS OF EXCEPTION AND PROPERTY LINE ADJUSTMENTS.**

#### **(A) Lots of Exception**

An exception to permit creation of a parcel of less than one acre, out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 36.3455 (B) through (D). Any exception shall be based on the following findings:

(1) The Lot of Record to be divided has two or more permanent habitable dwellings;

(2) The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000.

(3) Each new parcel created by the partition will have at least one of the habitable dwellings; and



(4) The partition will not create any vacant parcels on which a new dwelling could be established.

**(B) Property Line Adjustment**

Pursuant to the applicable provisions in MCC 36.7790, the approval authority may grant a property line adjustment between two contiguous Lots of Record upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

(1) The following dimensional and access requirements are met:

(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements;

(b) If the properties abut a street, the required access requirements of MCC 36.3485 are met after the relocation of the common property line; and

(2) At least one of the following situations occurs:

(a) The lot or parcel proposed to be reduced in area is larger than 1 acre prior to the adjustment and remains 1 acre or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 2 acres in area prior to the adjustment and remains less than 2 acres in area after the adjustment.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3470 LOT OF RECORD.**

(A) In addition to the definition standards for a Lot of Record, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, SR and R zones applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, RC zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change to RC for some properties, Ord. 395;

(6) May 16, 2002, Lot of Record section amended, Ord. 982

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.3485, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.3460, 36.3475, and 36.3400 through 36.3460, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot of less than the area or width requirements of this district.

(D) The following shall not be deemed to be a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

(Ord. 1114, Amended, 05/29/2008; Ord. 1080, Amended, 09/21/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3475 LOT SIZES FOR CONDITIONAL USES.**

The minimum lot size for a Conditional Use permitted pursuant to MCC 36.3430, except subpart (C) thereof, shall be based upon:

- (A) The site size needs of the proposed use;
- (B) The nature of the proposed use in relation to its impact on nearby properties; and
- (C) Consideration of the purposes of this district.

**§ 36.3480 OFF-STREET PARKING AND LOADING.**

Off-street parking and loading shall be provided as required by MCC 36.4100 through 36.4215.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3485 ACCESS.**

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 36.3470(B).

(Ord. 1187, Amended, 11/17/2011; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

***ORIENT COMMERCIAL-INDUSTRIAL, OCI*****§ 36.3500- PURPOSE.**

The purpose The Orient Commercial-Industrial Zone is to provide for small-scale low-impact commercial and industrial uses that primarily serve the population of the immediate Rural Community area, and the immediate surrounding rural area as well as tourists traveling through the area. The uses allowed within the zone should reinforce the rural nature of the area and not adversely impact agricultural uses in the area. (Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3505 AREA AFFECTED.**

MCC 36.3500 through 36.3585 shall apply to those lands designated OCI on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3515 USES.**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.3520 through 36.3530 when found to comply with MCC 36.3550 through 36.3585.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.3520 ALLOWED USES.**

(A) Single-family detached dwelling.

(B) Farm Use, as defined in ORS 215.203 (2)(a) for the following purposes only:

(1) Raising and harvesting of crops;

(2) Raising of livestock and honeybees; or

(3) Any other agricultural or horticultural purpose or animal husbandry purpose or combination thereof, except as provided in MCC 36.3525 and 36.3530. This subsection does not permit the raising of fowl or fur-bearing animals for sale, the keeping of swine, or a feedlot.

(C) Propagation or harvesting of forest products.

(D) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

(E) Type A home occupations pursuant to MCC 36.0540.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds, including shipping containers used for storage only;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and

(n) Similar structures.

(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

- (a) More than one story;
- (b) Cooking Facilities;
- (c) A toilet;
- (d) Bathing facilities such as a shower or bathing tub;
- (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or
- (f) A closet built into a wall

(5) Compliance with MCC 36.0565 is required.

(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.

(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used,

whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(G) Family Day Care.

(H) Actions taken in response to an emergency/disaster event as defined in MCC 36.0005 pursuant to the provisions of MCC 36.0535.

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

(K) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 36.0005;

(b) The system meets all special district requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade

length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

(c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(L) Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established

building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

(Ord. 1257, Amended, 06/07/2018; Ord. 1242, Amended, 02/23/2017; Ord. 1197; 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1176, Amended, 03/03/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1100, Amended, 09/27/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.3525 REVIEW USES.

The commercial and industrial uses listed in this section may be permitted when found to meet the approval criteria in 36.3527 unless other approval criteria are listed for the use, and are subject to Design Review approval. Uses in this section shall be processed as Type II decisions pursuant to MCC 37.0510 through 37.0800.

(A) Small-scale low impact rural service commercial uses such as local stores, shops, offices, repair shops, and similar uses including the uses listed below.

- (1) Automobile Repair,
- (2) Restaurant,
- (3) Tavern,
- (4) Professional Office,
- (5) Garden supply store,
- (6) Hardware store,
- (7) Retail bakery,
- (8) Service station,

(9) Beauty and barber shop,

(10) Video tape rental,

(B) The small-scale low impact industrial uses listed below.

(1) Manufacturing and processing of:

- (a) Apparel and other finished products made from fabric;
- (b) Millwork, veneer, plywood, and structural wood members;
- (c) Wood containers;
- (d) Wood products, not elsewhere classified;
- (e) Furniture and fixtures;
- (f) Stone, clay, glass products except: cement, ready-mix concrete, and minerals and earths ground or otherwise treated;
- (g) Fabricated metal products;
- (h) Household appliances;
- (i) Electric lighting and wiring equipment;
- (j) Communications equipment;
- (k) Electronic components and accessories;
- (l). Motor vehicle parts and accessories;
- (m) Laboratory apparatus and analytical, optical, measuring, and controlling instruments;
- (n). Food and kindred products.

(2) Freight trucking terminal, with or without maintenance facility;

(3) Wholesale trade; or

(4) Automotive repair.

(C) Commercial or industrial uses allowable in the EFU or CFU district, and agricultural support services. These uses shall not be subject to the small-scale low impact requirement that defines the commercial or industrial uses in (A) and (B) above.

(D) Wholesale or retails sales, limited to those products raised or grown on the premises, subject to the following condition:

The location and design of any building, stand, or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area. This use shall not be subject to the Review Uses approval criteria in 36.3527 or Design Review.

(E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188. This use shall not be subject to the Review Uses approval criteria in 36.3527 below.

(F) Commercial or industrial uses that exceeded the size limit for small-scale low impact uses on January 1, 2003, and that primarily support the needs of the rural area, shall not be subject to the size limit, except that expansion may not exceed 25% of the floor area of buildings that existed on that date.

(G) Temporary uses when approved pursuant to MCC 36.0510 and 36.0515.

(H) Property Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 36.3560.

(I) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 36.3520 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC 36.0565 is required.

(Ord. 1242, Amended, 02/23/2017; Ord. 1100, Amended, 09/27/2007; Ord. 1097, Amended, 07/26/2007; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.3527 REVIEW USES APPROVAL CRITERIA.

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

(B) The proposed use will not, by itself or in combination with existing uses in the community, result in public health hazards or adverse environmental impacts that violate state or federal water quality regulation; and

(C) The proposed use will not, by itself or in combination with existing uses in the community, exceed the carrying capacity of the soil or of existing water supply resources and sewer services; and

(D) The proposed use will not create significant adverse effects on existing uses or permitted uses on adjacent land, considering such factors as noise, dust and odors.

(E) The proposed use will primarily support the needs of residents of the rural area or tourists visiting the area.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.3530 CONDITIONAL USES.

(A) The community service uses listed in MCC 36.6015, subject to the provisions of 36.6000 through 36.6020; and

(B) State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the approval criteria in 36.6010(A) through (H). Accessory facilities shall be of a size and scale that is consistent with the rural character of the area.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.3550 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

All development proposed in this district shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 36.3560, 36.3570, and 36.3575, the minimum lot size shall be one acre.

(B) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

- (a) The Yard being modified is not contiguous to a road.
- (b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and
- (c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.



(C) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

(D) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

(G) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area.

(H) All exterior lighting shall comply with MCC 36.0570.

(Ord. 1242, Amended, 02/23/2017; Ord. 1236; Amended, 09/22/2016; Ord. 1079, Amended, 07/27/2006; Ord. 1042, Amended, 07/08/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3560 PROPERTY LINE ADJUSTMENTS.**

(A) Pursuant to the applicable provisions in MCC 36.7790, the approval authority may grant a property line adjustment between two contiguous Lots of Record upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

(1) The following dimensional and access requirements are met:

(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements;

(b) If the properties abut a street, the required access requirements of MCC 36.3585 are met after the relocation of the common property line; and

(2) At least one of the following situations occurs:

(a) The lot or parcel proposed to be reduced in area is larger than 1 acre prior to the adjustment and remains 1 acre or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 2 acres in area prior to the adjustment and remains less than 2 acres in area after the adjustment.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3570 LOT OF RECORD.**

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, SR and R zones applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, RC zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change to RC for some properties, Ord. 395;

(6) May 16, 2002, Lot of Record section amended, Ord. 982

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.3585, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.3560, 36.3575, and 36.4300 through 36.4360, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot of less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.  
(Ord. 1114, Amended, 05/29/2008; Ord. 1080, Amended, 09/21/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3575 LOT SIZES FOR CONDITIONAL AND REVIEW USES.**

The minimum lot size for the uses listed in 36.3525 and 36.3530 shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties.

(C) Consideration of the purposes of the district.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3580 OFF-STREET PARKING AND LOADING.**

Off-street parking and loading shall be provided as required by MCC 36.4100 through 36.4215.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.3585 ACCESS.**

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lots of Record described in MCC 36.3570(B).

(Ord. 1187, Amended, 11/17/2011; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)



**PART 5 - SPECIAL DISTRICTS****GENERAL PROVISIONS****§ 36.4000- CLASSIFICATION OF SPECIAL DISTRICTS**

In addition to classification as a base district as provided in MCC 36.2000 through 36.3585 of this Chapter, land may also be classified in one or more of the following special districts. Such classification shall be made in accordance with the provisions of MCC Chapter 37. Land so classified shall be shown on the Multnomah County Zoning Map by a combination of color designations, symbols, or short title identification, as for example: LF, OP, SEC.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**AIRPORT LANDING FIELD, LF****§ 36.4010- PURPOSE.**

The purposes of this sub-district are to provide for review, approval, and development standards for airports, air fields, landing pads, and related uses associated with aircraft operations in any district; to establish maximum structure heights for developments in the vicinity of an airport, designed to promote safe operating conditions for aircraft under ORS 492.560; to reduce the potential for exposure to hazardous conditions by limiting the occupancy of buildings and uses in airport approach areas.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4015 USES.**

Uses permitted in the LF District are as provided in MCC 36.4020 through 36.4040.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4020 ALLOWED USES.**

Any use permitted in the underlying district, except as provided in MCC 36.4035 (B), subject to the height limitations of MCC 36.4035 (A).

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4025 CONDITIONAL USES.**

The following uses may be permitted under the procedural provisions of MCC 36.6300 through 36.6350, when found by the approval authority to satisfy the approval criteria of MCC 36.4030:

- (A) Airport;
- (B) Aircraft landing field;
- (C) Heliport, helistop, or helicopter landing pad;
- (D) Glider, hang glider, or balloon launching or landing area;
- (E) Parachutist landing field; and
- (F) Any other similar facility designated, constructed or used for the operation or landing of aircraft which carry persons, materials, or products.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4030 APPROVAL CRITERIA FOR AN LF CONDITIONAL USE.**

In approving a Conditional Use listed in MCC 36.4025, the approval authority shall find that the proposal:

(A) Will satisfy the applicable elements of Comprehensive Plan Policies:

- (1) No. 5, Economic Development,
- (2) No. 9, Agricultural Land Area,
- (3) No. 13, Air and Water Quality and Noise Level,
- (4) No. 14, Development Limitations,
- (5) No. 19, Community Design,
- (6) No. 27, Energy Conservation,

(7) No. 31, Community Facilities and Uses Location Policy,

(8) No. 33, Transportation System, and

(9) No. 40, Development Requirements;

(B) Will have minimal adverse impact, taking into account location, size, design, and operating characteristics on the:

(1) Livability,

(2) Value, and

(3) Appropriate development of abutting properties and the surrounding area; and

(C) Will satisfy the use and height limitations of MCC 36.4036.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4035 DEVELOPMENT LIMITATIONS.**

(A) The height of any structure or part of a structure, such as a chimney, tower, or antenna, and objects of natural growth, shall be limited to elevations depicted on a map or maps entitled Airport Landing Field District - Height Restrictions, and included as Attachment "A" of this Ordinance by this reference.

(B) In an approach zone to an airport or aircraft landing field, no meeting place which is designated to accommodate more than 25 persons at one time shall be permitted.

(C) No use in this district shall:

(1) Create electrical interference with navigational signals or radio communication between an airport and aircraft;

(2) Display lights which may be confused with airport navigational lights or result in glare visible in the airport vicinity; or

(3) Otherwise endanger or interfere with the safe operation of aircraft.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**OFF-STREET PARKING and LOADING, OP****§ 36.4100- PURPOSE.**

The purposes of this subdistrict and these off-street parking and loading regulations are to reduce traffic congestion associated with residential, commercial, manufacturing, and other land uses; to protect the character of neighborhoods; to protect the public's investment in streets and arterials and to provide standards for the development and maintenance of off-street parking and loading areas.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4105 GENERAL PROVISIONS.**

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section. For nonconforming uses, the objectives of this section shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

(Ord. 1128, Amended, 01/29/2009; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4110 O-P CLASSIFICATION.**

Land classified as Off-Street Parking and Loading (O-P) on the Zoning Map shall not be used for any purpose other than off-street parking and loading without a change of district.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4115 CONTINUING OBLIGATION.**

The provision for and maintenance of off-street parking and loading facilities without charge to users shall be a continuing obligation of the property owner. No building or any other required permit for a structure or use under this or any other applicable rule, ordinance or regulation shall be issued until satisfactory evidence in the form of a site development plan, plans of existing parking and loading improvements, a deed, lease, contract or similar document is presented demonstrating that the property is and will remain available for the designated use as a parking or loading facility.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4120 PLAN REQUIRED.**

A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4125 USE OF SPACE.**

(A) Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.

(B) No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.

(C) A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.

(D) Except for residential and local commercial districts, loading areas shall not be used for any purpose other than loading or unloading.

(E) In any district, it shall be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4130 LOCATION OF PARKING AND LOADING SPACES.**

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

(B) Exception - The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:

- (1) Parking use of the alternate site is permitted by this Ordinance;
- (2) The alternate site is within 350 feet of the use;
- (3) There is a safe and convenient route for pedestrians between the parking area and the use;
- (4) Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and,
- (5) There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.

(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4135 IMPROVEMENTS REQUIRED.**

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 36.0525, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

(B) Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited.

Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4140 CHANGE OF USE.**

(A) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.

(B) In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4145 JOINT PARKING OR LOADING FACILITIES.**

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

(B) Owners of two or more adjoining uses, structures, or parcels of land may utilize jointly the same parking or loading area, when approved by the Planning Director, upon a finding by the Director that the hours of operation do not overlap and provided satisfactory legal evidence is presented to the Director in the form of a deed, lease, contract or similar document, securing full access to such parking or loading areas for all the parties jointly using them.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4150 EXISTING SPACES.**

Off-street parking or loading spaces existing prior to July 26, 1979 may be included in calculating the number of spaces necessary to meet these requirements in the event of subsequent enlargement of the structure or change of use to which such spaces are accessory. Such spaces shall meet the design and improvement standards of this Section.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4160 STANDARDS OF MEASUREMENT.**

(A) Square feet means square feet of floor or land area devoted to the functioning of the particular use and excluding space devoted to off-street parking and loading.

(B) When a unit or measurement determining the number of required off-street parking or off-street loading spaces results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and any fraction over one-half shall require one off-street parking or off-street loading space.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4165 DESIGN STANDARDS: SCOPE.**

(A) The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single family dwelling on an individual lot. Any non-residential use approved on a parcel containing a single family dwelling shall meet the design standards of MCC 36.4170 through 36.4200.

(B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

(Ord. 1197, Amended, 02/16/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4170 ACCESS.**

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 36.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefor shall be plainly marked.

(B) The Approval Authority may permit and authorize a deviation from the dimensional standard in paragraph (A) of this section upon finding

that all the following standards in subparagraphs (1) through (4) are met:

(1) The authorized provider of structural fire service protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

(2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;

(3) Application of the dimensional standard would present a practical difficulty or would subject the property owner to unnecessary hardship; and

(4) Authorization of the proposed deviation would not:

(a) be materially detrimental to the public welfare;

(b) be injurious to property in the vicinity or the zoning district in which the property is located; or

(c) adversely affect the appropriate development of adjoining properties.

(C) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

(Ord. 1210, Amended, 9/4/14; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4175 DIMENSIONAL STANDARDS.**

(A) Parking spaces shall meet the following requirements:

(1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet,



and a minimum vertical clearance of six feet, six inches.

(2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

(3) For parallel parking, the length of the parking space shall be 23 feet.

(4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

(B) Aisle width shall be not less than:

(1) 25 feet for 90 degree parking,

(2) 20 feet for less than 90 degree parking, and

(3) 12 feet for parallel parking.

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

(C) Loading spaces shall meet the following requirements:

(1)

District	Minimum Width	Minimum Depth
All	12 Feet	25 Feet

(2) Minimum vertical clearance shall be 13 feet.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.4180 IMPROVEMENTS

(A) Surfacing

(1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed

rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider.

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize, alternate surfacing systems that provide a durable dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d):

(a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

(b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public right-of-way shall be paved for a minimum of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

(c) Authorization of the proposed deviation would not:

1. be materially detrimental to the public welfare;
2. be injurious to property in the vicinity or zoning district in which the property is located; or

3. adversely affect the appropriate development of adjoining properties; and

(d) Any impacts resulting from the proposed resurfacing are mitigated to the extent practical. Mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

(3) Notwithstanding paragraph (A)(1) of this section, parking fields for intermittent uses such as special events associated with public parks, sporting events, and the like may be surfaced with gravel, grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

#### (B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence except as provided in (3) below.

(3) Except for development within the PH-RC, OR, OCI and CFU zones, the outer boundary of a parking or loading area with

fewer than four required parking spaces may use a five foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. If the outer boundary of the parking area is within 50 feet of a dwelling on an adjacent parcel, the plant materials shall create a continuous screen of at least four feet in height except at vision clearance areas where it shall be maintained at three feet in height.

(C) Marking - All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 36.4120, and such marking shall be continually maintained. Except for development within the PH-RC, OR, or OCI zones, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.

(D) Drainage - All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

(E) Covered Walkways - Covered walkway structures for the shelter of pedestrians only, and consisting solely of roof surfaces and necessary supporting columns, posts and beams, may be located in an O-P district. Such structures shall meet the setback, height and other requirements of the district which apply.

(Ord. 1248, Amended, 07/13/2017; Ord. 1210, Amended, 9/4/14; Ord. 1197, Amended, 02/16/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

#### § 36.4185 LIGHTING.

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### § 36.4190 SIGNS.

Signs, pursuant to the provisions of MCC 36.7465. (Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4195 DESIGN STANDARDS:  
SETBACKS.**

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street perpendicularly.

(B) In the PH-RC, OR or OCI districts, off-street parking for new, replacement or expansion of existing commercial or industrial developments on a parcel less than 1 acre shall provide a minimum of 10 foot landscaped front yard or street side setback. All other minimum yard dimensions for parking shall be as required in the Off-Street Parking and Loading Code Section.

(C) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

(Ord. 1197, Amended, 02/16/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4200 LANDSCAPE AND SCREENING  
REQUIREMENTS.**

(A) The landscaped areas requirements of MCC 36.7055 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 36.4165 (A).

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4205 MINIMUM REQUIRED OFF-  
STREET PARKING SPACES.**

(A) Residential Uses

(1) Single Family Dwelling - Two spaces for each dwelling unit.

(2) Two Family Dwelling - Two spaces for each dwelling unit.

(3) Motel or Hotel - One space for each guest room or suite.

(4) Group Care Facility, Home for Aged, or Children's Home - One space for each four beds.

(B) Public and Semi-Public Buildings and Uses

(1) Auditorium or Meeting Room (except schools) - One space for each 60 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.

(2) Church - One space for each 80 square feet of floor area in the main auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.

(3) Church Accessory Use - In addition to spaces required for the church, one space for each ten persons residing in such building.

(4) Club or Association - These shall be treated as combinations of uses such as hotel, restaurant, auditorium etc., and the required spaces for each separate use shall be provided.

(5) Senior High School and Equivalent Private and Parochial School - One space for each 56 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each eight seats or 16 feet of bench length, or one space for each ten seats in classrooms, whichever is greater.

(6) College, University, Institution of Higher Learning and Equivalent Private or Parochial School - One space for each five seats in classrooms or 45 square feet of floor area.

(7) Primary, Elementary, or Junior High and Equivalent Private or Parochial School - One space for 84 square feet of floor area in the auditorium, or one space for each 12 seats or 24 feet of bench length, whichever is greater.

(8) Kindergarten, Day Nursery, or Equivalent Private or Parochial School - One driveway, designed for continuous flow of passenger vehicles for the purpose of loading and unloading children plus one parking space for each two employees.

(9) Campground – One space for each campsite.

**(C) Retail and Office Uses**

(1) Store, Supermarket, and Personal Service Shop - One space for each 400 square feet of gross floor area.

(2) Service and Repair Shop - One space for each 600 square feet of gross floor area.

(3) Bank or Office, including Medical and Dental - One space for each 300 square feet of gross floor area.

(4) Restaurant, Coffee Shop, Tavern or Bar - One space for each 100 square feet of gross floor area.

(5) Mortuary - One space for each four chapel seats or eight feet of bench length.

**(D) Manufacturing and Storage**

(1) Manufacturing - One space for each two employee positions on the largest shift, or one space for each 800 square feet of non-storage gross floor area, whichever is greater.

(2) Storage - One space for each 5,000 square feet of storage area for the first 20,000 square feet, plus one additional space for each additional 50,000 square feet.

**(E) Unspecified Uses**

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

(Ord. 1187, Amended, 11/17/2011; Ord. 1001, Reorg&Renum, 12/12/2002)

**(A) Commercial, Office or Bank**

Square foot of Floor or Land Area	Minimum Loading Spaces Required
Under 5,000	0
5,000 - 24,999	1
25,000 - 59,999	2
60,000 - 99,999	3
100,000 - 159,000	4
160,000 - 249,999	5
250,000 - 369,999	6
370,000 - 579,999	7
580,000 - 899,999	8
900,000 - 2,999,999	9
Over 3,000,000	10

**(B) Motel**

Square foot of Floor or Land Area	Minimum Loading Spaces Required
Under 30,000	1
30,000 - 69,999	2
70,000 - 129,999	3
130,000 - 219,999	4
220,000 - 379,999	5
380,000 - 699,999	6
700,000 - 1,499,999	7
Over 1,500,000	8

**(C) Manufacturing, Wholesale, Storage**

Square foot of Floor or Land Area	Minimum Loading Spaces Required
Under 5,000	0
5,000 - 39,999	1
40,000 - 99,999	2
100,000 - 159,999	3
160,000 - 239,999	4
240,000 - 319,999	5
320,000 - 399,999	6
400,000 - 489,999	7
490,000 - 579,999	8
580,000 - 699,999	9
670,000 - 759,999	10
760,000 - 849,999	11
850,000 - 939,999	12

**§ 36.4210 MINIMUM REQUIRED OFF-STREET LOADING SPACES.**

Square foot of Floor or Land Area	Minimum Loading Spaces Required
940,000 - 1,029,999	13
Over 1,030,000	14

tion that a plan shall be filed with the application, showing how the required number of spaces can be provided on the lot in the future.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

(D) Public or Semi-Public Use: Treated as mixed uses.

(E) Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4215 EXCEPTIONS FROM REQUIRED OFF-STREET PARKING OR LOADING SPACES.**

(A) The Planning Director may grant an exception with or without conditions for up to 30% of the required number of off- street parking or loading spaces, upon a finding by the Director that there is substantial evidence that the number of spaces required is inappropriate or unneeded for the particular use, based upon:

(1) A history of parking or loading use for comparable developments;

(2) The age, physical condition, motor vehicle ownership or use characteristics or other circumstances of residents, users or visitors of the use; or

(3) The availability of alternative transportation facilities; and

(4) That there will be no resultant on-street parking or loading or interruptions or hazards to the movement of traffic, pedestrians or transit vehicles.

(B) The Director shall file with the application for the building or other required permit, findings in support of any exception, including any conditions of approval.

(C) An exception in excess of 15% of the required number of spaces shall include a condi

***PLANNED DEVELOPMENT, PD*****§ 36.4300- PURPOSES.**

The purposes of the Planned Development sub-district are to provide a means of creating planned environments through the application of flexible and diversified land development standards; to encourage the application of new techniques and new technology to community development which will result in superior living or development arrangements; to use land efficiently and thereby reduce the costs of housing, maintenance, street systems and utility networks; to promote energy conservation and crime prevention; to relate developments to the natural environment and to inhabitants, employers, employees, customers, and other users in harmonious ways.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4305 AREAS AFFECTED.**

The Planned Development Subdistrict may only be applied in the MUA-20, RR, PH-RC and OR districts.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4315 DEVELOPMENT PLAN AND PROGRAM CONTENTS.**

(A) The preliminary Development Plan and Program shall consist of plans, maps or diagrams drawn in sufficient detail to indicate the nature of the plan elements and a written narrative descriptive of the program elements.

**(1) Plan Elements.**

(a) Proposed land uses and residential densities.

(b) Means of access, circulation and parking.

(c) Building types and locations.

(d) Parks, playgrounds, paths and open spaces.

(e) Preliminary site analysis diagram as defined in MCC 36.7030(C).

(f) A land division plan if the land is to be divided.

**(2) Program Elements.**

(a) A narrative statement of the goals and objectives of the planned development.

(b) Tables showing overall density of any proposed residential development and showing density by dwelling types and intensity of any commercial, industrial or other employment uses.

(c) A narrative statement indicating how the proposed planned development complies with the applicable Comprehensive Plan Policies.

(d) A general timetable of development.

(e) The proposed ownership pattern.

(f) An operation and maintenance proposal.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4320 CRITERIA FOR APPROVAL.**

(A) Action on the Preliminary Development Plan and Program shall be based on findings that the following are satisfied:

(1) The proposal fully accords with the applicable elements of the comprehensive plan;

(2) The applicable provisions of MCC 36.7700 et seq., the Land Division Chapter;

(3) That any exceptions from the standards or requirements of the underlying district are warranted by the design and amenities incorporated in the Development Plan and Program, as related to the purposes stated in MCC 36.4300;

(4) That the system of ownership and the means of developing, preserving and maintaining open space is suitable to the purposes of the proposal;

(5) The provisions of MCC 36.4340;

(6) That the proposed development can be substantially completed within four years of the approval or according to the development stages proposed under MCC 36.4355;

(7) The Development Standards of MCC 36.4335, 36.4345 and 36.4350;

(8) The purposes stated in MCC 36.4300.

(B) Approval of the Final Development Plan and Program shall be based on findings that the following are satisfied:

(1) The final Plan and Program are consistent with the approved Preliminary Development Plan and Program and the modifications or conditions attached thereto;

(2) The Development Standards of MCC 36.4330;

(3) The criteria of MCC 36.7050 and the standards of MCC 36.7055.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4330 DEVELOPMENT STANDARDS.**

The Development Standards stated in MCC 36.4335 through 36.4350 shall apply to an approved Planned Development. In the case of a conflict between a standard of the underlying district and that of the Planned Development District, the standard of the Planned Development District shall apply.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4335 MINIMUM SITE SIZE.**

A Planned Development District shall be established only on a parcel of land found to be suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes stated in MCC 36.4300.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4340 RELATIONSHIP OF THE PLANNED DEVELOPMENT TO ENVIRONMENT.**

(A) The Development Plan and Program shall indicate how the proposal will be compatible with the natural environment.

(B) The elements of the Development Plan and Program shall promote the conservation of energy, and may include such factors as the location and extent of site improvements, the orientation of buildings and usable open spaces with regard to solar exposure and climatic conditions, the types of buildings and the selection of building materials in regard to the efficient use of energy and the degree of site modification required in the proposal.

(C) The Development Plan and Program shall be designed to provide freedom from hazards and to offer appropriate opportunities for residential privacy and for transition from public to private spaces.

(D) The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings, structures and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings, structures and uses.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4345 OPEN SPACE.**

Open space in a Planned Development District means the land area used for scenic, landscaping or open recreational purposes within the development.

(A) Open space shall not include street rights-of-way, driveways or open parking areas.

(B) Locations, shapes and sizes of open space shall be consistent with the proposed uses and purposes of the Planned Development.

(C) Open spaces shall be suitably improved for intended use. Open spaces containing natural features worthy of preservation may be left unimproved or may be improved to assure protection of the features.

(D) The development schedule shall provide for coordination of the improvement of open spaces with the construction of other site improvements proposed in the Development Plan and Program.

(E) Assurance of the permanence of open spaces may be required in the form of deeds, covenants or the dedication of development rights to Multnomah County or other approved entity.

(F) The approval authority may require that instruments of conveyance provide that in the event an open space is permitted to deteriorate or is not maintained in a condition consistent with the approved plan and program, the County may at its option cause such maintenance to be done and assess the costs to the affected property owners. Any instruments guaranteeing the maintenance of open spaces shall be reviewed as to form by the County Attorney.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4350 DENSITY COMPUTATION FOR RESIDENTIAL DEVELOPMENTS.**

In order to preserve the integrity of the Comprehensive Plan and relate to a residential Planned Development to it, the number of dwelling units permitted shall be determined by dividing the total site area by the minimum lot area per dwelling unit required by the underlying district or districts in which the Planned Development is located.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4355 STAGING.**

(A) The applicant may elect to develop the site in successive stages in a manner indicated in the Development Plan and Program. Each such stage shall satisfy the requirements of this Chapter.

(B) In acting to approve the Preliminary Development Plan and Program, the approval authority may require that development be completed in specific stages if public facilities are not otherwise adequate to service the entire development.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.4360 PERMITTED USES.**

In an underlying residential district, the following uses may be permitted in a Planned Development District:

(A) Housing types may include only duplexes and single family detached or attached dwellings.

(B) A related commercial use which is designated to serve the development of which it is a part, upon approval by the Planning Commission.

(C) A Community Service use listed in MCC 36.6000 through 36.6050 and 36.0530 when designated to serve the development or the adjacent area of which it is a part, upon approval by the approval authority.

(I) A Community Service use, when approved under the provisions of MCC 36.6000 through 36.6050 and 36.0530 may also be designed to serve the adjacent area outside the Planned Development if found by the approval authority to be appropriate and consistent with Comprehensive Plan policies.

(D) A use or structure customarily accessory or incidental to a permitted or approved use.

(Ord. 1001, Reorg&Renum, 12/12/2002)





***SIGNIFICANT ENVIRONMENTAL CONCERN,  
SEC***

**§ 36.4500- PURPOSES.**

The purposes of the Significant Environmental Concern Overlay Zone subdistrict are to protect, conserve, enhance, restore, and maintain significant natural features which are of public value, including among other things, river and stream corridors, streams, lakes and islands, flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, archaeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4505 AREA AFFECTED.**

The SEC overlay zone shall apply to those lands designated SEC-sw, SEC-wr, and SEC-h on the Multnomah County Zoning Map.

(A) The approval criteria that apply to uses in areas designated SEC-sw, SEC-wr, and SEC-h shall be based on the type of protected resources on the property, as indicated by the subscript letter in the zoning designation, as follows:

<b>zoning designation</b>	<b>approval criteria-MCC</b>
SEC-sw (scenic waterway)	36.4545
SEC-wr (water resource)	36.4550 and 36.4555
SEC-h (wildlife habitat)	Type I Permit – 36.4557 Type II Permit - 36.4550 and 36.4560

(B) SEC - Scenic Waterway (SEC-sw) - Land areas that are contained within the Sandy River Scenic Waterway as shown on the zoning maps adopted in (Ord and date).

(C) SEC-Water Resource Area (SEC-wr) - Protected water features, riparian/vegetated corridors and the adjacent impact areas, that are

identified as significant resources in the Goal 5 Inventory, and as established by these definitions, are the areas included within the SEC-wr Overlay Zone Subdistrict.

(1) Protected Water Features shall include:

(a) Wetlands that provide a water quality benefit - Wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands which meet any one of the following criteria. Wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.

1. The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has 60 percent or greater vegetated cover, and is over one-half acre in size;

2. The wetland qualifies as having "intact water quality function" under the 1996 Oregon Fresh water Wetland Assessment Methodology;

3. The wetland is in the Flood Management Area, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet;

4. The wetland qualifies as having "intact hydrologic control function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

5. The wetland or a portion of the wetland is within a horizontal distance of less than one-fourth mile from a water body which meets the Department of Environmental Quality definition of "water quality limited water body" in OAR Chapter 340, Division 41 (1996).

(b) Rivers, streams, and drainages downstream from the point at which 50-acres or more are drained to the water feature (regardless of whether it carries year-round flow); and

(c) Streams carrying year-round flow; and

(d) Streams designated as significant in the Goal 5 inventory; and

(e) Springs which feed stream and wetlands and have year-round flow; and

(f) Natural lakes.

(2) Riparian/Vegetated Corridors and Impact Area - The standard width of the riparian/vegetated corridor for all Protected Water Features shall be two hundred (200) feet from the top of bank.

(3) The zoning maps used to designate the SEC-wr zoning subdistrict were created digitally by interpreting various data sources and maps contained in the West of Sandy River Goal 5 ESEE report. Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. For those areas included in the West of Sandy River Plan, the SEC-wr zoning subdistrict shall be interpreted to be the text defined Water Resource Area.

(D) SEC-Habitat (SEC-h)- Includes nonriparian and nonwetland natural resource sites that contain habitat values such as wooded areas and areas with rare or endangered flora and fauna, as identified by the Goal 5 Inventory. Habitat areas include the significant Goal 5 habitat resource and a 25 foot buffer to protect the root zone of the vegetation. The boundaries of Significant Habitat Areas, which are designated as SEC-h, are established by the Goal 5 Natural Resource Inventory and include:

(1) Those areas identified on the map as "Riparian Corridor/Wildlife Habitat and Impact Area" that do not otherwise meet the

definition of Water Resource Area in (C) above; and

(2) Those areas identified on the map as "Isolated Upland Wildlife Habitat" that do not otherwise meet the definition of Water Resource Area, above.

(Ord. 1198, Amended, 03/14/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.4510 DEFINITIONS.

(A) **Development:** Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetation in the Water Resource Area or Habitat Area on a lot or parcel.

(B) **Nuisance, invasive non-native and native plants:** Nuisance and invasive non-native plants include the those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List. Native plants are those listed in the latest edition of the Metro Native Plant List.

(C) **Practicable, Practical:** As in No Practicable Alternative. Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(D) **Top of Bank:** The same as "bankfull stage" which means the stage or elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4515 USES - SEC PERMIT REQUIRED.**

(A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that development, including but not limited to, the location and design of any use, or change, replacement or alteration of a use, except as provided in MCC 36.4520, shall be subject to an SEC permit.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

(C) Activities proposed for lands designated as Scenic Waterways under the Oregon Scenic Waterways System shall be subject to an SEC-sw permit in addition to approval from the Oregon Parks and Recreation Department.

(D) Applications that are subject to an SEC permit shall be processed as Type II land use decisions as provided for in MCC Chapter 37, unless the proposed use is subject to another Type II, III, or IV decision, in which case the SEC application shall be considered in combination with the other action.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4520 EXCEPTIONS.**

An SEC permit shall not be required for the following:

(A) Farming practices as defined in ORS 30.930 and agricultural use as defined in OAR 603-095-0010, except that buildings and other development associated with farm practices and agricultural uses are subject to the requirements of this district;

(B) The propagation of timber or the cutting of timber for public safety or the cutting of timber in accordance with the State Forest Practices Act;

(C) Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905 (6);

(D) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;

(E) Routine repair and maintenance of structures, roadways, driveways, utility facilities, and lawns that were in existence prior to the effective date of this ordinance;

(F) Alteration, repair, or replacement of septic system drainfields;

(G) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;

(H) The maintenance and repair of existing flood control facilities;

(I) All Type A Home Occupations;

(J) Stream enhancement or restoration projects limited to removal by hand of invasive vegetation and planting of any native vegetation on the Metro Native Plant List;

(K) Enhancement or restoration of the riparian corridor for water quality or quantity benefits, or for improvement of fish and wildlife habitat, pursuant to a plan that does not include placement of buildings or structures and does not entail grading in an amount greater than 10 cubic yards. This exemption is applicable to plans that are approved by Soil and Water Conservation District, the Natural Resources Conservation District, or the Oregon Department of Fish and Wildlife under the provisions for a Wildlife and Habitat Conservation Plan, and submitted to the County;

(L) Work necessary to protect, repair, maintain, or replace existing structures, utility facilities, service connections, roadways, driveways, accessory uses and exterior improvements in re

sponse to emergencies pursuant to the provisions of MCC 36.0535 Responses to and Emergency/Disaster Event, provided that after the emergency has passed, adverse impacts are mitigated.

(M) In the SEC-sw district, a solar energy system, including solar thermal and photovoltaic, that is installed on an existing building is allowed in the general zone district when:

- (1) The installation of the solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed;
- (2) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and
- (3) Uses materials that are designated as anti-reflective or has a reflectivity rating of eleven percent or less.

(N) Single utility poles necessary to provide service to the local area.

(Ord. 1198, Amended, 03/14/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.4525 EXISTING USES.**

Uses that legally existed on January 1, 2003, that are not included as Exceptions in section 36.4520, may utilize the provisions of this section. This section is intended to define the circumstances under which existing development can be improved or replaced under limited requirements in recognition of the pre-existing status. The SEC provisions are also not intended to make existing uses non-conforming. However, approval of proposals for alteration of uses that were non-conforming prior to the SEC ordinance, must obtain an SEC permit in addition to demonstrating compliance with the non-conforming use provisions of this Chapter.

(A) Change, expansion, or alteration of existing uses shall require an SEC permit as provided in 36.4500 through 36.4560, except for changes to

a structure as described in Sections (1) through (3) below:

- (1) In areas subject to the provisions of the SEC-sw, change, or alteration of existing uses which do not require any modification to the exterior of the structure;
- (2) Within the SEC-wr and SEC-h - addition of less than 400 square feet of ground coverage to the structure. This provision is intended to allow a maximum of 400 square feet of additional coverage to the structure that existed on the effective date of this ordinance; and
- (3) For the SEC-h overlay, alteration or expansion of 400 square feet or less of such driveway.

(B) Replacement or restoration of existing structures, that were unintentionally destroyed by fire or other casualty, or natural disaster within the same foundation lines shall not require an SEC permit. The redevelopment must be commenced within one year from the date of the loss, and may include addition of a maximum 400 square feet of ground coverage. Structures which are expanded up to 400 square feet under this provision, may not subsequently expand under the provision in (A)(2) above.

(C) Within the SEC-wr, lawfully established structures that do not meet the casualty loss provisions of (B) above may be replaced within the same foundation lines or area of ground coverage when the entire remaining vegetated corridor on the project site, or the first 50 feet closest to the stream, or an area equal to the ground coverage of the building and attached structures and paved areas, whichever is less, is enhanced to "good" condition pursuant to Table 2. Replacement shall be processed as a Type II review.

(D) If development under this section is proposed to be located closer to a protected water feature, approval of a permit under the provisions of 36.4540 through 36.4555 shall be obtained.

(Ord. 1198, Amended, 03/14/2013; Ord. 1079, Amended,

07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.4530 BUILDABLE LOT ENCROACHMENT.**

Where a parcel is partially or wholly inside the SEC-wr Overlay Zone, the property owner may apply for encroachment in lieu of meeting the requirements in MCC 36.4555(A), (B), or (C) for development in the SEC-wr. The applicant shall demonstrate that:

(A) Without the proposed encroachment, the owner would be denied economically viable use of the subject property. To meet this criterion, the applicant must show that no other application could result in approval of an economically viable use of the subject property. Evidence to meet this criterion shall include a list of uses allowed on the subject property.

(B) The proposed encroachment is the minimum necessary to allow for the requested use, however not more than 1 acre of the site, including access roads and driveways, and areas necessary for utilities and facilities, is disturbed;

(C) The proposed encroachment will comply with MCC 36.4555 (E) Mitigation; and

(D) The proposed use complies with the standards of the base zone.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.4535 SCOPE OF CONDITIONS.**

(A) Conditions of approval of an SEC permit, if any, shall be designed to bring the application into conformance with the applicable criteria of MCC 36.4545 through 36.4560 and any other requirements specified in the Goal 5 protection program for the affected resource. Conditions may relate to the locations, design, and maintenance of existing and proposed improvements, including but not limited to buildings, structures and use areas, parking, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts and fills, signs, graphics, and lighting, timing of construction and related activities, and mitigation.

(B) Approval of an SEC permit shall be deemed to authorize associated public utilities, including energy and communication facilities.

(C) The approval criteria for an SEC permit shall be used to determine the most appropriate location, size and scope of the proposed development in order to ensure that it meets the purposes of this subdistrict, but shall not be used to deny economically viable use or be used to require removal or relocation of existing physical improvements to the property.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.4540 APPLICATION FOR SEC PERMIT.**

A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC district and with the applicable criteria for approval specified in MCC 36.4545 through 36.4560. An application for a use on a property containing more than one protected resource shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.

(A) General SEC: All applications for SEC permits shall include the information listed in this section in sufficient detail for County staff to evaluate the impacts of the proposal. The applicant is responsible for providing all of the required information. In addition to the information listed in this section, the application shall contain the supplemental information that is listed for the resource area in which the development is proposed.

(1) A written description of the proposed development and how it complies with the requirements applicable to the resource area in which development is proposed as listed in SECsw, SECwr, SECh.

(2) A map of the property drawn to scale showing;

- (a) Boundaries, dimensions, and size of the subject parcel;
  - (b) Location and size of existing and proposed structures;
  - (c) Contour lines and topographic features such as ravines or ridges;
  - (d) Location of natural drainageways, springs, seeps, and wetlands on the site. The Planning Director may require the applicant to provide the location of the SEC-wr boundary, topography, or the location of development as determined by a registered professional surveyor or engineer;
  - (e) Proposed fill, grading, site contouring or other landform changes;
  - (f) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
  - (g) Location and width of existing and proposed roads, driveways, parking and maneuvering areas, and service corridors and utilities.
- (3) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.
- (4) Application for a flood hazard permit, erosion control permit, and/or other required natural hazards permit for the proposed development;
- (B) SEC-Scenic Waterway: In addition to the information in 36.4540(A), an application in the SEC-sw overlay area shall include a letter from the Oregon Parks and Recreation Department which indicates that the proposed development as shown on the site map and scaled drawing required in (A)(2) and (3) above has been reviewed and is, or can be, consistent with the provisions of the Oregon Scenic Waterways Management Plan.
- (1) For areas within the SEC-sw overlay, the building design shall also include a description of the exterior materials and proposed exterior colors including roofing.
- (C) SEC-Water Resource: In addition to the information requirements listed in MCC 36.4540(A) above, the following information shall be submitted for applications within the SEC-wr overlay.
- (1) A topographic map of the development area and adjacent areas of the site at contour intervals of five feet or less showing a delineation of the Water Area or Habitat Area as determined by a documented field survey, the location of all existing and proposed watercourses, drainageways, stormwater facilities, and utility installations;
- (2) The location of wetlands;
- (3) Information for the site from the adopted West of Sandy River Wildlife Habitat and Stream Corridor ESEE Report, the County Goal 5 Inventory;
- (4) Preparation of plans and surveys - Inventories, assessment of existing conditions, and mitigation or restoration plans shall be prepared by a qualified professional such as a fish or wildlife biologist at the discretion of the Planning Director. Wetlands shall be identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual;
- (5) The applicant shall provide evidence that when federal or state requirements apply, that the agency has been contacted, and shall provide an assessment of whether the project can meet the requirements based on the agency response;

(6) An assessment of the existing condition of the Water Resource Area in accordance with Table 2 Riparian/Vegetated Corridor Standards;

(7) An inventory of vegetation, including percentage ground and canopy coverage, and location of nuisance plants listed in Table 1;

(8) A detailed Mitigation Plan as described in 36.4555(E), if required;

(9) The location of all existing trees of a caliper greater than six (6) inches in diameter at breast height (DBH);

(10) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods.

(D) SEC Wildlife Habitat: In addition to the information required in MCC 36.4540(A) above, an application to develop in SEC-h areas shall also include:

(1) An area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

(2) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas. For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.

(3) Location and width of existing driveways within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.4545 CRITERIA FOR APPROVAL OF SEC-SW PERMIT - SCENIC WATERWAY.**

The SEC-sw designation shall apply to those wild and scenic waterways that are designated SEC on Multnomah County sectional zoning maps. An application shall not be approved unless it contains the information in 36.4540(A) and (B). Any proposed activity or use requiring an SEC-sw permit shall be subject to the following:

(A) Submittal of a letter from the Oregon Parks and Recreation Department which indicates that the proposed development has been reviewed and is, or can be, consistent with the provisions of the Oregon Scenic Waterways Management Plan.

(B) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.

(C) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

(D) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.

(E) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion

(F) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.



(G) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.

(H) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.

(I) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4550 GENERAL REQUIREMENTS FOR APPROVAL IN AREAS DESIGNATED AS SEC-WR OR SEC-H.**

The requirements in this section shall be satisfied for development in the SEC-wr and SEC-h areas in addition to the provisions of 36.4555 or 36.4560 as applicable.

(A) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.

(B) Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water resource or habitat areas. Where illumination of a water resource or habitat area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of

utility facilities shall not be limited by this provision.

(C) The following nuisance plants, in addition to the nuisance plants defined in 36.4510, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone:

Table 1  
Nuisance Plant List

Common Name	Scientific
Lesser celandine	<i>Chelidonium majus</i>
Canada Thistle	<i>Cirsium arvense</i>
Common Thistle	<i>Cirsium vulgare</i>
Western Clematis	<i>Clematis ligusticifolia</i>
Traveler' s Joy	<i>Clematis vitalba</i>
Poison hemlock	<i>Conium maculatum</i>
Field Morning-glory	<i>Convolvulus arvensis</i>
Night-blooming Morn- ing-glory	<i>Convolvulus nyctagi- neus</i>
Lady' s nightcap	<i>Convolvulus seppium</i>
Pampas grass	<i>Cortaderia selloana</i>
Hawthorn, except na- tive species	<i>Crataegus sp. except C. douglasii</i>
Scotch broom	<i>Cytisus scoparius</i>
Queen Ann' s Lace	<i>Daucus carota</i>
South American Wa- terweed	<i>Elodea densa</i>
Common Horsetail	<i>Equisetum arvense</i>
Giant Horsetail	<i>Equisetum telemateia</i>
Crane' s Bill	<i>Erodium cicutarium</i>
Robert Geranium	<i>Geranium roberianum</i>
English Ivy	<i>Hedera helix</i>
St. John' s Wort	<i>Hypericum perforatum</i>
English Holly	<i>Ilex aquafolium</i>
Golden Chain Tree	<i>Laburnum watereri</i>
Duckweed, Water Len- til	<i>Lemna minor</i>
Fall Dandelion	<i>Loentodon autumnalis</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Reed Canary grass	<i>Phalaris arundinacea</i>
Annual Bluegrass	<i>Poa annua</i>
Swamp Smartweed	<i>Polygonum coccineum</i>
Climbing Binaweed	<i>Polygonum convolvulus</i>
Giant Knotweed	<i>Polygonum sacha- linense</i>

Common Name	Scientific
English, Portugese Laurel	<i>Prunus laurocerasus</i>
Poison Oak	<i>Rhus diversiloba</i>
Himalayan Blackberry	<i>Rubus discolor</i>
Evergreen Blackberry	<i>Rubus laciniatus</i>
Tansy Ragwort	<i>Senecio jacobaea</i>
Blue Bindweed	<i>Solanum dulcamara</i>
Garden Nightshade	<i>Solanum nigrum</i>
Hairy Nightshade	<i>Solanum sarrachoides</i>
Common Dandelion	<i>Taraxacum officinale</i>
Common Bladderwort	<i>Utricularia vulgaris</i>
Stinging Nettle	<i>Urtica dioica</i>
Periwinkle (large leaf)	<i>Vinca major</i>
Periwinkle (small leaf)	<i>Vinca minor</i>
Spiny Cocklebur	<i>Xanthium spinosum</i>
Bamboo sp.	<i>various genera</i>

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.4555 CRITERIA FOR APPROVAL OF SEC-WR PERMIT -WATER RESOURCE

Except for the exempt uses listed in MCC 36.4520 and the existing uses pursuant to 36.4525, no development shall be allowed within a Water Resource Area unless the provisions of section (A) or (B) or (C) below are satisfied. An application shall not be approved unless it contains the site analysis information required in 36.4540(A) and (C), and meets the general requirements in 36.4550.

(A) Development on Low Impact Sites - Development on parcels in locations that would have low impacts on Water Resource Areas may be exempt from the Alternatives Analysis in (B) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E):

- (1) The development site is at least one hundred (100) feet from top of bank or top of ravine, which ever results in a greater distance from the Protected Water Feature. Top of ravine is the break in the > 25% slope. Slope should be measured in 25-foot increments away from the water feature until the slope is less than 25% (top of ravine),

up to a maximum distance of 200' from the water feature. Where multiple resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest resource protection.

(B) Alternatives Analysis - Development proposed within a Water Resource Area may be allowed if there is no alternative, when the other requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E) are met. The applicant shall prepare an alternatives analysis which demonstrates that:

- (1) No practicable alternatives to the requested development exist that will not disturb the Water Resource Area; and
- (2) Development in the Water Resource Area has been limited to the area necessary to allow for the proposed use;
- (3) Development shall occur as far as practically possible from the stream; and
- (4) The Water Resource Area can be restored to an equal or better condition; or
- (5) Any net loss on the property of resource area, function and/or value can be mitigated.

(C) Buffer Averaging - Development may be allowed to encroach into the 200' SEC-wr overlay zone or "buffer" when the provisions of (1) through (6) below are satisfied. These provisions are intended to allow development to extend a specific amount into the edges of the overlay zone without an alternatives analysis in exchange for increasing the area of vegetated corridor on the property that is in good condition.

- (1) Site assessment information pursuant to 36.4540(A) and (C) has been submitted.
- (2) The riparian/vegetated corridor is certified to be in a marginal or degraded condition pursuant to Table 2. Buffer averaging is

not allowed to encroach in areas certified to be in good condition.

(3) The maximum encroachment does not exceed 20% of the frontage length of the vegetated corridor by 20% of the required width.

(4) The entire remaining vegetated corridor on the project site or the first 50 feet closest to the stream (whichever is less) will be enhanced to "good" condition pursuant to Table 2.

(5) The area of encroachment will be replaced with added buffer area at a 1:1 ratio.

(6) The replacement area will be incorporated into the remaining vegetated corridor on the project site and meet the "good" condition pursuant to Table 2, regardless of its distance from the resource area.

(D) Development Standards- Development within the Water Resource Area shall comply with the following standards:

(1) Development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.

(2) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH greater ) shall be removed without a one-for-one replacement with comparable species. The site plan for the proposed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.

(3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drain

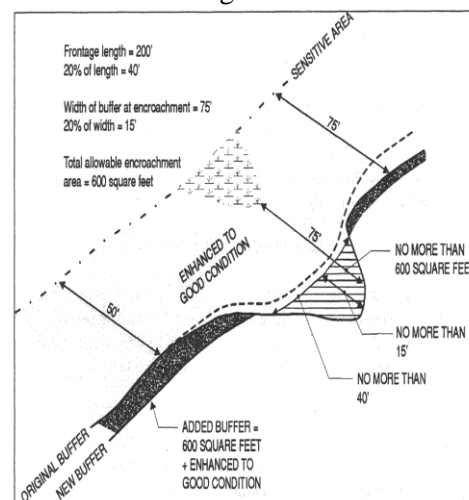
age courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.

(4) The Water Resource Area shall be restored to "good condition" and maintained in accordance with the mitigation plan pursuant to (E) below and the specifications in Table 2.

(5) To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment.

(6) Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.

Figure 1



(7) Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this district. Such markings shall be maintained until construction is complete.

(8) Stormwater quantity control and quality control facilities:

(a) Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.

(b) The stormwater quantity control and quality control facility may only encroach a maximum of 25 feet into the outside boundary of the Water Resource Area of a primary water feature; and

(c) The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Water Resource Area on the subject property.

(E) Mitigation - Mitigation shall be required to offset the impacts of development within the SEC-wr. This section establishes how mitigation can occur.

(1) Mitigation Sequence. Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.

(a) When a proposed use or development activity could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1. through 5. below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.

1. Avoiding the impact altogether by not taking a certain action or parts of actions on that portion of

the site which contains the regulated natural resource area;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

3. Compensating for the impact by repairing, rehabilitating, or restoring the affected environment;

4. Compensating for the impact by replacing, enhancing or providing substitute resources or environments on-site.

5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments off-site.

(b) When evaluating potential impacts to the natural resource, the County may consider whether there is an overriding public benefit, given:

1. The extent of the public need for the proposed development ;

2. The functional values of the Water Resource Area that may be affected by the proposed development;

3. The extent and permanence of the adverse effects of the development on the Water Resource Area, either directly or indirectly;

4. The cumulative adverse effects of past activities on the Water Resource Area, either directly or indirectly; and

5. The uniqueness or scarcity of the Water Resource Area that may be affected.

(2) Compensatory Mitigation: General Requirements. As a condition of any permit or other approval allowing development which results in the loss or degradation of regulated natural resource areas, or as an enforcement action, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or violator.

(a) Any person who alters or proposes to alter regulated natural resource areas shall restore or create natural resource areas equivalent to or larger than those altered in order to compensate for resource losses.

(b) The following ratios apply to the creation or restoration of natural resource areas. The first number specifies the amount of natural resource area to be created and the second specifies the amount of natural resource area to be altered or lost.

Creation (off-site) 2:1  
 Restoration (off-site) 1.5:1  
 Creation (on-site) 1.5:1  
 (Restoration (on-site) 1:1

(c) Only marginal or degraded water resource areas as described in Table 2 may be the subject of a restoration project proposed as part of a Mitigation Plan.

(d) Highest priority sites for mitigation are marginal or degraded corridors that are closest to a natural drainage, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.

(e) The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County.

(f) Compensation shall be completed prior to initiation of development where possible.

(g) In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that off-site mitigation areas will be protected in perpetuity, the owner shall cause a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.

(3) Mitigation Plan Standards - Natural resource mitigation plans shall contain the following information:

(a) A description of adverse impacts that could be caused as a result of development.

(b) An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.

(c) A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.

(d) A map drawn to scale, showing where the specific mitigation activities will occur.

(e) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance

with the Oregon Department of Fish and Wildlife in-stream timing schedule.

Table 2  
Riparian/Vegetated Corridor Standards

Existing Riparian/Vegetated Corridor Condition	Requirements of Riparian/Vegetated Corridor Protection, Enhancement, and/or Mitigation
<p>Good Corridor Combination of native trees, shrubs, and groundcover covering greater than 80% of the area and Greater than 50% tree canopy exists (aerial measure)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/ vegetated corridor meets condition criteria. Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand. Provide the County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore condition and mitigate any habitat or water quality impacts related to development. See Planning Director procedures. Revegetate impacted area per approved plan to re-establish “good” corridor conditions</p>
<p>Marginal Corridor Combination of native trees, shrubs, and groundcovers covering 50%-80% of the area and/or 26-50% tree canopy exists (aerial measure) (Restoration up to “good” corridor required)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria. Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically with small equipment, as appropriate to minimize damage to existing native vegetation. Provide County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore to a good corridor condition. See Planning Director procedures. Vegetate corridor to establish “good” corridor conditions</p>

Existing Riparian/Vegetated Corridor Condition	Requirements of Riparian/Vegetated Corridor Protection, Enhancement, and/or Mitigation
<p>Degraded Corridor Combination of native trees, shrubs, and ground-covers covering is less than 50% of the area and/or Less than 25% tree canopy exists (aerial measure) and/or Greater than 10% of the area is covered by invasive, non-native species (Restoration up to “good” corridor required)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria. Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically as appropriate. Provide County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore to a good corridor condition. See Planning Director procedures. Vegetate corridor to establish “good” corridor conditions</p>

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4560 CRITERIA FOR APPROVAL OF  
SEC-H PERMIT -WILDLIFE  
HABITAT.**

Development within areas designated SEC-h shall comply with the provisions of this section. An application shall not be approved unless it contains the information in 36.4540(A) and (D).

(A) Development standards:

- (1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.
- (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.
- (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

(4) Fencing within a required setback from a public road shall meet the following criteria:

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.
- (c) Cyclone, woven wire, and chain link fences are prohibited.
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the

development, and the front yard setback line parallel to the public road serving the development.

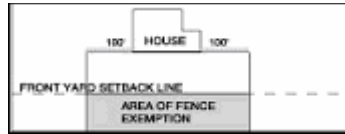


FIGURE 36.4570A FENCE EXEMPTION AREA

(f) Fencing standards do not apply where needed for security of utility facilities.

(5) The nuisance plants listed in Table 1 shall not be planted as landscaping and shall be controlled within cleared areas of the subject property.

(B) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

(1) The applicant cannot meet the development standards of Section (A) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

(2) The applicant can meet the development standards of Section (A), but demonstrates that the alternative conservation measures exceed the standards of Section (A) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (A).

(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (B)(5) of this section, the wildlife conservation plan must demonstrate the following:

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the

amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(c) That no fencing will be built outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.

(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.

(4) For a property meeting (B)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.



- (c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 36.4560(A)(4).
  - (d) For non-forested “cleared” areas that require nuisance plant removal pursuant to MCC 36.4560(A)(5), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.
- (5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, the wildlife conservation plan must demonstrate the following:
- (a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.
  - (b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.
  - (c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes. Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 34.4570(B)(6).
  - (d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant

shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including, buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. *Mitigation Option 1.* In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table

Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

2. *Mitigation Option 2.* In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-

- five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted and seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.
- (e) **Location of mitigation area.** All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.
- (f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.
- (g) Trees shall not be used as anchors for stabilizing construction equipment.
- (h) Native soils disturbed during development shall be conserved on the property.
- (i) An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 29.330 through MCC 29.348.
- (j) **Plant size.** Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in a at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.
- (k) **Plant spacing.** Trees shall be planted 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on-center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.
- (l) **Plant diversity.** Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.
- (m) **Nuisance plants.** Any nuisance plants listed in (B)(7) above shall be removed within the mitigation area prior to planting.
- (n) **Planting schedule.** The planting date shall occur within one year following the approval of the application.

- (o) **Monitoring and reporting.** Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

(6) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.

(D) Optional Development Impact Area (DIA). For the purpose of clustering home sites together with related development within the SEC-h overlay, an applicant may choose to designate an area around the home site for future related development and site clearing. For the purposes of establishing the appropriate mitigation for development within the DIA, existing vegetation within the DIA is presumed to be ultimately removed or cleared in the course of any future development within the DIA. Establishment of a DIA is subject to all of the applicable provisions in MCC 33.4570 and the following:

- (1) The maximum size for a DIA shall be no greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.
- (2) Any required mitigation for the DIA site under an approved wildlife conservation plan shall be completed within one year of the final approval of the application.
- (3) The DIA shall contain an existing habitable dwelling or approved dwelling site.
- (4) No more than one DIA is permitted per Lot of Record.

(5) The DIA can be any shape, but shall be contiguous and shall fit within a circle with a maximum diameter of 400 feet.

(6) For new dwellings that will be located on a Lot of Record that does not currently contain a dwelling, the DIA should be located within 200 feet of a public road or in the case of properties without road frontage, as close as practicable (accounting for required setbacks and fire safety zones) to the entry point of the vehicular access serving the property.

(7) No part of a DIA may be located in an SEC-s sub-district, mapped wetland, or flood hazard zone.

(8) All development within the DIA is subject to all development criteria in effect for the underlying zone and overlay zones at the time of development. Approval of a DIA does not preclude the applicant's responsibility to obtain all other required approvals.

(9) Once a DIA is approved and all pre-development conditions of approval are met, development within the DIA may commence at anytime thereafter provided the applicable approval criteria of MCC 34.4570 are the same as the criteria under which the DIA was originally approved. This provision does not waive the approval timeframe and/or expiration of any other permit approvals.

(Ord. 1222, Amended, 08/20/2015; Ord. 1198, Amended, 03/14/2013; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Re-org&Renum, 12/12/2002)

**§ 36.4567      SEC-H CLEAR AND  
OBJECTIVE STANDARDS.**

At the time of submittal, the applicant shall provide the application materials listed in MCC 36.4540(A) and (D). The application shall be reviewed through the Type I procedure and may not be authorized unless the following are met:

(A) The proposed development meets the standards listed in 36.4560(A)(1) through (5);

(B) The proposed development shall meet the applicable storm water and grading and erosion control requirements of MCC Chapter 29. Ground disturbance within 100 feet of a watercourse as defined by MCC 29.351 shall be limited to the period between May 1<sup>st</sup> and September 15<sup>th</sup>. Revegetation and soil stabilization must be accomplished no later than October 15<sup>th</sup>.

(C) The nuisance plants in 36.4550, Table 1, in addition to the nuisance plants defined in 36.4510, shall not be used as landscape plantings within the SEC-h Overlay Zone.

For development that fails to meet all of the standards listed above, a separate land use application pursuant to MCC 36.4560 may be submitted.

(Ord. 1236, Amended, 09/22/2016; Ord. 1198, Added, 03/14/2013)

**HERITAGE PRESERVATION****§ 36.4700- PURPOSES.**

The general purposes of the Heritage Preservation subdistrict are to implement various provisions of the Comprehensive Plan, the Statewide Planning Goals, and elements of County programs to preserve and conserve for public benefit those districts, sites, buildings, structures, and objects which are found to be significant in history, architecture, archeology, and culture; to assist heritage preservation projects and activities in the public and private sector; to authorize adaptive uses not otherwise permitted where beneficial to the purposes of preservation; to establish development standards and other regulatory techniques designed to achieve the purposes of heritage preservation.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4705 GENERAL FINDINGS AND POLICY.**

The Board finds:

(A) The Statewide Planning Goals and the County's Comprehensive Framework Plan and Community Plans Policies implemented by the Heritage Preservation Subdistrict are Goal 5 and Policies No. 15, 16, 17, and 18;

(B) The Goals and these Policies provide for the preservation, maintenance, and beneficial use of districts, sites, buildings, structures, and objects which have been identified as having historical, architectural, archaeological, or cultural significance;

(C) Surveys conducted in unincorporated Multnomah County reveal the presence of a wide variety of such sites, buildings, and objects;

(D) Each site, building, or object has unique characteristics or circumstances such that no single overlay preservation zone would be adequate to address the range of issues involved;

(E) These individual situations thus require special sets of measures, each designed to apply the

preservation techniques found most appropriate; and

(F) The creation and enactment of a special overlay subdistrict when a site, building, object or need is identified, is deemed to be the effective and flexible means to implement the policies and purposes of heritage preservation.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4710 AREA AFFECTED.**

The provisions of a Heritage Preservation subdistrict shall apply to land areas according to their designations as Subdistricts HP-1, HP-2, HP-3, etc., on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4715 STANDARDS TO ESTABLISH AN HP SUBDISTRICT.**

(A) An amendment establishing an HP subdistrict shall include the following:

(1) The designation of the subdistrict as HP-1, HP-2, HP-3, etc., in the text and on the appropriate Sectional Zoning Map;

(2) A statement of the purposes of the subdistrict;

(3) Definitions of terms, as appropriate;

(4) A statement of the findings and policies on which the subdistrict is based, including reference to the related Community Plan or Comprehensive Plan provision which the subdistrict is designed to implement, or to the special problems or circumstances which the subdistrict is designed to address;

(5) A description of the relationships between the provisions of the HP subdistrict and those of the underlying district;

(6) A listing of the HP subdistrict uses authorized as Allowed Uses, Review Uses, or Conditional Uses, as appropriate;

(7) A description of any approval procedures or criteria required to satisfy the subdistrict provisions;

(8) Any development standards, dimensional requirements, or special provisions for authorized uses in the subdistrict;

(9) A description of the nature of and approval procedures for any exceptions from subdistrict requirements;

(10) A statement of the methods of appeal from a decision made under the provisions of the subdistrict; and

(11) Any other provision deemed appropriate to the purposes of the HP subdistrict.

(B) The approval authority shall consider the report and recommendation thereon prepared by the Multnomah County Historical Sites Advisory Committee.

(1) The Planning Director shall notify the Chairman and the Secretary of the Historic Sites Advisory Committee by First Class Mail of a proposal for establishment or designation of an HP subdistrict at least 30 days prior to action thereon by the Planning Commission.

(2) The Committee shall file its report and recommendation with the Planning Director.

(3) In the absence of the report and the recommendation of the Committee, the proposed subdistrict or designation shall be deemed to be recommended for approval.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**HERITAGE PRESERVATION - 1, HP-1****§ 36.4750- PURPOSES**

The purposes of the HP-1 subdistrict are to provide for the preservation and protection of buildings which satisfy the Historical Site Criteria in the Comprehensive Framework Plan and to permit authorization of adaptive uses not otherwise permitted where found to be beneficial to the purposes of heritage preservation.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4755 DEFINITION**

Historical Landmark means any building, structure, or physical object and the premises on which it is located which is recognized to be of particular cultural, aesthetic, educational, or historical significance under the Historical Site Criteria of the Comprehensive Plan. See also Historical Building definition at MCC 36.0005.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4760 FINDINGS AND POLICY.**

The Board finds:

(A) There are buildings within the unincorporated County area which qualify as historic landmarks by reason of their special historical character, their association with historical events or persons, their antiquity, their unique or representative architectural style, design or method of construction, or by reason of other aesthetic, cultural, economic, or educational significance or importance.

(B) Many buildings which merit designation as historical landmarks have been altered or destroyed in the absence of regulatory controls to insure preservation or of measures to authorize adaptive uses which would make preservation economically feasible.

(C) Creation and application of a specialized overlay subdistrict will implement the Statewide Planning Goals and the Comprehensive Plan Policies No. 15 and 18 with respect to buildings of historical significance.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4765 USES.**

(A) The following uses are permitted uses in the HP-1 subdistrict:

(1) A use existing or for which a valid building or land use permit was in effect on the effective date of the HP-1 classification; and

(2) Any use listed as an Allowed Use in the underlying district.

(B) A use listed as Review Use in the underlying district may be permitted when found to satisfy the approval criteria given in the underlying district and those given in MCC 36.4770 .

(C) In the EFU and CFU districts, a use listed as a Conditional Use in the underlying district may be permitted when found to satisfy the applicable approval criteria given in the underlying district and those listed in MCC 36.4770.

(D) In the MUA-20, RR, and RC districts and notwithstanding the use provisions of those districts, any conditional use listed in the MUA-20, RR, and RC districts may be permitted in the HP-1 overlay district when found to satisfy the applicable approval criteria given in MCC 36.6300 through 36.6660 and those listed in MCC 36.4770.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4770 HP-L REVIEW USE AND CONDITIONAL USE APPROVAL CRITERIA.**

In acting to approve a Review Use or Conditional Use under MCC 36.4765(B), (C), or (D), the approval authority shall find that the proposal:

(A) Will maintain or restore the unique characteristics of the site and structure which are the basis of the HP-1 classification;

(B) Will satisfy the dimensional requirements of the underlying district and the development standards specified by this Chapter for the proposed use to the maximum extent possible, consistent with the nature of the existing improvements of historical significance;

(C) Will permit an adaptive use which is necessary and appropriate to the preservation of the historical characteristics; and

(D) Will have only minor adverse impacts on nearby properties, considering such factors as loss of residential privacy, increased vehicle or pedestrian traffic, noise, glare, or similar effects.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.4780 PERMITS.**

The provisions of MCC 36.0520, "Permits for Historical Structures and Sites", shall apply to any building, structure, or premises classified HP-1.

(Ord. 1001, Reorg&Renum, 12/12/2002)



***SPECIAL PLAN AREA, SPA*****§ 36.5000- PURPOSES.**

The general purposes of the Special Plan Area Subdistricts are to implement various provisions of the Comprehensive Plan, the Statewide Planning Goals and the land use control elements of Special Plan Area plans and of plans for neighborhoods and subcommunity vitalization; to aid in realizing opportunities to achieve community, social and economic stability and vigor; to institute desired patterns and improvement standards for land uses according to adopted specific-place plans; to facilitate public-private sector cooperation in the development of such areas; to establish more flexible and diversified standards and procedures; and to provide means to establish such interim land use controls as are deemed necessary, pending the preparation of local area comprehensive plan revisions or development strategies.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.5005 AREA AFFECTED.**

The provisions of a Special Plan Area subdistrict shall apply to specific land areas according to their designations as subdistricts SPA-1, SPA-2, SPA-3, etc., on the Multnomah County Zoning Map.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.5010 STANDARDS TO ESTABLISH AN SPA SUBDISTRICT.**

(A) An amendment establishing an SPA subdistrict shall include the following:

- (1) The designation of the subdistrict as SPA-1, SPA-2, SPA-3, etc., in the text and on the appropriate Sectional Zoning Map;
- (2) A statement of the purposes of the subdistrict;
- (3) Definitions of terms, as appropriate;
- (4) A statement of the findings and policies on which the subdistrict is based, including reference to the related Special Area Plan or Comprehensive Plan revision which the subdistrict is designed to implement or to

the special problems or circumstances which the subdistrict is designed to address;

(5) A description of the relationships between the provisions of the SPA subdistrict and those of the underlying district;

(6) A listing of the SPA subdistrict uses authorized as Permitted Uses, Uses Under Prescribed Conditions, or Conditional Uses, as appropriate;

(7) A description of any approval procedure or criteria required to satisfy the subdistrict provisions;

(8) Any development standards or dimensional requirements for authorized uses in the subdistrict;

(9) A description of the nature of and approval procedures for any exceptions from subdistrict requirements;

(10) A statement of the methods of appeal from a decision made under the provisions of the subdistrict; and

(II) Any provisions for the expiration of the SPA subdistrict.

(Ord. 1001, Reorg&Renum, 12/12/2002)

***HILLSIDE DEVELOPMENT and EROSION  
CONTROL***

**§ 36.5500- PURPOSES.**

The purposes of the Hillside Development and Erosion Control subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated Multnomah County, all in accordance with ORS 215, LCDC Statewide Planning Goal No. 7, and the Multnomah County Comprehensive Framework Plan Policy No. 14. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;
- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment; and
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.5505 PERMITS REQUIRED.**

Hillside Development Permit: All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC 36.5510.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.5510 EXEMPT LAND USES AND ACTIVITIES.**

The following are exempt from the provisions of this Chapter:

(A) Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site-specific requirements applicable herein.

(B) General Exemptions - All land-disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if :

- (1) Natural and finished slopes will be less than 25 percent; and,
- (2) The disturbed or filled area is 20,000 square feet or less; and,
- (3) The volume of soil or earth materials to be stored is 10 cubic yards or less; and,
- (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,
- (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,
- (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

(C) Categorical Exemptions - Notwithstanding MCC 36.5510 (A) and (B) (1) through (6), the following activities are exempt from the permit requirements:

- (1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.

(2) Cemetery graves, but not cemetery soil disposal sites.

(3) Excavations for wells.

(4) Mineral extraction activities as regulated by MCC 36.6500 through 36.6536.

(5) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.

(6) Routine agricultural crop management practices.

(7) Residential gardening and landscape maintenance at least 100-feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.

(8) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.

(9) Forest practices as defined by ORS 527 (The State Forest Practices Act) and approved by the Oregon Department of Forestry.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.5515 APPLICATION INFORMATION REQUIRED.**

An application for development subject to the requirements of this subdistrict shall include the following:

(A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.

(B) An estimate of depths and the extent and location of all proposed cuts and fills.

(C) The location of planned and existing sanitary drainfields and drywells.

(D) Narrative, map or plan information necessary to demonstrate compliance with MCC 36.5520 (A). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, storm-water drainage, stream protection, erosion control, and/or replanting.

(E) A Hillside Development permit may be approved by the Director only after the applicant provides:

(1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or

(2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,

(3) An HDP Form-1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.

(a) If the HDP Form-1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form-1, a geotechnical report as specified by the Director shall be prepared and submitted.

### **(F) Geotechnical Report Requirements**

(1) A geotechnical investigation in preparation of a Report required by MCC 36.5515

(E) (3) (a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.

(2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.

(3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.

(4) The Director, at the applicant's expense, may require an evaluation of HDP Form-1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.

(G) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC 36.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.5520 GRADING AND EROSION CONTROL STANDARDS.**

Approval of development plans on sites subject to a Hillside Development Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) Design Standards For Grading and Erosion Control

#### **(1) Grading Standards**

(a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;

(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;

(c) Cuts and fills shall not endanger or disturb adjoining property;

(d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;

#### **(2) Erosion Control Standards**

(a) Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook " and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)".

(b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

(c) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;

(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;

2. The buffer required in 1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

(g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface con

ditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

(h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

(i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

(j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

(k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

(l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

1. Energy absorbing devices to reduce runoff water velocity;

2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

3. Dispersal of water runoff from developed areas over large undisturbed areas.

(m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

(n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

#### (B) Responsibility

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

#### (C) Implementation

(1) **Performance Bond** - A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond

may be waived if the Director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) **Inspection and Enforcement.** The requirements of this subdistrict shall be enforced by the Planning Director. If inspection by County staff reveals erosive conditions which exceed those prescribed by the Hillside Development, work may be stopped until appropriate correction measures are completed.

#### (D) Final Approvals

A certificate of Occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.5525 HILLSIDE DEVELOPMENT AND EROSION CONTROL RELATED DEFINITIONS.**

(A) **Certified Engineering Geologist** - Any person who has obtained certification by the State of Oregon as an engineering geologist.

#### (B) **Cut:**

(1) An excavation;

(2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;

(3) The material removed in excavation work.

(C) **Development** - Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetation in a Water Resource Area or Habitat Area on a lot or parcel. (Title 3)

(D) **Development Area** - The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.

(E) **Drainage Area** - The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.

(F) **Drainageway** - Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.

(G) **Earth Movement** - Any type of land surface failure resulting in the downslope movement of material. The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.

(H) **Erosion** - The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.

(I) **Excavation** - Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, re-located or bulldozed, including the conditions resulting therefrom.

(J) **Fill:**

(1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting therefrom.

(2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.

(3) The material used to make a fill.

(K) **Geotechnical Engineer** - A Civil Engineer, licensed to practice in the State of Oregon, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.

(L) **Geotechnical Report** - Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.

(M) **Grading** - Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

(N) **HDP Form-1** - The form required for specified developments subject to the Hillside Development and Erosion Control subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a Certified Engineering Geologist or Geotechnical Engineer.

(O) **Land-disturbing Activities** - Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land-disturbing activities includes: excavations or fills, site grading, and soil storage.

(P) **Mulch** - Materials spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

(Q) **Ordinary High Water Mark** - Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be

substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.

**(R) Slope:**

- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

**(S) Slope Hazard Map** - A series of maps maintained and updated from time to time by the Office of the Director, Department of Environmental Services;

**(T) Spoil Material** - Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

**(U) Stream** - Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (e.g. swales) shall be considered streams when hydrologic and hydraulic analyzes performed pursuant to a development proposal predict formation of a defined channel after development.

**(V) Stream Protection** - Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

**(W) Topographic Information** - Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and repre

sented on maps with a contour interval not to exceed 10 feet.

**(X) Vegetation** - All plant growth, especially trees, shrubs, grasses and mosses.

**(Y) Vegetative Protection** - Stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover;
- (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
- (4) Netting with seeding if the final grade has not stabilized.

**(Z) Water Body** - Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds.

**(AA) Watercourse** - Natural and artificial features which transport surface water. Watercourse includes a river, stream, creek, slough, ditch, canal, or drainageway.

(Ord. 1001, Reorg&Renum, 12/12/2002)



***PROTECTED AGGREGATE and MINERAL  
SITES, PAM***

**§ 36.5700- PURPOSES.**

The purposes of the Protected Aggregate and Mineral Resources Overlay Subdistrict are:

(A) To provide a mechanism to identify and, where appropriate, protect significant aggregate and mineral resource sites;

(B) To allow surface mining subject to uniform operating standards; and

(C) To regulate conflicts with surface mining activities.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.5705 AREA AFFECTED.**

This subsection shall apply to those lands designated PAM on the Multnomah County Zoning Map. On the Zoning Map shall also be a reference to the relevant site-specific Comprehensive Plan documents.

Exemption activities as described in MCC 36.5710 (A) and (B) are allowed in all districts, not only those designated PAM.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.5710 EXEMPTIONS.**

(A) The following activities are exempt from the requirements of MCC 36.5700 through 36.5745 and 36.6500 through 36.6536. Operators or land owners have the burden of qualifying for any exemption.

(1) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry.

(2) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on December 3, 1994 on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be

in compliance with the non-conforming use provisions of MCC 36.7200 through 36.7214.

(B) Mining less than 1,000 cubic yards of material in conjunction with mining an area of less than one acre is exempt from the requirements of MCC 36.5700 through 36.5745 and 36.6500 through 36.6535, but shall require the approval of a Hillside and Erosion Control Permit and any other permits as may be required in any overlay subdistrict.

(C) Mining a quantity in excess of (B), but mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres is exempt from the requirement in MCC 36.6520 and 36.6525 to obtain a DOGAMI operating permit. However, mining at this level of activity shall:

(1) Be on a "protected site" as determined by, and subject to restrictions warranted by, the Goal 5 process;

(2) Be approved as a mining conditional use pursuant to the provisions and requirements of MCC 36.6500 through 36.6535; and

(3) Obtain approval of a Hillside and Erosion Control Permit in conjunction with the mining conditional use approval. The Hillside and Erosion Control permit shall be required in place of all references in the plan and MCC Chapter 36 to obtaining a DOGAMI operating permit in recognition that this level of mining activity is exempted by DOGAMI rules for such a permit.

(Ord. 1128, Amended, 01/29/2009; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.5715 DEFINITIONS.**

As used in this subdistrict and MCC 36.6500 through 36.6535, unless otherwise noted, the following words and their derivations shall have the following meanings:

(A) **Conflicting Use** - A use authorized in the underlying zone which, if allowed, could ad

versely affect operations at a protected aggregate and mineral resource site. As used in this subsection, a conflicting use is also another inventoried significant Goal 5 resource located on or adjacent to a protected aggregate or mineral site if that resource could force a change in mining or processing at the site.

**(B) Dust Sensitive Use** - A conflicting use which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered dust sensitive uses during their period of use. Forest uses and farm uses are not dust sensitive uses unless determined through the Goal 5 process.

**(C) ESEE Analysis** - The analysis of Economic, Social, Environmental and Energy consequences of allowing mining at a significant site, and allowing conflicting uses to displace mining at a significant site. The ESEE analysis is the basis for determining the level of protection to be given the resource.

**(D) Extraction Area** - The area of a protected aggregate and mineral resource site in which mining and associated processing is permitted.

**(E) Goal 5 Process** - The planning process required by Oregon Administrative Rules Chapter 660, Division 16. The Goal 5 process involves identifying resource sites, determining their significance, identifying conflicting uses, analyzing the economic, social, environmental and energy consequences of conflicting uses, determining the level of protection given to a resource site, and implementing a program to protect significant sites.

**(F) Impact Area** - The area where uses may occur that could adversely affect the resource site or be adversely affected by use of the resource site.

**(G) Mining** - The excavation of sand, aggregate (gravel), clay, rock, or other similar surface or subsurface resources. Mining does not include:

(1) Excavations conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstructing or maintaining access roads,

(2) Excavation or grading conducted in the process of farm or cemetery operations,

(3) Excavation or grading conducted within a road right-of-way or other easement for the primary purpose of road construction, reconstruction or maintenance, or

(4) Removal, for compensation, of materials resulting from on-site construction for which a development permit and a construction time schedule have been approved by the county.

**(H) Noise Sensitive Use** - A conflicting use which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise sensitive uses during their period of use. Forest uses and farm uses are not noise sensitive uses unless determined through the Goal 5 process.

**(I) PAM Overlay Subdistrict** - A special purpose zoning designation for the purposes of MCC 36.5700 that is placed on a zoning map over a base zoning district (ie. EFU). The provisions of the PAM subdistrict shall apply to land uses as specified, notwithstanding the provisions of the underlying zone district.

**(J) Processing** - The washing, crushing, screening, and handling of aggregate and mineral resources. Batching and blending of asphalt or portland cement concrete are included in the definition of processing.

**(K) Protected Site** - Significant resource sites which are identified through the Goal 5 Process as resources that the county will protect from conflicting uses. The special district designation Protected Aggregate and Mineral Resources (PAM) shall only be applied to protected sites.

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

(M) **Significant Site** - A site containing either significant aggregate resources or significant mineral resources. The county will judge the significance of mineral and aggregate resources on a case by case basis, under the standards and procedures in LCDC's Goal 5 interpretive rules.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.5720 PAM OVERLAY SPECIAL SUBDISTRICTS.**

The Protected Aggregate and Mineral Resource Subdistrict (PAM) comprises two areas, the Extraction Area (PAM-EA) and the Impact Area (PAM-IA).

(A) The Extraction Area shall be applied to the portion of protected sites where mining and associated processing is to occur. The Extraction Area may consist of one or more parcels or portions of parcels, and may be applied to contiguous properties under different ownership. The Extraction Area boundary may be modified through the Goal 5 process to reduce conflicts with conflicting uses existing when the overlay is applied. The Extraction Area shall be shown on the zoning map with the designation PAM-EA.

(B) The Impact Area shall be applied to parcels or portions of parcels adjacent to the Extraction Area and within the Impact Area deemed appropriate through the Goal 5 process. The Impact Area shall be shown on the zoning map with the designation PAM-IA.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.5725 PROCEDURE FOR APPLYING THE PAM SUBDISTRICT.**

(A) A PAM subdistrict shall be established by amendment of the Comprehensive Framework

Plan and Zoning Map. The relevant factors for the establishment of the subdistrict are within the Oregon Administrative Rules Chapter 660, Division 16; Comprehensive Plan Policy 16-B; and the applicable provisions of MCC Chapter 37.

(B) Under the applicable provisions of OAR Chapter 660, Division 16 and Comprehensive Plan Policy 16-B and based upon the analysis of information about the location, quality, and quantity of the aggregate and mineral resource, the county shall make the following determinations regarding the inventory status of the resource site and, if appropriate, continuation of the Goal 5 process:

(1) If the information about the location, quality, and quantity of a resource site is not adequate to allow a determination of significance, the site shall be placed on a plan inventory of "potential sites" and shall remain on that inventory until information is available to determine whether or not the site is significant, or

(2) If the resource site does not meet the definition of a significant site, the site shall be placed on a plan inventory of "not significant sites", or

(3) If the resource site meets the definition of a significant site, the Goal 5 process shall be continued.

(C) Under the applicable provisions of OAR Chapter 660, Division 16 and Comprehensive Plan Policy 16-B and based upon the ESEE analysis, the county shall determine the amount of protection to be given each significant site. Each determination shall be incorporated into the comprehensive plan, and shall be reflected on the zoning maps. One of the following determinations shall be made:

(1) Protect the site fully and allow surface mining as a conditional use. The county shall place the site on the Protected Sites inventory, apply the Protected Aggregate and Mineral Resources Subdistrict, specify the planned use of the site following reclamation, and prohibit the establishment of conflicting uses within the Extraction Area and the Impact Area. Conditional use approval of surface mining shall be pursuant to MCC 36.6500 through 36.6535 and shall not be subject to the conditional use provisions of MCC 36.6305(C), 36.6310, 36.6315, and 36.6325.

(2) Balance protection of the site and conflicting uses, allow surface mining as a conditional use. The county shall place the site on the Protected Sites inventory, apply the Protected Aggregate and Mineral Resources Subdistrict, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Conditional use approval of surface mining shall be pursuant to any site-specific requirements developed through the Goal 5 process and MCC 36.6500 through 36.6536. Review criteria and conditions shall not include the conditional use provisions of MCC 36.6305(C), 36.6310, 36.6315, and 36.6325. Site-specific requirements developed through the Goal 5 process, MCC 36.5730, and 36.5735 shall govern development of conflicting uses.

(3) Allow conflicting uses fully and do not allow surface mining except as exempted in MCC 36.5710. The county shall then place the site on the "Not Protected Sites" inventory in accordance with Framework Plan Policy 16-B, not apply the Protected Aggregate and Mineral Resource Subdistrict, and not protect the site from conflicting uses.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.5730 EXTRACTION AREA (PAM-EA) -- ALLOWED USES.**

Notwithstanding the use provisions of the underlying district, the following use provisions shall apply in the PAM-EA Subdistrict:

(A) Primary Uses, Uses Permitted Outright, Uses Permitted Under Prescribed Conditions, and Conditional Uses allowed in the underlying district may be permitted subject to the underlying district provisions and criteria of approval, except as provided for in this subsection.

(1) Uses identified through the Goal 5 process to be prohibited within the Extraction Area shall not be permitted.

(2) Noise or dust sensitive uses not prohibited in (1) may be permitted under the conditional use procedural provisions of MCC 36.6300 through 36.6350 when found by the Hearing Authority to satisfy the approval criteria of MCC 36.5740 and the approval criteria of the underlying district.

(3) Conflicting uses required by the Goal 5 process to be conditionally approved may be permitted under the procedural provisions of MCC 36.6300 through 36.6350 when found by the Hearing Authority to satisfy the approval criteria of MCC 36.5740 and the approval criteria of the underlying district.

(B) The following uses may be permitted subject to a finding by the Hearing Authority that all standards adopted as part of the Goal 5 process and the provisions of MCC 36.6500 through 36.6535 are met. Review by the Hearing Authority shall be under the procedural provisions of MCC 36.6300; 36.6305(A) and (B); 36.6335 and 36.6340.

(1) Mining;

(2) Processing, except the batching or blending of aggregate and mineral materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date of conditional use approval;

(3) Stockpiling of aggregate and mineral materials;

(4) Sale of mineral products excavated and processed on-site;

(5) Storage of equipment or vehicles used in on-site mining or processing;

(6) Buildings, structures, and activities necessary and accessory to mining or reclaiming aggregate or mineral resources.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.5735 IMPACT AREA (PAM-IA) -- ALLOWED USES.**

Notwithstanding the use provisions of the underlying district, the following use provisions shall apply in the PAM-IA Subdistrict. Primary Uses, Uses Permitted Outright, Uses Permitted Under Prescribed Conditions, and Conditional Uses allowed in the underlying district may be permitted subject to the underlying district provisions and criteria of approval, except as follows:

(A) Uses identified through the Goal 5 process to be prohibited within the Impact Area shall not be permitted;

(B) Noise or dust sensitive uses not prohibited in (A) may be permitted under the conditional use procedural provisions of MCC 36.6300 through 36.6350 when found by the Hearing Authority to satisfy the approval criteria of MCC 36.5740 and the approval criteria of the underlying district; and

(C) Conflicting uses required by the Goal 5 process to be conditionally approved may be permitted under the procedural provisions of MCC 36.6300 through 36.6350 when found by the Hearing Authority to satisfy the approval

criteria of MCC 36.5740 and the approval criteria of the underlying district.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.5740 USE APPROVAL CRITERIA.**

(A) In acting to approve a Conditional Use subject to these provisions, the Hearing Authority shall find that:

(1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

(2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter, or the terms of a state agency permit. The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, showing that applicable DEQ noise control standards are met or can be met by a specified date by the nearby mining operation; and

(3) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date.

(B) Approval Conditions.

(1) Compliance with the use approval criteria may be satisfied through the imposition of clear and objective conditions of approval.

(2) Approval of any conflicting use in the extraction area or impact area shall be conditioned upon execution of a restrictive covenant in favor of the mining operator. The restrictive covenant shall incorporate all approval conditions, and an agreement not to object to the conduct of lawful operations conducted at the nearby surface mine.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.5745 TERMINATION OF THE  
PROTECTED AGGREGATE AND  
MINERAL RESOURCES  
SUBDISTRICT.**

When the aggregate or mineral site has been reclaimed, the county may rezone land to remove the Protected Aggregate and Mineral Resources Overlay Subdistrict (PAM) without revising the ESEE Analysis for the site. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.

(Ord. 1001, Reorg&Renum, 12/12/2002)

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***PART 6 - STANDARDS FOR COMMUNITY SERVICE USES and CONDITIONAL USES***

***COMMUNITY SERVICE, CS***

**§ 36.6000- PURPOSE.**

MCC 36.6010 through 36.6230 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate as specified in each district.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6005 GENERAL PROVISIONS.**

(A) Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority.

(B) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC 36.7000 through 36.7060.

(C) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6010 APPROVAL CRITERIA.**

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for transmission towers, which shall meet the approval criteria of MCC 36.6100 through 36.6125, wireless communications facilities, subject to the provisions of MCC 36.6176, and except for regional sanitary landfills which shall comply with MCC 36.6200 through 36.6230.

(A) Is consistent with the character of the area;

(B) Will not adversely affect natural resources;

(C) The use will not:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(D) Will not require public services other than those existing or programmed for the area;

(E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

(F) Will not create hazardous conditions;

(G) Will satisfy the applicable policies of the Comprehensive Plan;

(H) Will satisfy such other applicable approval criteria as are stated in this Section.

(I) The use is limited in type and scale to primarily serve the needs of the rural area.

(Ord. 1186, Amended, 10/13/2011; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6015 USES.**

(A) Except as otherwise limited in the EFU, CFU and OR districts, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority

Allowed Community Service Uses in the EFU, CFU and OR districts are limited to those uses listed in each respective district.

(1) Church, or other nonresidential place of worship, including the following activities customarily associated with the practices of the religious activity:

(a) Worship services;

(b) Religion classes;

(c) Weddings;



(d) Funerals;

(e) Meal programs;

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education; and

(g) Providing housing or space for housing in a building that is detached from the place of worship, provided:

(i) The subject property is located in a base zone that lists single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary land use review process.

(ii) The subject property is located inside the urban growth boundary.

(iii) At least 50 percent of the residential units provided under this subsection (g) are affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County.

(iv) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone, including the density standards for dwellings in the applicable zone.

(v) Housing and space for housing provided under subsection (g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (g)(iii) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County for a period of 60 years from the date of the certificate of occupancy..

(2) Group care facility.

(3) Kindergarten or day nursery.

(4) Library.

(5) Park, playground, sports area, golf course or recreational use of a similar nature.

(6) Utility facilities, subject to the approval criteria in Section 36.6010(A) through (H).

(7) Private club, fraternal organization, lodge.

(8) Radio and television transmission towers.

(a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier, and cellular telephone towers, and fixed point microwave towers are permitted in any district, provided only self-supporting structures are permitted in the Exclusive Farm Use district.

(b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any district except urban residential districts, provided only self-supporting structures are permitted in the Exclusive Farm Use district.

(c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC 36.6125 (B).

(d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC 36.6015 (A) (8) and 36.6100 through 36.6125.

(9) Recycling collection center.

(10) Riding academy or the boarding of horses for profit.

(11) School, private, parochial or public; educational institution.

(12) Transit station.

(13) Waste collection, transfer, processing, or recovery facility.

(14) Museum.

(15) Ambulance Service Substation.

(16) Mining and processing of geothermal resources.

(17) Limited alternative uses of surplus public school space pursuant to the provisions in MCC 36.6050.

(18) Fire Station.

(19) Accessory uses to the above.

(B) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

(Ord. 1257, Amended, 06/07/2018; Ord. 1192, Amended, 05/17/2012; Ord. 1114, Amended, 05/29/2008; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6020 RESTRICTIONS.**

A building or use approved under MCC 36.6015 through 36.6050 shall meet the following requirements:

(A) Minimum yards in EFU, CFU, MUA-20, RR, OCI, OR and PH-RC, Districts:

(1) Front yards shall be 30 feet.

(2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.

(3) Rear yards shall be as required in the district.

(B) Minimum yards in other districts shall be as required in the district.

(C) Minimum Site Size:

(1) A day nursery or kindergarten shall provide not less than 100 square feet per child, of outdoor play area located other than in a required front yard.

(2) Primary (kindergarten through fourth grade), private and parochial schools shall be on sites of one acre for each 90 pupils or one acre for each three classrooms, whichever is greater.

(3) Elementary public schools shall be on sites of one acre for each 75 pupils or one acre for each two and one-half classrooms, whichever is greater.

(4) Churches shall be on sites of 15,000 square feet.

(D) Off-street parking and loading shall be provided as required in MCC 36.4100 through 36.4215.

(E) Signs for Community Service Uses pursuant to the provisions of MCC 36.7400 through 36.7505.

(F) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.

(Ord. 1001, Reorg&Renum, 12/12/2002)



***SURPLUS PUBLIC SCHOOL SPACE, CS*****§ 36.6050- LIMITED ALTERNATIVE USES  
OF SURPLUS PUBLIC SCHOOL  
SPACE LOCATED IN MUA-20, RR,  
PH-RC, AND OR DISTRICTS.**

(A) Purpose - The purpose of this section is to facilitate the efficient alternative use of vacant or under-utilized public school building space located in MUA-20, RR, PH-RC, and OR districts by authorizing those uses which are beneficial to or compatible with the community.

(B) Minor Uses - The Board finds that the uses listed in this subsection are so similar to school use in land use impact, that they should be allowed as accessory or alternative uses to approved school use. At the same time, the policy of citizen involvement and open public participation dictates that these listed uses be permitted after public review in a Type III approval process.

Subject to the Community Service approval criteria of MCC 36.6010 and the restrictions of MCC 33.6020, one or more of the following alternative uses may be permitted to occupy vacant or under-utilized space in an existing public school building:

- (1) Adult, teen or senior center.
- (2) Community food or non-profit hot meals service.
- (3) After-school child care.
- (4) Health center, including counseling, well-baby clinic, or physical therapy.
- (5) Accessory uses common to the above uses.

(C) Other Uses - Subject to the approval criteria of MCC 36.6050(D) and the restrictions of MCC 36.6020, the following alternative uses may be permitted to occupy vacant or under-utilized space in the existing public school building after public review in a Type III approval process:

- (1) Arts or crafts gallery or sales.
- (2) Community access cable TV studio.
- (3) Non-profit community theater.
- (4) Office of non-profit group or association.
- (5) Professional or business office.
- (6) Accessory uses common to the above uses.

(D) Approval Criteria - In approving an alternative use listed in 36.6050 (C), the approval authority shall find:

- (1) The approval criteria of MCC 36.6010 are satisfied; and
- (2) The use will occupy existing public school building space which is surplus to the current or anticipated need for school purposes; and
- (3) The use:
  - (a) Will provide an appropriate public facility or public non-profit service to the immediate area of community; or
  - (b) Is consistent with rural area needs in a location and under circumstances reasonably suitable for the purpose; and

(4) There are safe, convenient and reasonably suitable means of pedestrian, bicycle and vehicle access to and circulation on the site; and

(5) The applicable development standards of this Chapter are met or can be satisfied through appropriate conditions of approval.

(Ord. 1114, Amended, 05/29/2008; Ord. 1001, Reorg&Renum, 12/12/2002)





***RADIO and TELEVISION TRANSMISSION  
TOWERS, CS***

**§ 36.6100- PURPOSE.**

The purposes of the Section are to:

(A) Minimize visual impacts of towers through careful design, siting and vegetative screening.

(B) Avoid potential damage to adjacent properties from tower failure and falling ice, through engineering and careful siting of tower structures.

(C) Lessen traffic impacts on surrounding residential areas.

(D) Ensure that the amount of non-ionizing electromagnetic radiation emitted by antennas does not exceed the amount at which human health has been found to be affected and is the minimum necessary to provide adequate access to the area's broadcasters by requiring compliance with stated emission standards and required separation standards.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6105 DEFINITIONS.**

The following definitions shall apply to this section:

(A) **Sole Source Emitter** - An individual piece of property containing one or more radio transmitters, only one of which is normally transmitting at a given instant in time.

(B) **Intermittent Operation** - An operation where the radio transmitter does not normally continually operate for a period of 15 minutes or more at one time and generally, the transmitter operation is random in time.

(C) **Vehicular Source** - Transmitters located in vehicles which normally move about.

(D) **Hand-Held Source** - Transmitters normally held in the hand of, or on the person of, the person operating the transmitters.

(E) **Portable Sources** - Transmitters and associated antenna which are capable of being moved from one point to another and operated from a given location for a period of less than one month.

(F) **Regularly Occupied** - Occupied by a given individual on an on-going regular basis and excluding occasional visitors, passersby, etc.

(G) **Source of Non-ionizing Electromagnetic Radiation** - Any source of electromagnetic radiation emanating emissions between 100 kHz and 300 GHz with an effective radiated power greater than 1 watt.

(H) **Height of Antenna Above Ground** - The vertical distance between the highest current point of the antenna and the ground directly below this point.

(I) **General Population** - That segment of the population which is not a member of the immediate family or employee of the owner or operator of source of NIER or, because of occupation, is required to work with sources of NIER.

(J) **The effective radiated power (ERP)** is the power input to the antenna, times the numerical power gain of the antenna relative to an isotropic radiator.

(K) **Point on property line of highest radiation** means for sites with more than one source, the point on the property line where the radiation is predicted to be maximum with all sources of NIER operating.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6110 APPLICATION REQUIREMENTS.**

An application for approval of a Community Service designation for a radio or television transmission tower shall contain at least the following information before it is complete:

(A) Site plan or plans to scale specifying the location of towers(s), guy anchors (if any), transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and



adjacent land uses. Such plan shall also demonstrate compliance with MCC 36.6115 (I) and 36.6115 (J).

(B) Landscape plan to the scale indicating size, spacing and type of plantings required in 36.6115 (B).

(C) Report from a professional engineer licensed in the State of Oregon, documenting the following:

(1) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design. A cross-section of the tower structure shall be included.

(2) Total anticipated capacity of the structure, including number and types of antennas which can be accommodated.

(3) Evidence of structural integrity of the tower structure as required by the Building Official.

(4) Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris.

(5) Ice hazards and mitigation measures which have been employed, including increased setbacks and/or deicing equipment.

(D) Statements from the F.A.A, O.S.A.D., and F.C.C., that the standards of MCC 36.6115 (G) are met or the required good faith, timely effort it achieve such responses.

(E) Written authorization from adjoining property owners, if needed, under MCC 36.6115 (J).

(F) Responses to the applicable Comprehensive Plan Policies.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6115 APPROVAL CRITERIA FOR NEW TRANSMISSION TOWERS.**

New transmission towers in rural districts permitted under MCC 36.6015 (A) (8) (a) or (b) may be allowed, based on findings by the approval authority that the following criteria are met.

(A) The site is of a size and shape sufficient to provide the following setbacks:

(1) For a tower located on a lot abutting an urban residential district or a public property or street, except a building-mounted tower, the site size standards of MCC 36.6115 (I) and 36.6115 (J) are met as to those portions of the property abutting the residential or public uses.

(2) For all other towers, the site shall be of sufficient size to provide the setback required in the underlying district between the base of the tower, accessory structures and uses, and guy anchors, if any, to all abutting property lines.

(B) The required setbacks shall be improved to meet the following landscaping standards to the extent possible within the area provided:

(1) Landscaping at the perimeter of the property which abuts streets, residences, public parks or areas with access to the general public other than the owner of such adjoining property. Such landscaping plan shall demonstrate the following:

(a) For towers 200 feet tall or less, a buffer area no less than 25 feet wide shall commence at the property line. At least one row of evergreen shrubs shall be spaced not more than five feet apart. Materials should be of a variety which can be expected to grow to form a continuous hedge at least five feet in height within two years of planting. At least one row of evergreen trees or shrubs, not less than four feet height at the time of planting, and spaced not more than

15 feet apart, also shall be provided. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

(b) For towers more than 200 feet tall, a buffer area not less than 40 feet wide shall be provided at the property line with at least one row of evergreen shrubs spaced not more than five feet apart which will grow to form a continuous hedge at least five feet in height within two years of planting; one row of deciduous trees, not less than 1 1/2 inch caliper measured three feet from the ground at the time of planting, and spaced not more than 20 feet apart; and at least one row of evergreen trees, not less than four feet at the time of planting, and spaced not more than 15 feet apart. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

(c) In lieu of these standards, the approval authority may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls and other features designed to screen and buffer towers and accessory uses. The plan shall accomplish the same degree of screening achieved in (a) and (b) above, except as lesser requirements are desirable for adequate visibility for security purposes and for continued operation of existing bona fide agricultural or forest uses, including but not limited to produce farms, nurseries, and tree farms.

(C) The applicant shall demonstrate that the tower can be expected to have the least visual impact on the environment, taking into consideration technical, engineering, economic and other pertinent factors. Towers clustered at the same site shall be of similar height and design, whenever possible. Towers shall be painted and lighted as follows:

(1) Towers 200 feet or less in height shall have a galvanized finish or be painted silver. If there is heavy vegetation in the immediate area, such towers shall be painted green from base to treeline, with the remainder painted silver or given a galvanized finish.

(2) Towers more than 200 feet in height shall be painted in accordance with regulations of the Oregon State Aeronautics Division.

(3) Towers shall be illuminated as required by the Oregon State Aeronautics Division. However, no lighting shall be incorporated if not required by the Aeronautics Division or other responsible agency.

(4) Towers shall be the minimum height necessary to provide parity with existing similar tower supported antenna, and shall be free-standing where the negative visual effect is less than would be created by use of a guyed tower.

(D) A minimum of two parking spaces shall be provided on each site; an additional parking space for each two employees shall be provided at facilities which require on-site personnel, provided additional parking may be required in accordance with MCC 36.4100 to 36.4220 if the site serves multiple purposes.

(E) The applicable policies of the Comprehensive Plan are met.

(F) The NIER standards of MCC 36.6125 are met.

(G) The following agency coordination standards are met:

(1) A written statement provided by the applicant from the appropriate official in the Federal Aviation Administration that the application has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or a statement that no compliance with Part 77 is required;

(2) A written statement provided by the applicant from the appropriate official in the Oregon State Aeronautics Division that the application has been found to comply with the applicable regulations of the Division, or a statement that no such compliance is required; and,

(3) A written statement provided by the applicant from the appropriate official in the Federal Communications Commission that the application complies with the regulations of the Commission or a statement that no such compliance is necessary.

(4) The statements in (1) through (3) may be waived when the applicant demonstrates that a good faith, timely effort was made to obtain such responses but that no such response was forthcoming, provided the applicant conveys any response received; and further provided any subsequent response that is received is conveyed to the approval authority as soon as possible.

(H) For a proposed tower in the EFU, CFU and MUA-20 districts, the following restrictions on accessory uses shall be met:

(1) Accessory uses shall include only such buildings and facilities necessary for transmission function and satellite ground stations associated with them, but shall not include broadcast studios, offices, vehicle storage areas, nor other similar uses not necessary for the transmission function.

(2) Accessory uses may include studio facilities for emergency broadcast purposes or for other special, limited purposes found by the approval authority not to create significant additional impacts nor to require construction of additional buildings or facilities exceeding 25 percent of the floor area of other permitted buildings.

(I) Site size and tower setbacks:

(1) The site shall be of a size and shape sufficient to provide an adequate setback from the base of the tower to any property line abutting an urban residential district, public property, or public street. Such setback shall be sufficient to:

(a) Provide for an adequate vegetative, topographic or other buffer, as provided in MCC 36.6115 (C) and 36.6115 (B),

(b) Preserve the privacy of adjoining residential property,

(c) Protect adjoining property from the potential impact of tower failure and ice falling from the tower by being large enough to accommodate such failure and ice on the site, based on the engineer's analysis required in MCC 36.6110 (C) (4) and (5), and

(d) Protect the public from NIER in excess of the standard of MCC 36.6125 (A).

(2) A site is presumed to be of sufficient size when it:

(a) Meets the requirements of (1) (c) and (d) above,

(b) Provides a setback equal to 20 percent of the height of the tower to any property line abutting an urban residential district, public property, or public street, and

- (c) Provides a setback equal to or exceeding the rear yard setback required for the adjoining property where the adjoining property is not in an urban residential district nor a public property or a public street.
- (3) Placement of more than one tower on a lot shall be permitted, provided all setback, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site described in MCC 36.6110 (C) (4) will not lead to multiple failures in the event that one fails.
- (4) Structures and uses associated with the transmission use other than the transmission tower shall be located to meet the setbacks required in MCC 36.6020.
- (J) Guy setbacks:
- (1) For a guyed structure, the site shall be of a size and shape sufficient to provide an adequate setback from a guy anchor to any property line abutting an urban residential district, public property or public street in addition to the size required to comply with 36.6115 (I). Such setback shall be adequate to provide a vegetative, topographic or other buffer sufficient to obscure view to the anchor from such adjoining properties.
- (2) A site is presumed to be of sufficient size when it provides:
- (a) A setback of at least 25 feet between a guy anchor and any property line abutting an urban residential district or public property or street, and
- (b) A setback equal to or exceeding the rear yard setback required for the adjoining property where the adjoining property is not a public property or street nor in an urban residential district.
- (3) A guy anchor may be located on an adjoining property when:
- (a) The owner of the adjoining property on which it is to be placed authorizes it in writing, and
- (b) The guy anchor meets the requirements of (1) or (2) above as to all other adjoining property lines.
- (4) Guy anchors may be located within required landscape areas.
- (5) A guy from a tower which was previously approved under any ordinance may be extended to an adjacent site if the guy anchor will comply with MCC 36.6115 (J) (3) as determined by the Planning Director.
- (Ord. 1001, Reorg&Renum, 12/12/2002)
- § 36.6120 DESIGN REVIEW.**
- The use shall comply with the design review provisions of MCC 36.7000 to 36.7060. This may be implemented as a condition of approval.
- (Ord. 1001, Reorg&Renum, 12/12/2002)
- § 36.6125 RADIATION STANDARDS.**
- Non-ionizing electromagnetic radiation standards.
- (A) No source of non-ionizing electromagnetic radiation shall hereinafter be operating, which causes the general population to be exposed to radiation levels exceeding the mean squared electric (E2) or mean squared magnetic (H2) field strengths, or their equivalent plane wave free space power density, as specified in Table 1.
- (1) For near field exposures, measurements of the mean squared electric and magnetic field strengths are especially important to determine compliance with the standards in columns 2 and 3 of Table 1. For convenience, mean squared electric or magnetic field strengths may be specified as the equivalent plane-wave power density. At higher frequencies (e.g., above 30-300 MHz), measurement of mean-squared mag

netic field strength may not be necessary if it can be reliably inferred from measurements of either mean squared electric field strength or equivalent plane-wave power density.

(2) In the event the federal government promulgates mandatory or advisory standards more stringent than those described herein, the more stringent standards shall apply.

(3) These standards are adapted from the American National Standards Institute's American National Standard C95.1-1982, Safety Levels With Respect to Human Exposure to Electromagnetic Fields (300 kHz to 100 GHz). This ANSI standard's documentation should be consulted to help resolve any future questions about the basis or interpretation of the standards in this section.

(4) Similarly, the latest revision of ANSI's American National Standards Institute's American National Standard C95.3, Techniques and Instrumentation for the Measurement of Potentially Hazardous Electromagnetic Radiation at Microwave Frequencies, is incorporated here by reference as one source of acceptable methods for measuring non-ionizing radiation levels in determining compliance with this standard.

(a) For all measurements made to ensure compliance with this section, evidence shall be submitted showing that the instrument or instruments used were calibrated within the manufacturer's suggested periodic calibration interval; that the calibration is by methods traceable to the National Bureau of Standards; a statement that the measurements were made in accordance with good engineering practice; and a statement or statements as to the accuracy of the results of the measurements.

(5) The standards adopted herein shall be periodically reviewed by the Multnomah County Health Officer, in light of any new scientific knowledge as to the effects on the general population of non-ionizing electromagnetic radiation; and these standards may hereafter be raised, lowered or otherwise changed as the County shall require by amendment of this section. The first such reports shall be delivered on or before January 1, 1984.

(6) For average times less than 0.5 hour, the allowed power density  $P$  in  $\mu\text{W}/\text{cm}^2$  as a function of averaging time (in hours) is given by  $P = k/(\text{where in turn } K \text{ is equal to } 1/2 \text{ times the allowed power density for averaging times of 0.5 hour and greater.})$

(B) All existing sources of non-ionizing electromagnetic radiation in the frequency spectrum, 100 kHz to 300 GHz, except those exempted below, are within 120 days of the enactment of this section, hereby required to register with the County and provide the following information for each individual source on forms provided by the Planning Director.

(1) Name and address of owner of transmitter and/or antenna.

(2) Name and address of owner of property on which the transmitter and/or antenna is located.

(3) Location of transmitter.

(4) Location of antenna by geographic coordinates by either latitude and longitude or state plane coordinates.

(5) Output frequency of transmitter.

(6) Type of modulation and class of service.

(7) Power output of transmitter (average and peak).

(8) Power input to antenna.

(9) Manufacturer, type, manufacturer's model number of antenna and a copy of the antenna radiation patterns.

(10) Gain of antenna with respect to an isotropic radiator.

(11) Polarization of radiation from antenna.

(12) Height of antenna above ground.

(13) Horizontal and radial distance of antenna to nearest point on property line and to nearest habitable space regularly occupied by others than immediate family or employees of transmitter and/or antenna owner and/or operator.

(14) Elevation above mean sea level of ground at the antenna location and the points specified in (B)(13).

(15) The call letters assigned to the source.

(16) Date of installation of present transmitter, and date of installation of the associated antenna, date of installation of the structure, if any, on which the antenna is located.

(17) Any sources not so registered shall be regarded as a new source and any registered source with different essential technical characteristics than those of (B) (3) through (B) (13) above as a changed existing source.

(C) After August 19, 1982, no installation of a new source of non-ionizing electromagnetic radiation or changes in an existing source which in any way causes increases in the NIER or radiation pattern of the NIER source shall occur without first obtaining a Community Service use designation or modification thereof, unless otherwise provided herein.

(D) The application for the use shall be on forms provided by the Planning Director, and shall show:

(1) The information required under (1) through (16) of subpart (B) above.

(2) The measured existing non-ionizing radiation levels at the nearest point on the property lines of the predicted maximum radiation from the source, and the nearest point regularly occupied by other than the immediate family and/or employees of the transmitter owner and/or operator.

(a) These measurements shall be made at a height of 1.5 meters above the ground or at the greater height if habitation occurs at a greater height with lesser radial distance to the source.

(b) If the measured level is equal to or less than 1/5 of the limits, the measurement shall be made for the continuous period 6 a.m., to 6 p.m., on a regular business day.

(c) If the measured level is greater than 1/5 of the limits, the measurement shall be made for a continuous period of 168 hours.

(d) If there exists an operational situation which would cause higher levels to occur at some other time than the intervals of (b) or (c) above, the measurement shall be made during that time.

(e) These measurements may be made by whatever means the registered professional engineer under whose direction and supervision they are made deems appropriate. The effects of contributing sources of frequency below the lower frequency limit of broadband instruments may be appropriate separate single instant measurements of the contribution due to these sources. Further, levels below 20 microwatts/cm<sup>2</sup> or the minimum sensitivity of the instruments used, whichever is lesser, shall be deemed zero for further computational purposes.

(3) The calculated average levels at the three points specified in (D) (2) after installation of the new source, including both the background and the new source.

(4) The calculated levels at the boundaries of other sources at which the new source may cause a detectable increase in level.

(5) The calculated level at the predicted point of maximum radiation off of the property on which the new source is located caused by the new source along with the measured background NIER at this point. This measurement shall meet the requirements of (D) (2).

(6) The geographic coordinates (latitude and longitude or state plane coordinates) of each point of measurement and/or calculation shall be furnished.

(E) A Community Service use designation or modification thereof may be granted if the levels calculated in MCC 36.6125 (D), including the existing measured background, do not exceed the limits set forth in MCC 36.6125 (A), and if a new tower is required, the siting standards of this section are met. However, if the calculated levels, including existing measured background at any point specified in MCC 36.6125 (D) exceed one-third of the maximum levels of MCC 36.6125 (A), then, the approval shall be conditional upon measurements made after the new source is installed showing that the maximum levels of MCC 36.6125 (A) are not exceeded. If the calculated levels exceed the maximum level of MCC 36.6125 (A), the application shall be denied.

(F) All commercial intermittent sole source emitters of less than 1 KW average output are exempt from the measurement requirements of MCC 36.6125 (D) if they comply with the separation requirement of MCC 36.6125 (F) and all other requirements of this section. Prior to issuance of a building permit for a tower to support an antenna associated with one of these uses, the

Planning Director shall determine that the antenna meets the following requirements:

(1) For an effective radiated power (ERP) of less than 100 watts the highest current point of the antenna is located at least ten feet and all portions of the antenna three feet from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

(2) For an ERP greater than 100 watts, but less than 1,000 watts, the highest current point of the antenna is at least 15 feet and all portions of the antenna at least six feet from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

(3) For an ERP equal to or greater than 1,000 watts, but less than 10 kW, the antenna meets the following separation criteria from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

Frequency	Minimum Distance from Highest Current Portion	Minimum Distance from Any Portion
<7 MHz	11 feet	5 feet
7 - 30 MHz	$f/0.67$ feet	$f/1.5$ feet
30 - 300 MHz	45 feet	20 feet
300 -1500 MHz	$780 / \sqrt{f}$ feet	$364 / \sqrt{f}$ feet
>1500 MHz	20 feet	10 feet
Where $f$ is frequency in megahertz.		

(4) For an ERP equal to or greater than 10 kW, but less than 30 kW, the antenna meets the following separation criteria from the external surface of any habitable structure not located on the property containing the source, and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

(c) Which are in storage, shipment or on display for sale, provided such machines are not operated.

(4) Amateur intermittent sole source emitters of less than 1 KW average output.

(Ord. 1001, Reorg&Renum, 12/12/2002)

Frequency	Minimum Distance from Highest Current Portion	Minimum Distance from Any Portion
<7 MHz	17.5 feet	8 feet
7 - 30 MHz	$f/0.4$ feet	$f/0.91$ feet
30 - 300 MHz	75 feet	33 feet
300 -1500 MHz	$1300 / \sqrt{f}$ feet	$572 / \sqrt{f}$ feet
>1500 MHz	34 feet	15 feet

(G) The following uses are exempt from all requirements of this section:

(1) All portable, hand-held and vehicular transmission sources.

(2) Industrial, scientific, and medical equipment operating at frequencies designated for that purpose by the FCC.

(3) Radio frequency machines:

(a) Which have an effective radiated power of 7 watts or less;

(b) Which are designated and marketed as consumer products, such as microwave ovens, citizen band radios, and remote control toys, or





**WIRELESS COMMUNICATIONS FACILITIES,  
CS****§ 36.6175- PURPOSES.**

The purpose and intent of 36.6175 through 36.6188 is to provide a process and uniform comprehensive standards for the development and regulation of wireless communications facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of unincorporated Multnomah County as set forth within the State-wide Oregon Planning Goals and policies of the Comprehensive Plan; while at the same time not unduly restricting the development of needed wireless communications facilities and encouraging managed development of the evolving wireless communications network. It is furthermore intended that, to all extent permitted by law, the County shall apply these regulations to specifically accomplish the following:

- (A) Protect the visual character of the County from the potential adverse effects of wireless communications facilities development;
- (B) Insure against the degradation of the County's scenic corridors and ridgelines and rural communities designated under local, state or federal law;
- (C) Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives by requiring a review of any proposed WCF in a public right-of-way;
- (D) Protect the environmental resources of Multnomah County;
- (E) Insure that a competitive and broad range of personal wireless communications services including but not limited to; cellular, personal communications service(PCS), specialized mobile radio(SMR), are provided to serve residential and business communities;
- (F) Create and preserve wireless communications facilities that may serve as an important

and effective part of Multnomah County's emergency response network;

(G) Simplify and shorten the process for obtaining necessary permits for wireless communications facilities while at the same time protecting legitimate interests of Multnomah County citizens; and

(H) Reconcile established use requirements in EFU zoned lands with Oregon Revised Statutes. (Ord. 1001, Renum, 12/12/2002)

**§ 36.6176 APPLICABILITY.**

(A) Siting for a personal wireless communications facility is a use of land, and subject to the County's zoning ordinance and all other applicable ordinances and regulations.

(B) The requirements of 36.6175 through 36.6188 shall apply to all new wireless communications facilities (WCFs). (Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6177 REVIEW PROCEDURES  
DISTINGUISHED.**

(A) An application for a WCF that employs co-location upon a tower or structure approved under 36.6175 through 36.6188 (Ord. 958) shall be reviewed under a Building Permit Review/Type I process in any zone.

(B) An application for a WCF that employs concealment technology or co-location upon a tower or structure not approved under MCC 36.6175 through 36.6188 (Ord. 958) shall be reviewed under a Planning Director Review/Type II process.

(C) An application for a WCF not employing co-location or concealment technology shall be reviewed under a Community Service Review/Type III and Design Review process unless within an Exclusive Farm Use district. New WCFs within an Exclusive Farm Use district shall be processed under a Planning Director Review or Building Permit Review as appropriate.

REVIEW PROCESS AND HEIGHT LIMITATION		
TOWER/ ANTENNA TYPE	REVIEW PROCESS	HEIGHT LIMIT
Co-location (tower or structure approved under this ordinance)	Building Permit	N/A
Co-location (tower or structure not approved under this ordinance)	Planning Director	N/A
Concealment Technology	Planning Director	See: 36.6183(B)(2)(a)
Screened Tower	Community Service Hearing	See: 36.6183(B)(2)(a)
All Towers within EFU zone	Planning Director	<200 feet

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.6178 DEFINITIONS.

As used in this section the following words and their derivations shall have the meanings provided below.

**Antenna** - The surface from which wireless radio signals are sent from and received by a wireless communications facility.

**Carrier** - A company that provides wireless services.

**Co-applicant** - All persons and/or entities joining with an applicant in an application for a development permit, including the owners of the subject property and any tenants proposing to conduct a development or activity subject to a development permit.

**Co-location** - The use of a single mount and/or site by more than one licensed wireless communications carrier. Also, the use by one or more carriers of an existing structure as a telecommunications antenna mount, such as, but not limited to a water tank, fire

station, electrical substation, utility pole, or tower etc.

**Commercial mobile radio services** - Any of several technologies using radio signals at various frequencies to send and receive voice, data, and video.

**Community Service Review (Type III)**- Review as a Community Service Use before a Hearings Officer for a new wireless communication facility that is neither co-located nor employs concealment technology.

**Concealment technology** - The use of technology through which a wireless communications facility is designed to resemble an object which is not a wireless communications facility and which is already present in the natural environment, or designed to resemble or placed within, an existing or proposed structure.

**Equipment cabinet** - An enclosed structure at the base of the mount within which are housed batteries and electrical equipment necessary for the operation of a WCF. This equipment is connected to the antenna by cable.

**FCC** - Federal Communications Commission.

**FCC guidelines** - The Radiofrequency (RF) Performance Standards set forth by the FCC's OET Bulletin 65, Evaluating Compliance with FCC Guidelines for human Exposure to Radiofrequency Electromagnetic Fields, as referenced in A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance or a subsequent FCC publication delineating required radiofrequency performance standards.

**Guyed tower** - A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

**Lattice tower** - A type of mount that is self-supporting with multiple legs and cross bracing of either structural steel or diagonal cables, or a combination thereof.

**Licensed carrier** - A company authorized by the FCC to build and operate a commercial mobile radio services system.

**Location** - The subject property where a use or development is located or proposed to be located.

**Maintenance** - Emergency or routine repairs, reconstruction of previously approved facilities, or replacement of transmitters, antennas, or other components of previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emissions.

**Modification** - The changing of any portion of a wireless communication facility from its description in a previously approved permit.

**Monopole** - The type of mount that is self-supporting with a single shaft, typically of wood, steel or concrete.

**Mount** - The structure or surface upon which antennas are placed including but not limited to:

1. Roof-mounted. Mounted on the roof of a building.
2. Side-mounted. Mounted on the side of a structure including a tower.
3. Ground mounted. Mounted on the ground.

**Planning Director Review (Type II)**- Expedited review encouraging the co-location of wireless communication facilities onto existing in use tower facilities, existing structures, or the use of concealment technology. Such review is an Administrative decision by the Planning Director.

**Radiofrequency engineer** - An engineer specializing in electrical or microwave engineering, licensed in Oregon, with a degree in engineering, and experience to perform and certify radiofrequency radiation measurements.

**Site** - A portion of a subject property.

**Siting** - The method and form of placement of a use or development on a specific area of a subject property.

**Speculation ("Spec") tower** - A tower designed for the purpose of providing location mounts for wire

less communications facilities without a binding commitment or option to lease a location upon the tower by a service provider at time of initial application.

**Subject Property** - For the purpose of 36.6175 through 36.6188 subject property shall mean one or more contiguous lots or parcels in the same ownership.

**Tower** - A mast, pole, or monopole, guyed or free standing lattice tower designed and primarily used to support antennas associated with wireless communication service. A speculation tower may consist of any one of these tower types. As part of the service, the term tower includes but is not limited to microwave towers, common carrier towers, personal communications service (PCS) and cellular telephone towers.

**Wireless communications facility (WCF)** - An unstaffed facility for the transmission or reception of radiofrequency (RF) signals, usually consisting of an equipment cabinet or other enclosed structure containing electronic equipment, a support structure, antennas, or other transmission and reception devices.

**Visually subordinate** - The relative visibility of a wireless communication facility, where that facility does not noticeably contrast with the surrounding landscape. Visibly subordinate facilities may be partially visible, but not visually dominate in relation to their surroundings.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.6179 EXCLUSIONS.

The following uses and activities shall be exempt from these regulations:

- (A) Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components of previously approved facilities which do not create a significant change in visual impact or an increase in radiofrequency emissions;

(B) Medical, industrial, and scientific equipment operating at frequencies designated for that purpose by the Federal Communications Commission;

(C) Ham radio, amateur sole source emitters, citizen band transmitters and accessory structures including antennas;

(D) Two-way communication transmitters used on a temporary basis by "911" emergency services. Including fire, police, and emergency aid or ambulance service;

(E) Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, trucks, watercraft, or aircraft. This includes cellular phones;

(F) Military and civilian radar, operating within the regulated frequency ranges, for the purpose of defense or aircraft safety;

(G) Machines and equipment that are designed and marketed as consumer products, such as microwave ovens and remote control toys; and

(H) Two-way broadband antenna(s) smaller than one (1) meter in any dimension operating at less than 7 watts effective radiated power (ERP) for use by a dwelling unit occupant for personal use or home occupation.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6180 GENERAL REQUIREMENTS**

(A) No WCF shall be constructed or operated within unincorporated Multnomah County until all necessary approvals and permits, whether local, state, or federal have been secured.

(B) No more than one ground mount shall be allowed per subject property.

(C) An application for a WCF shall include both the licensed carrier and the landowner of the subject property.

(D) A permit shall be required for the construction and operation of all WCFs. Review and approval shall be under either a Community Service Review, Planning Director Review, or a Building Permit Review.

(E) Design Review shall be required of all WCF towers regardless of review procedure and may at applicant's option be processed concurrently with the respective review process pursuant to MCC 36.7000 through 36.7020.

(F) A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any WCF.

(G) If co-location or concealment technology is not feasible, the applicant shall demonstrate that such locations or concealment technology designs are unworkable for the carrier's coverage plan.

(H) All approvals for a WCF shall become null, void, and non-renewable if the facility is not constructed and placed into service within two years of the date of the Community Service Review Decision, Planning Director Review Decision, Building Permit, or superceding decision.

(I) The applicant, co-applicant, or tenant shall notify the Planning Director of all changes in applicant and/or co-applicants or tenants of a previously permitted WCF permitted under this section within 90 days of change. Failure to provide appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 36.0910.

(J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, Grading and Erosion Control, Flood Hazard, and Significant Environmental Concern.

(K) No on-premises storage of material or equipment shall be allowed other than that used in the operation and maintenance of the WCF site.

(L) Self-supporting lattice towers not employing concealment technology and speculation towers are not permitted in any zone.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6181 REGISTRATION OF WIRELESS COMMUNICATIONS CARRIERS AND PROVIDERS.**

(A) Registration Required. All wireless communication carriers and providers that offer or provide any wireless communications services for a fee directly to the public, within unincorporated Multnomah County, shall register each WCF with the County pursuant to this Section on forms to be provided by the Planning Director.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6182 APPLICATION SUBMITTAL REQUIREMENTS.**

For an application for a Planning Director Review or Building Permit Review to be deemed complete the following information is required:

(A) Co-location of antennas upon existing towers or structures.

(1) An accurate and to-scale site plan showing the location of the tower, or structure upon which the proposed antenna is to be mounted including guy anchors (if any), antennas, equipment cabinets and other uses accessory to the communication tower or antenna. The site plan shall include a description of the proposed antenna including use of concealment technology if applicable;

(2) A report/analysis from a licensed professional engineer documenting the following for each antenna

(a) Antenna height above ground, design, dimensions, wind load rating, gain and radiation pattern;

(b) Failure characteristics of the antenna and documentation that the site and set

backs are of adequate size to contain debris; and

(c) Ice hazards and mitigation measures that can be employed.

(3) A statement documenting that placement of the antenna is designed to allow future co-location of additional antennas if technologically possible.

(4) Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and access easements required.

(5) Documents demonstrating that necessary easements have been obtained.

(6) Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified below in the Approval Criteria for lands not zoned Exclusive Farm Use.

(7) If ancillary facilities will be located on the ground, a landscape plan drawn to scale showing the proposed and existing landscaping, including type, spacing, and size.

(8) A map of the county showing the approximate geographic limits of the "cell" to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the county, or extending within the county from a distant location, and any existing detached WCF of another provider within 1,000 feet of the proposed site.

(9) Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIE) emissions standards set forth by the Federal Communications Commission as outlined in A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance, or a subsequent FCC publication delineating required radiofrequency performance standards.

(10) Documentation demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Aeronautics Division has reviewed the proposal.

(B) Construction of a New Tower. For an application for either a Planning Director Review or Community Service Review to be deemed complete the following information is required:

(1) An accurate and to-scale site plan showing the location of the tower, guy anchors (if any), antennas, equipment cabinet and other uses accessory to the communication tower or antenna. The site plan shall include a description of the proposed tower including use of concealment technology if applicable;

(2) A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and ancillary facilities from at least five points within a five mile radius. Such points shall include views from public places including but not limited to parks, rights-of-way, and waterways and chosen by the Planning Director at the pre-application conference to ensure that various potential views are represented.

(3) The distance from the nearest WCF and nearest potential co-location site.

(4) A report/analysis from a licensed professional engineer documenting the following:

(a) The reasons why the WCF must be located at the proposed site (service demands, topography, dropped coverage, etc.)

(b) The reason why the WCF must be constructed at the proposed height;

(c) Verification of good faith efforts made to locate or design the proposed WCF to qualify for an expedited review process. To this end, if an existing

structure approved for co-location is within the area recommended by the engineers report, the reason for not co-locating shall be provided;

(d) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design such as, but not limited to, an explanation for the failure to employ concealment technology if applicable;

(e) Total anticipated capacity of the structure, including number and types of antennas which can be accommodated;

(f) Evidence of structural integrity of the tower structure as required by the Building Official;

(g) Failure characteristics of the tower; and

(h) Ice hazards and mitigation measures which can be employed.

(5) Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards set forth by the Federal Communications Commission as outlined in A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance or a subsequent FCC publication delineating required radio frequency performance standards.

(6) A signed agreement, stating that the applicant will allow co-location with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower.

(7) A statement documenting a binding commitment to lease or option to lease an antenna mount upon the proposed tower by a service provider.

(8) A landscape plan drawn to scale showing the proposed and existing landscaping, including type, spacing, and size.

(9) Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and easements required.

(10) Documents demonstrating that any necessary easements have been obtained.

(11) Plans showing how vehicle access will be provided.

(12) Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use processes.

(13) Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified below in the Approval Criteria for lands not zoned Exclusive Farm Use.

(14) A map of the county showing the approximate geographic limits of the "cell" to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the county, or extending within the county from a distant location, and any existing detached WCF of another provider within 1,000 feet of the proposed site.

(15) Documentation demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Aeronautics Division has reviewed the proposal.

(16) Full response to the Approval Criteria for lands not zoned Exclusive Farm Use specified below as applicable.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.**

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

#### **(A) General and Operating Requirements**

(1) The service provider of the WCF and his or her successors and assigns shall agree to:

(a) Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

(b) Negotiate in good faith for shared use of the WCF by third parties; and

(c) Allow shared use of the WCF if an applicant agrees in writing to pay reasonable charges for co-location.

(2) Radiofrequency Standards. The applicant shall comply with all applicable FCC RF emissions standards (FCC Guidelines).

(3) Noise. Noise levels shall not exceed 5 dBA above ambient levels or 55 dBA Sound Pressure Level (SPL), whichever is greater, on adjacent properties. Operation of a back-up generator in the event of power failure or the testing of a back-up generator between 8 AM and 8 PM are exempt from this standard. No testing of back-up power generators shall occur between the hours of 8 PM and 8 AM.

(4) Environmental Resource Protection. All wireless communication facilities shall be



sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

- (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;
- (b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.350 through 29.365 when applicable;
- (c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and
- (d) Alteration or disturbance of native vegetation and topography shall be minimized.

(B) Siting Requirements.

(1) Location. WCFs shall be located so as to minimize their visibility and the number of distinct facilities. The ranking of siting preferences is as follows: first, co-location upon an existing tower or existing structure; second, use of concealment technology; and third, a vegetatively, topographically, or structurally screened monopole.

(a) Co-location.

1. All co-located and multiple-user WCFs shall be designed to promote facility and site sharing. To this end wireless communications towers and necessary appurtenances, including but not limited to, parking areas, access roads, utilities and storage facilities shall be shared by site users when in the determination of the Planning Director or Hear

ings Officer, as appropriate. This will minimize overall visual impact to the community.

2. Existing sites for potential co-location, may include but are not limited to buildings, water towers, existing WCFs, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those sites. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for their WCF.

3. No commercial WCF operating at an effective radiated power (ERP) of more than 7 watts shall be located on any residential structure, including accessory buildings.

(b) Use of concealment technology.

1. When demonstrated that it is not feasible to co-locate the antenna(s) on an existing structure or tower, the WCF shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: concealment technology, use of compatible building materials and colors.

(c) A vegetatively, topographically, or structurally screened monopole.

1. A WCF tower or monopole not employing concealment technology shall not be installed on a site unless it blends with the surrounding existing natural and man-made environment in such a manner so as to be visually subordinate. Existing trees or significant vegetation should be retained to the greatest possible degree in order to help conceal a facility or tower. Vegetation of a similar species and a size

acceptable to the approval authority shall be planted immediately following the loss of any vegetation used to conceal a facility or tower. Vegetation used to demonstrate visual subordination shall be under the control of the applicant/co-applicant or tenant.

2. The facility shall make available un-utilized space for co-location of other telecommunication facilities, including space for these entities providing similar competing services.

3. A proposal for a new wireless communication service tower shall not be approved unless the Approving authority finds that the wireless communications equipment for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one or more of the following reasons:

A. The wireless communications equipment would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified and licensed professional engineer, and the existing or approved tower/structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

C. Existing or approved towers and structures within the applicant's search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

D. The radiofrequency coverage objective cannot be adequately met.

4. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional facilities if the tower is over 100 feet in height or for at least one additional facility if the tower is between 60 and 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

5. Towers/monopoles shall not be sited in locations where there is no vegetative, structural, or topographic screening available.

6. The County may require independent verification of the analysis at the applicant's expense.

(2) Height. Notwithstanding the maximum structure height requirements of each zoning district, wireless communications facilities shall comply with the following requirements:

(a) Ground mounted facilities. The maximum height of a tower shall be 120 feet, unless:

1. The tower and facility uses concealment technology; or

2. It is demonstrated by an engineer that a greater height is required to provide the necessary service.

(b) Building or other structure mounted WCF shall not project more than ten additional feet above the highest point on the existing building or structure.

(3) Setback/Yard.

(a) No dwelling on the subject property shall be closer to a ground mounted facility than a distance equal to the total height of the WCF measured from finished grade or according to the yard requirements of the underlying zone, which ever is greater.

(b) All ground mounted towers shall be setback from any property line a minimum distance equal to the total height of the tower.

(c) All equipment shelters shall be set back from property lines according to the required yard of the underlying zone.

(d) A WCF setback and yard requirement to a property line may be reduced as much as fifty percent (50%) of the proposed tower height when it is found that the reduction will allow the integration of a WCF into an existing or proposed structure such as a light standard, power line support device, or similar structure or if the approval authority finds that visual subordination may be achieved.

(e) A reduction of the setback/yard requirement below fifty percent (50%) under (d) of this section may be authorized subject to the variance approval criteria, variance classification and landing field height limitation of this chapter.

(4) Storage.

(a) Wireless communications storage facilities (i.e., vaults, equipment rooms, utilities, and equipment cabinets or enclosures) shall be constructed of non-reflective materials (exterior surfaces only). The placement of equipment in underground vaults is encouraged.

(b) Wireless communications storage facilities shall be no taller than one story (fifteen feet) in height and shall be treated to look like a building or facility typically found in the area.

(5) Color and materials. All buildings, poles, towers, antenna supports, antennas, and other components of each wireless communications site shall initially be colored with "flat" muted tones. The color selected shall be one that in the opinion of the approval authority minimizes visibility of the WCF to the greatest extent feasible.

(6) Fences.

(a) A sight obscuring fence shall be installed and maintained around the perimeter of the lease area of a ground mounted facility not employing concealment technology. The sight-obscuring fence shall surround the tower and the equipment shelter.

(b) A ground mounted facility located in a public right-of-way may be exempted from fencing requirements.

(c) Chain link fences shall be painted or coated with a non-reflective color.

(7) Security. In the event a fence is required, WCFs shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.

## (8) Lighting.

(a) A new WCF shall only be illuminated as necessary to comply with FAA or other applicable state and federal requirements.

(b) No other exterior lighting shall be permitted on premises.

(9) Signs. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(10) Access driveways and parking. All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the local Rural Fire District.

(a) Existing driveways shall be used for access whenever possible.

(b) New parking areas shall whenever feasible, be shared with subsequent WCFs and/or other permitted uses.

(c) Any new parking area constructed shall consist of a durable and dustless surface capable of carrying a wheel load of 4,000 pounds and be no larger than three hundred (350) square feet.

(11) Landscape and Screening. All WCFs shall be improved in such a manner so as to maintain and enhance existing native vegetation and suitable landscaping installed to screen the base of the tower and all accessory equipment, where necessary. To this end, all of the following measures shall be implemented for all ground mounted WCFs including accessory structures.

(a) A landscape plan shall be submitted indicating all existing vegetation, landscaping that is to be retained within the leased area on the site, and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land and public view areas. Planted vegetation shall be of the evergreen va

riety and placed outside of the fence. The landscape plan shall be subject to review and approval of the Design Review process. All trees, larger than four inches (4") in diameter and four and a half feet high (41/2') shall be identified in the landscape plan by species type, and whether it is to be retained or removed with project development;

(b) Existing trees and other screening vegetation in the vicinity of the facility and along the access drive and any power/telecommunication line routes involved shall be protected from damage, during the construction period.

(Ord. 1120, Amended, 10/11/2008; Ord. 1042, Amended, 07/08/2004; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6184 APPROVAL CRITERIA FOR LAND ZONED EXCLUSIVE FARM USE.**

A wireless communications facility located within an Exclusive Farm Use district shall demonstrate that the facility:

(A) Is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(B) To demonstrate that a utility facility is necessary, an applicant for approval under or ORS 215.283 (1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(1) Technical and engineering feasibility;

(2) 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;

(3) Lack of available urban and non-resource lands;

(4) Availability of existing rights of way;

(5) Public health and safety; and

(6) Other requirements of state or federal agencies.

(C) The following standards shall apply in addition to those of ORS 215.283(1)(d) et. seq.

(1) Location pursuant to: 36.6183(B)(1),

(2) Height. The maximum height of any tower shall be 200 feet from finished grade.

(3) Setback pursuant to: 36.6183(B)(3).

(4) Storage pursuant to: 36.6183(B)(4).

(5) Color and materials pursuant to: 36.6183(B)(5).

(6) Fences pursuant to: 36.6183(B)(6).

(7) Security pursuant to: 36.6183(B)(7).

(8) Lighting pursuant to: 36.6183(B)(8).

(9) Signs pursuant to: 36.6183(B)(9).

(10) Access driveways and parking pursuant to: 36.6183(B)(10).

(11) Landscaping and screening pursuant to: 36.6183(B)(11).

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.6185 MAINTENANCE.**

(A) The applicant/co-applicant or tenant shall maintain the WCF. Such maintenance shall include, but shall not be limited to painting, maintaining structural integrity, and landscaping.

(B) In the event the applicant/co-applicant or tenant/carrier fails to maintain the facility in accordance with permit conditions regarding visual impacts or public safety, Multnomah County

may undertake the maintenance at the expense of the applicant or co-applicant landowner.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.6186 ABANDONMENT.**

(A) At such time that a carrier plans to abandon or discontinue, or is required to discontinue, the operation of a WCF, such carrier will notify Multnomah County Land Use Planning Division by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.

(B) In the event that a carrier fails to give such notice, the WCF shall be considered abandoned if the antenna or tower is not operated for a continuous period of twelve months, unless the owner of said tower provides proof of continued maintenance on a quarterly basis.

(C) Upon abandonment or discontinuation of use, the person who constructed the facility, the person who operated the facility, carrier, or the property owner shall physically remove the WCF within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

(1) Removal of the antenna(s), mounts, equipment cabinets, security barriers, and foundations down to three feet below ground surface.

(2) Transportation of the antenna(s), mount, equipment cabinets, and security barriers to an appropriate disposal site.

(3) Restoring the site of the WCF to its pre-construction condition, except any remaining landscaping and grading.

(4) The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition.

(D) If a party as stated in (C) fails to remove a WCF in accordance with this section, Multnomah County shall have the authority to enter the subject property and physically remove the facility. Costs for the removal of the WCF shall be charged to the landowner of record in the event Multnomah County must remove the facility.

(E) If there are two or more carriers/operators of a single tower, then provisions of this section shall not become effective until all carriers/operators cease using the tower.

(F) Failure to remove an abandoned facility as required by this subsection shall constitute a violation and be subject to the penalties prescribed this chapter.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.6187 APPEALS.**

Any person aggrieved by a decision of the Approval Authority made pursuant to this section may appeal that decision as provided in MCC 37.0640.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.6188 STATUTORY SEVERABILITY.**

If any subsection, sentence, clause, phrase, or word of this section is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section. The Multnomah County Board of Commissioners hereby declares that it would have passed and adopted this section and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

(Ord. 1001, Reorg&Renum, 12/12/2002)



**REGIONAL SANITARY LANDFILLS, CS****§ 36.6200- REGIONAL SANITARY LANDFILLS - DEFINITIONS****(A) Definitions**

(1) **Regional Sanitary Landfill** shall mean a general purpose landfill facility which, by itself or as a component of a network of such facilities, is designed and operated for the disposal of the region's solid waste and which METRO or its franchisee shall operate.

(2) **METRO** shall mean the Metropolitan Service District or its successor. (County or other authorized unit of government.)

(3) **Suitable** shall mean adapted or adaptable to a use.

(5) **Mitigate** shall mean to make less severe, less painful or less of a loss, to a level provided for in MCC 36.6200 through 36.6225.

(6) **Beneficial Continuation of Existing Uses** shall mean capable of using the property for the purposes already in existence, although there may be minor diminution in the quality of the use.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6205 BOARD FINDINGS.****The Board Finds:**

(A) A landfill may need to be located within Multnomah County based on Solid Waste Management Plan and Study by METRO.

(B) There is a need to provide approval criteria and to require reclamation for the benefit of the site and the surrounding area.

(C) There is a need to provide for a review, to determine whether the proposed site is suitable and whether adverse impacts to the surrounding area can be mitigated.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6210 PURPOSE.**

The purposes of MCC 36.6200 through 36.6230 are to:

(A) Determine whether a proposed landfill site is suitable and whether it can be reclaimed for uses allowed by the underlying zoning district.

(B) Mitigate any adverse impacts to the surrounding area by the imposition of conditions on the design, operation and off-site effects of the proposed landfill.

(C) Assure that the proposed landfill site has been determined preferable to other sites, based on an Alternative Sites Study conducted by METRO.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6215 APPLICATION REQUIREMENTS.**

(A) An application for a Community Service Use permit under these provisions shall be filed on forms made available for that purpose. Information, maps, and reports submitted shall be deemed by the Planning Director to be necessary to determine compliance with the criteria.

(B) The base fee shall be \$2,000 payable at the time of application. An additional fee of not more than \$20,000 may be charged to cover the cost of any technical review and analysis required to evaluate the application, as determined by the Planning Director. Additionally, the Board of County Commissioners may, by order, provide that the fee for technical review and analysis be increased to a total of \$30,000 if the Board determines that such an increase is justified by the complexity of issues raised on a particular application. If charged, the additional fee shall be used to hire technical consultants to supplement the staff. This subsection fees supersedes any conflicting fee schedule in use.

(C) The applicant shall determine that the proposed landfill is the most appropriate method of disposing of solid waste.

(Ord. 1001, Reorg&Renum, 12/12/2002)



**§ 36.6220 CRITERIA FOR APPROVAL.**

The Approval Authority shall find that:

(A) METRO or its franchisee has adopted Landfill Site Selection Criteria that addresses environmental, economic, operational and land use factors; they have applied these criteria to a study of alternative landfill sites, that study to have been completed no more than twelve (12) months from the date of Application to the Approval Authority, and have determined that, based on the criteria, a preferred site has been selected for development.

(B) The site is suitable for the proposed landfill, considering each of the factors below. In determining suitability, the Approval Authority shall also apply the following test to the findings for each of the factors; The Approval Authority finds, after any mitigation of impacts, that the impacts of the factor would not prevent the beneficial continuation of existing uses on surrounding property.

(1) Site Size - when the site is of sufficient size for the use and to allow for sufficient buffering of adverse impacts.

(2) Traffic Routes and Capacities - when projected traffic will not create dangerous intersections or traffic congestion, considering road design capacities, existing and projected traffic counts, speed limits and number of turning points. Traffic must have access to collector or arterial streets and not use local streets;

(3) Geologic Conditions - when the site is geologically stable enough to support the landfill; evidence shall include testimony from State of Oregon Certified Engineering Geologists; the Approval Authority shall also request that the Oregon State Department of Geology review and comment on all geological evidence which is submitted;

(4) Surface and Groundwater Conditions - when flooding will not occur, where surface

water can be feasibly controlled and diverted away from the landfill, where leachate or other landfill pollutants would not be discharged into adjacent public or private waterways such that State and Federal water quality standards will be exceeded, and where groundwater sources of domestic (human and livestock) water supply would not be contaminated beyond those quality levels of OAR 340-61-040(4) and (5) or OAR 340-41-029, whichever is the most strict. As used in this ordinance, the term discharge shall include both intentional and unintentional escape or release of landfill pollutants;

(5) Soil and Slope Conditions - when soils and topography allow feasible operating conditions for the landfill, and would not result in substantial off-site erosion and sedimentation; on-site soil erosion must be controlled to the extent that the productive capability of on-site land, not utilized directly for land-filling operations, is not reduced. The Approval Authority shall also request that any Soil and Water Conservation District which includes the site within its boundaries review the proposal and offer testimony on potential soil erosion problems;

(6) Leachate and Gas - when site characteristics, such as geology and slope, will permit the safe and effective collection and treatment of these landfill by-products;

(7) Critical Habitat of Endangered Species - where such habitat and species, if found, will be protected pursuant to OAR 340-61-040 (7) and any applicable Federal law;

(8) Historically, anthropologically, and archaeologically significant areas - where such areas, if found, will be protected pursuant to ORS Chapter 358, 16 U.S.C. Sections 461 through 470n, or any other applicable State or Federal law;

(9) Public Facilities and Services - where all such facilities necessary to serve the landfill are either available or programmed for the area; and

(10) Fire Standards Criteria - Fire danger, where the landfill shall not significantly increase the fire danger in any given area and there shall be adequate fire protection systems in place at the site and in the surrounding community, including State systems, if any.

In determining suitability of the above factors, the Approval Authority may place substantial weight on DEQ's Findings for approval or denial of a preliminary application.

(C) The proposed landfill is designed and operated so as to mitigate conflicts with the surrounding uses. Conflicts with regard to the following shall be identified and mitigated (mitigation shall be made to the level of the applicable State standard, if any, and to a level that will not prevent the beneficial continuation of existing uses on surrounding lands):

(1) Visual appearance, including lighting on surrounding property, including OAR 340-61-040 (15) and any other applicable State or Federal standard;

(2) Signing, including OAR 340-61-040 (15) and any other applicable State or Federal standard;

(3) Hours of operation;

(4) Odors;

(5) Safety and security risks, including OAR 340-61-040 (14) and any other applicable State or Federal standard;

(6) Noise levels, including OAR Chapter 340 and any other applicable State or Federal standard;

(7) Dust, and other air pollution, including OAR 340-61-040 (8) and any other applicable State or Federal standard;

(8) Bird and vector problems, including OAR 340-61-040 (23) and any other applicable State or Federal standard; and

(9) Damage to fish and wildlife habitats, including OAR 340-61-040 (7) and any other applicable State or Federal standard.

(D) The proposed landfill site is capable of being reclaimed to a primary use permitted in the underlying zoning district. For resource districts (EFU and MUA), the primary use will be the resource for which the district was created (i.e., farmland in EFU). The soil productivity, if in a natural resource zone, is capable of being brought back to the closest level economically and technically feasible to that which existed on the site prior to the landfill.

(E) Where the Approval Authority finds it appropriate, the approval criteria may be satisfied by the applicant's submission of a statement of intent to provide facilities as necessary to prevent impermissible conflict with surrounding uses. If this evidence is relied on in satisfying any approval criteria, a condition shall be imposed to guarantee the performance of the actions specified.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6225 CONDITIONS.**

(A) The proposal provides a plan for the reclamation of the site, in compliance with MCC 36.6220 (D). The implementation of the reclamation plan shall be funded by a trust fund deemed sufficient by the Approval Authority.

(B) Approval for all phases of the proposed landfill must be received from all governmental agencies having jurisdiction over sanitary landfills. Such agencies shall be consulted by Multnomah County for the setting and enforcement of permit conditions. Preliminary approval from DEQ is necessary prior to County approval. Final DEQ approval is required prior to the construction and operation of the landfill.

(C) METRO or its franchisee shall provide annual reports, within 90 days of each anniversary of approval date, to the County, describing the landfill operation and compliance with permit conditions.

(D) Other conditions of approval shall be specified in the decision and shall be reasonably imposed to insure compliance with the purposes and criteria of these provisions, and in the public interest.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6230 LIMITATIONS ON APPLICATION  
OF ORDINANCE.**

MCC 36.6200 through 36.6230 shall not be applied to any proposed regional or other sanitary landfill site which has previously been the subject of an application for a community service designation as a regional or other sanitary landfill. Such proposal shall be considered under the Multnomah County Ordinance provisions applicable to such landfills which were in effect at the time of the initial application.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**CONDITIONAL USES, CU****§ 36.6300- PURPOSES.**

Conditional uses as specified in a district or described herein, because of their public convenience, necessity, unique nature, or their effect on the Comprehensive Plan, may be permitted as specified in the district or described herein, provided that any such conditional use would not be detrimental to the adjoining properties or to the purpose and intent of the Comprehensive Plan.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6305 GENERAL PROVISIONS.**

(A) Application for approval of a Conditional Use shall be subject to the provisions for Type III decisions in MCC 37.0510 through 37.0800.

(B) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Approval Authority.

(C) The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in MCC 36.6315 and in the district or use provisions.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6315 CONDITIONAL USE APPROVAL CRITERIA.**

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

(1) Is consistent with the character of the area;

(2) Will not adversely affect natural resources;

(3) The use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(4) Will not require public services other than those existing or programmed for the area;

(5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

(6) Will not create hazardous conditions; and

(7) Will satisfy the applicable policies of the Comprehensive Plan.

(8) The use is limited in type and scale to primarily serve the needs of the rural area.

(B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC 36.6520.

(Ord. 1186, Amended, 10/13/2011; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6325 DESIGN REVIEW.**

Uses authorized under this section shall be subject to design review approval under MCC 36.7000 through 36.7060.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6330 DESIGN REVIEW EXEMPTION.**

Exempted from the Design Review criteria of MCC 36.7000 through 36.7070 (A), include:

(A) Single family residences.

(B) Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure.

(C) Commercial photovoltaic solar power generation facility.

(Ord. 1192, Amended, 05/17/2012; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6335 CONDITIONAL USE PERMIT.**

A conditional use permit shall be obtained for each conditional use approved, before development of the use. The permit shall specify any conditions and restrictions imposed by the approval authority or Board of County Commissioners, in addition to those specifically set forth in this Chapter.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6340 ADDITIONAL APPROVAL  
CRITERIA FOR CERTAIN  
TRANSPORTATION USES IN THE  
EXCLUSIVE FARM USE ZONING  
DISTRICT**

For the transportation uses listed in MCC 34.2630(L), (M), and (N), the Hearing Authority shall find that Multnomah County has:

(A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.

(B) Assessed the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and

equipment and considering the effects of access to parcels created on farm and forest lands.

(C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

(Ord. 1128, Add, 01/29/2009)

**ANIMAL KEEPING - DOGS, CU****§ 36.6400- USES.**

Dog kennels, boarding, breeding, keeping or training places or the keeping or raising of four or more dogs over six months of age may be permitted only upon the approval of the approval authority as a conditional use. Such approval shall not include animal hospitals or veterinary clinics as conditional uses.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6405 LOCATION REQUIREMENTS.**

These uses shall be permitted only in the MUA-20 and RR districts and only where they will not conflict with the surrounding property uses.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6410 MINIMUM SITE SIZE REQUIREMENTS.**

(A) Area: Two acres.

(B) Width: Two hundred fifty feet.

(C) Depth: Two hundred fifty feet.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6415 MINIMUM SETBACK REQUIREMENTS.**

These uses shall be located no closer than one hundred feet to any lot line.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6420 OTHER REQUIREMENTS.**

(A) All kennels, runs or pens shall be constructed of masonry or such other opaque material as shall provide for cleanliness, ease of maintenance, and sound and noise control.

(B) All kennels, runs and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and

intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.

(C) The owner or operator of a use approved under this section shall maintain the premises in a clean, orderly and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in such a manner that they will not provide a breeding place for insects, vermin or rodents.

(D) A separate housing facility, pen or kennel space may be required for each dog over six months of age kept on the premises over twenty-four hours.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6425 OTHER APPROVALS.**

The approval authority may request the advice of the County Dog Control Officer, officials of humane societies, and veterinarians before approving an application hereunder.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6430 EXEMPTIONS.**

Animal facilities for which Animal Control Facility licenses were issued prior to October 31, 1985 shall be exempted from the provisions of MCC 36.6400 through 36.6425 unless:

(A) There is an increase in the number of animals in the facility, or

(B) The use is discontinued for a period of more than two years.

(Ord. 1001, Reorg&Renum, 12/12/2002)



**MINERAL EXTRACTION, CU****§ 36.6500- DEFINITIONS.**

As used in this section, the words and their derivations defined in MCC 36.5715 shall have the meanings given therein.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6505 BOARD FINDINGS.**

(A) There is a need to conserve and protect known mineral and aggregate resources for present and future generations.

(B) There is a need to plan and make allowances for interim, transitional, and secondary use utilization of mineral and aggregate resource extraction areas.

(C) There is a need to promote healthy and visually attractive environments, and to reduce conflicts between different land uses.

(D) There is a need to provide regulations in accordance with LCDC Statewide Planning Goals.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6510 PURPOSES.**

The purposes of the Mineral Extraction section are to promote the public health, safety and general welfare through the protection of mineral and aggregate resources in accordance with LCDC Statewide Planning Goal #5, and the Multnomah County Comprehensive Plan. The regulations are designed to:

(A) Recognize mineral and aggregate resource extraction as a land use influenced largely by the location of the natural resource and the location of the market;

(B) Provide maximum flexibility for location of the extraction process within a variety of underlying zones, while at the same time minimizing potentially adverse effects on the public and property surrounding the extraction site;

(C) Recognize mineral and aggregate resource sites which receive an ESEE designation for

protection as being appropriate for extraction operations when in compliance with MCC 36.6520 through 36.6530; and

(D) Recognize mineral extraction as a temporary use dependent to a large degree upon market conditions and resource size and that reclamation and the potential for future use of the land for other activities must also be considered.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6515 EXCEPTIONS.**

Exempted from the requirements of this section are those mineral extraction sites and activities as given in MCC 36.5710.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6520 CRITERIA FOR APPROVAL.**

The approval authority shall find that:

(A) The site is included on the inventory of protected aggregate and mineral resource sites in the Comprehensive Plan.

(B) There is a proposed reclamation plan which will allow the property to be utilized as provided in the Comprehensive Plan and the underlying district.

(C) The applicant has shown that the standards of this section, or site-specific requirements adopted as part of a comprehensive plan amendment, can or will be met by a specified date.

(1) Access and traffic.

(a) Prior to any surface mining activity, all on-site roads used in the mining operation and all roads from the site to a public right-of-way shall be designed and constructed to accommodate the vehicles and equipment which will use them.

(b) All on-site and private access roads shall be paved or adequately maintained to minimize dust and mud generation



within 100 feet of a public right-of-way or 250 feet of a dust sensitive land use.

(c) No material which creates a safety or maintenance problem shall be tracked or discharged in any manner onto any public right-of-way.

(d) The applicant shall submit all traffic information and traffic management plans required in any site-specific Comprehensive Plan Program. The County Engineer shall review the submitted plans and shall certify, based on findings relating to the Multnomah County Rules for Street Standards, that the roads appropriately identified in the Plan:

1. Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or

2. If the roads are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity that:

- a. The applicant has committed to finance installation of the necessary improvements under the provisions of 02.200 (a) or (b) of the Multnomah County Rules for Street Standards, and

- b. A program has been developed for the numbers and weight of trucks from the site that can safely be accommodated at specific levels of road improvement. Based upon those findings, the Hearing Authority may attach related conditions and restrictions to the conditional use approval.

(e) If there are no traffic management requirements in the site-specific Comprehensive Plan Program requirements,

the applicant shall identify the most commonly used routes of travel from the site. The County Engineer shall certify, based on findings relating to the Multnomah County Rules for Street Standards, that the applicant has identified the appropriate roads, and those roads:

1. Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or

2. If the roads are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity that:

- a. The applicant has submitted a traffic management plan that is sufficient for the County Engineer to make relevant findings regarding necessary road improvements;

- b. The applicant has committed to finance installation of the necessary improvements under the provisions of 02.200 (a) or (b) of the Multnomah County Rules for Street Standards; and

- c. A program has been developed for the numbers and weight of trucks from the site that can safely be accommodated at specific levels of road improvement. Based upon those findings, the Hearing Authority may attach related conditions and restrictions to the conditional use approval.

(2) Screening, landscaping and visual appearance.

(a) All existing vegetation and topographic features which would provide screening and which are within 100 feet of the boundary of the proposed area of extraction shall be preserved.

(b) If the site-specific Goal 5 analysis determines that existing vegetation and topography is insufficient to obscure the site from key viewing areas and corridors, then measures as identified in the Goal 5 analysis to reduce or eliminate conflicts shall be implemented. Methods of screening may include landscape berms, hedges, trees, walls, fences or similar features. Any required screening shall be in place prior to commencement of the extraction activities.

(c) The Approval Authority shall grant exceptions to the screening requirements if:

1. The proposed extraction area is not visible from any key viewing areas and corridors identified in (b) above, or
2. Screening will be ineffective because of the topographic location of the site with respect to surrounding properties, or
3. The area is part of the completed portion of a reclamation plan.

(3) Signing.

Only one free standing sign for each point of access to each differently named improved street may be allowed. The free standing signs are allowed one square foot of sign face area per linear foot of site frontage, up to a maximum of 280 square feet. The maximum height of a free standing sign is 30 feet.

(4) If no hours and days of operation are contained in the site-specific Comprehensive Plan Program, the following shall apply:

(a) Operating hours shall be allowed from 7:00 am to 6:00 pm. No operation shall be allowed on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

(b) Blasting shall be restricted to the hours of 9:00 am to 5:00 pm. No blasting shall be allowed on Saturdays, Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

(c) Short-term exceptions to the hours and days of operation may be approved pursuant to the provisions of MCC 36.0510.

(5) Air, water, and noise quality.

(a) The applicant shall obtain and comply with the standards of all applicable emission discharge permits from the Department of Environmental Quality. Copies of all required permits shall be provided to the county prior to beginning mining.

(b) The applicant shall obtain and comply with the standards of all applicable waste water discharge permits from the Department of Environmental Quality. Copies of all required permits shall be provided to the county prior to beginning mining.

(c) Sound generated by an operation shall comply with the noise control standards of the Department of Environmental Quality. Compliance with the standards can be demonstrated by the report of a certified engineer. Methods to control and minimize the effects of sound generated by the operation on

noise sensitive uses existing or approved (valid action or administrative decision) on the date of application may include, but not be limited to, the installation of earth berms, equipment location, limitations on the hours of operation, and relocation of access roads.

(6) Fish and wildlife protection.

Fish and wildlife habitat, water bodies, streams, and wetlands inventoried in the Comprehensive Plan shall be protected according to the program contained in the Comprehensive Plan.

(7) Setbacks:

(a) For mineral and aggregate processing activities:

1. 200 feet to a property line, or
2. 400 feet to a noise and dust sensitive land use existing or approved (valid action or administrative decision) on the date of application;

(b) For access roads and residences located on the same parcel as the mining or processing activity, setbacks shall be as required by the underlying district; and

(c) For mineral extraction and all other activities:

1. 100 feet to a property line, or
2. 400 feet to a noise and sensitive land use existing or approved (valid action or administrative decision) on the date of application.

(8) Reclaimed Topography.

All final reclaimed surfaces shall be stabilized by sloping, benching, or other ground control methods. Reclaimed surfaces shall

blend into the natural landforms of the immediately surrounding terrain. These reclamation standards shall not apply where the Approval Authority finds that the standards conflict with the reclamation plan provided in the Comprehensive Plan or where DOGAMI finds that the standards are less restrictive than DOGAMI reclamation standards.

(9) Safety and security.

Safety and security measures, including fencing, gates, signing, lighting, or similar measures, shall be provided to prevent public trespass to identified hazardous areas such as steep slopes, water impoundments, or other similar hazard where it is found that such trespass is probable and not otherwise preventable.

(10) Phasing program.

All phases of an extraction operation shall be reclaimed before beginning the next, except where the Approval Authority or DOGAMI finds that the different phases cannot be operated and reclaimed separately.

(11) Reclamation Schedule.

The reclamation plan shall include a timetable for continually reclaiming the land. The timetable shall provide for beginning reclamation within twelve (12) months after extraction activity ceases on any segment of the mined area and for completing reclamation within three (3) years after all mining ceases, except where the Approval Authority or DOGAMI finds that these time standards cannot be met.

(D) The proposed operations will not result in the creation of a geologic hazard to surrounding properties, such as through slumping, sliding, or drainage modifications, and have been certified by a registered soils or mining engineer, or engineering geologist as meeting this requirement.

(E) Proposed blasting activities will not adversely affect the quality or quantity of groundwater within wells in the vicinity of the operation.

(F) If the site is zoned Exclusive Farm Use (EFU), the proposed operations:

(1) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(2) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(G) If the site is zoned Commercial Forest Use (CFU):

(1) The proposed operations will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(2) The proposed operations will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(3) A written statement recognizing the rights of adjacent and nearby property owners to conduct accepted forest practices has been recorded with the property deed in accordance with OAR 660-06-025 (1994).

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6525 SITE RECLAMATION.**

(A) No mining shall begin without the operator providing the county a copy of a DOGAMI operating permit and approved reclamation permit or exemption certificate.

(B) When approving an application under this section the county shall determine the post-mining use of the property. The determination of post-mining use shall be coordinated with DOGAMI to ensure technical feasibility. The designated post-mining use shall conform to the Comprehensive Plan.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6530 MONITORING.**

The Planning Director shall periodically monitor all extraction operations. The beginning dates and frequency of monitoring shall be determined by the Approval Authority based upon any such requirement in the Comprehensive Plan Program and upon the number and type of noise and dust sensitive land uses, and other Goal 5 resources identified in the ESEE Analysis. If the Director determines that an extraction operation is not in compliance with MCC 36.6520 or site-specific requirements of the Comprehensive Plan Program, such enforcement proceedings deemed appropriate by the Multnomah County Legal Counsel shall be instituted to require compliance.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6535 EXISTING OPERATIONS.**

(A) All mineral extraction uses that have been approved without a time limit under MCC 36.6500 through 36.6535, prior to July 26, 1979, shall continue to comply with the zoning standards and conditions of approval imposed at the time of approval.

(B) Mineral extraction conditional use permits approved with a time limit under MCC 36.6500 through 36.6535 during the time period July 26, 1979 to December 2, 1994, shall be subject to the zoning standards and conditions of approval imposed at the time of approval, including the specified expiration date, except those permits that were valid on December 2, 1994 shall expire two years after the Land Conservation and Development Commission has issued a Periodic

Review Final Order regarding the county's  
Statewide Planning Goal 5 analysis of Mineral  
and Aggregate Inventory Site #4 (Angell Brothers).

(Ord. 1001, Reorg&Renum, 12/12/2002)

***STORAGE OF VEHICLES OF SPECIAL INTEREST, CU***

**§ 36.6600- DEFINITIONS.**

For the purpose of MCC 36.6600 through 36.6615, the following terms are hereby defined:

*Collector* - A person who owns one or more motor vehicles of special interest who collects, purchases, acquires, trades or disposes of those motor vehicles or parts thereof for the person's own use in order to preserve, restore and maintain a motor vehicle of special interest for hobby purposes.

*Motor Vehicle of Special Interest* – A motor vehicle satisfying the criteria of a “vehicle of special interest” as defined in the Oregon Vehicle Code (ORS Chapter 801, 2006) or otherwise unique due to limited production, original production, mechanical or styling oddities, high intrinsic value or produced by a company no longer in existence.

*Parts Car* - A motor vehicle generally in inoperable condition that is owned by a collector to furnish parts that are not obtainable from normal sources, thus enabling a collector to preserve, restore and maintain a motor vehicle of special interest.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6605 USES.**

The following uses may be permitted under MCC 36.6600 through 36.6615, when approved by the approval authority.

(A) The storage by a collector of one or more motor vehicles of special interest.

(B) The storage of parts of motor vehicles of special interest or of a parts car or cars when accessory to the storage of one or more motor vehicles of special interest.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6610 APPROVAL CRITERIA.**

The approval authority shall find that the proposal will satisfy the approval criteria listed in MCC 36.6315.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6615 CONDITIONS AND RESTRICTIONS.**

In addition to the conditions and restrictions which may be attached under the provisions of MCC 37.0660, the approval authority:

(A) Shall specify the location and size of the storage area;

(B) Shall require the enclosure of the storage area within a sight-obscuring fence and that stored items be maintained in a manner so as not to be visible above the top of the fence; and

(C) May require some or all of the stored items to be contained within a completely enclosed building or under a roofed structure of a size, location and design which is compatible with other permitted structures in the vicinity.

(Ord. 1001, Reorg&Renum, 12/12/2002)



***TYPE C HOME OCCUPATIONS, CU*****§ 36.6655 PURPOSES.**

The purposes of the type C home occupation section are to address the need for home based business that are small scale businesses (not more than 5 employees) and that fit in with the characteristic of the neighborhood or the area. The regulations are designed to:

(A) Protect the individual characteristics of areas in unincorporated Multnomah County and maintain the quality of life for all residents of the communities.

(B) Join in an effort to reduce vehicle miles traveled, traffic congestion and air pollution in the State of Oregon.

(Ord. 1197, Amended, 02/16/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6660 CRITERIA FOR APPROVAL.**

(A) A Type C home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, on a parcel by a business operator is subordinate to the residential use of the premises and complies with the following:

(1) The on-site business functions of the home occupation shall take place entirely within a dwelling unit or enclosed accessory building on the premises, except for employee and customer parking and signage. No outdoor storage, business activities, or displays shall occur outside of an enclosed building.

(2) Type C home occupation shall not exceed 35 percent of the total gross floor area of the dwelling, attached garage and accessory buildings, or 1,500 sq. ft, whichever is less.

(3) The home occupation shall not employ more than five employees.

(4) No more than a total of 40 vehicle trips per day by customers of the home occupation, delivery service providers serving the home occupation and employees may be authorized through the conditional use process. No deliver

ies or pick-ups associated with the home occupation and between the hours of 7 p.m. - 7 a.m. are permitted. Deliveries or pick-ups shall occur on the premises only. The road serving the tract may not be used for loading or unloading purposes.

(5) In addition to the required residential parking, the premises has on-site parking pursuant to MCC 36.4100-36.4215 to accommodate the total number of employees and customers, proposed to be on the premises at any one time. No use, parking or storing on the premises of any vehicle in excess of a gross vehicle weight of 11,000 pounds.

(6) Notwithstanding MCC 36.7400-36.7505, only one sign shall be permitted for the home occupation. The sign may be freestanding or a fascia sign.

(a) The sign shall be a maximum of eight square feet;

(b) A freestanding sign shall not exceed six feet in height;

(c) A fascia sign shall be placed on the building used for the business and shall not exceed the height of the first floor;

(d) The sign shall face the access point to the property. A freestanding sign shall not be placed within the vision clearance area;

(e) Indirect lighting of the sign may occur only during the hours the business is operating.

(7) The combination of all uses on the premises associated with the home occupation will not generate noise above 50 dB(A) (decibels adjusted) at the property lines between 7 a.m. and 6 p.m. daily. During all other hours, the home occupation shall not create noise detectable at the property line. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

(8) The use shall not generate vibration, glare, flashing lights, dust, smoke, fumes, or odors de



tectable at the property line. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

(9) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including automobiles, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, and chain saws.

(10) No building or structure is proposed to be constructed or modified in a manner that would not otherwise be allowed in the zoning district. Buildings or structures used as part of the home occupation shall not have or require a building code occupancy rating other than R-3 or U as determined by the building official.

(11) In the EFU and CFU zone districts, the home occupation will not unreasonably interfere with other uses permitted in the general district.

(12) The approval criteria listed in MCC 36.6315.

(B) Each approval issued by a hearings officer shall be specific for the particular home occupation and reference the business operator, number of employees allowed, the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.

(C) Notwithstanding the transfer of approval rights in MCC 37.0770, approval of a Type C home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type C home occupation is personal to the business operator and specific to the authorized premises. Approval of a Type C home occupation terminates automatically, immediately and without notification if the business operator ceases to reside full-time on the authorized premises.

(D) Existing Type C Home Occupations that were approved prior to August 18, 2012, which complied with all provisions of their permit, may continue provided any alteration, expansion or establishment

of a new home occupation shall be subject to the above home occupation regulations. The adoption of this ordinance is not intended to make these existing businesses non-conforming and proposals for alteration, expansion or replacement of the Type C home occupation shall be pursuant to this ordinance.

(Ord. 1257, Amended, 06/07/2018; Ord. 1197, Amended, 02/16/2013; Ord. 1079, Amended, 07/27/2006; Ord. 1001, Re-org&Renum, 12/12/2002)

### **§ 36.6665 TYPE C HOME OCCUPATION RENEWAL**

(A) The home occupation may continue for a period of three years from date of the final decision provided it is in compliance with the approved permit. At the end of the three year period, the right to operate the Type C home occupation from the property expires automatically unless the permit is renewed for an additional three year period pursuant to the following:

(1) The Type C home occupation has been conducted in full compliance with the permit for a preponderance of the time since the prior approval.

(2) Each renewal period shall be for a three year period from the last expiration date. The home occupation may be renewed an unlimited number of times.

(3) To obtain a renewal of the home occupation, the business operator shall use the forms provided by the Planning Director and shall submit the application prior to expiration of the permit. Provided the renewal application is submitted on or before its expiration date, the business operator may continue the home occupation pending the County's final decision on the renewal request.

(4) A Type C home occupation renewal shall be processed pursuant to the Type II approval process in MCC 37.0530.

(B) The Planning Director may consider minor modifications to the Hearings Officer's description required by MCC 36.6660(B) and the conditions of approval if requested by the business operator as part of a Type C home occupation renewal application. A minor modification may be approved if it:

(1) Is consistent with the prior approval.

(2) Is consistent with MCC 36.6660(A).

(3) Does not increase the intensity of use of the premises.

(Ord. 1197, Added, 02/16/2013)

***LARGE FILLS, CU*****§ 36.6700- PURPOSES**

The purpose of the Large Fills section is to address the need for large fill sites in the unincorporated area of Multnomah County while protecting the rural character and natural resources of the County. These regulations are designed to:

- (A) To address the current problem of large fill areas and sites which have been largely unregulated;
- (B) Minimize potentially adverse effects on the public and property surrounding the fill site;
- (C) Acknowledge that natural resources can be impacted by large fill sites;
- (D) Distinguish large fills as a use dependent to a large degree upon market conditions and resource size and that reclamation and the potential for future use of the land for other activities must also be considered;
- (E) Provide clear and objective standards by which these uses will be reviewed;
- (F) Recognize that large fills areas should not impede future uses otherwise allowed under the Comprehensive Framework Plan;
- (G) To be consistent with state rules which do not currently list large fill sites as a use in farm and forest resource zones; and
- (H) To clarify that at the time of adoption of this ordinance, Multnomah County has not made the determination that the use of large fills would or would not be consistent with other uses allowed in the farm and forest zones due to the fact that they are not uses allowed under state rules.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6705 EXCLUDED AREAS.**

Large fills shall not be allowed in:

- (A) Areas designated SEC- wr;

(B) Other stream areas protected by other local, state and federal agencies;

(C) Jurisdictional wetlands which have not received fill permits from The Army Corp of Engineers and Division of State Lands; or

(D) 100 year floodplains.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6710 APPLICATION INFORMATION REQUIRED.**

An application for a large fill site shall include the following:

- (A) A scaled site plan showing the subject property and all uses, roads, parcels, structures and water features within 1,500 feet of the fill area, when such information can be gathered without trespass;
- (B) A contour map at 5' intervals showing both existing and proposed contours with datum;
- (C) A geotechnical report for the entire fill area. The report shall include but not be limited to:
  - (1) Methods of site preparation;
  - (2) Specific fill methods to be used including techniques such as benching and terracing;
  - (3) Compaction methods;
  - (4) Drainage analysis showing pre and post development runoff conditions;
  - (5) Underground drainage systems utilized for fill compaction shall have a hydraulic analysis to determine the amount of water to be accommodated;
  - (6) Known landslides and other geologically unstable areas within 1,500 feet surrounding the fill area; and

(7) An erosion control plan for year round protection of the fill site from erosion. The plan should include erosion control measures for:

- (a) Winter stabilization;
- (b) Rainy season operations in spring and fall;
- (c) Summer operations;
- (d) Timelines for the various phases;

(D) Written findings demonstrating how the proposal complies with MCC 36.6715;

(E) A copy of the deed(s) to all parcels on which the fill site will be located;

(F) A written description of the project including specific timelines for all phases and proposed hours of operation;

(G) Application materials required to comply with MCC 36.5515 and 36.5520;

(H) A reclamation plan submitted by a licensed landscape architect demonstrating that reclaimed surfaces conform with the natural landforms of the surrounding terrain.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.6715 CRITERIA FOR APPROVAL.**

The approval authority shall find that:

(A) The applicant demonstrates that the property shall be capable of being used as provided in the Comprehensive Plan and the underlying district after the fill operation.

(B) The applicant has shown that the following standards can or will be met by a specified date:

(1) Access and traffic.

- (a) Prior to any filling activity, all on-site roads used in the fill operation and all roads from the site to a public right-of-way shall be designed and construct

ed to accommodate the vehicles and equipment which will use them.

(b) All on-site and private access roads shall be paved or adequately maintained to minimize dust and mud generation within 100 feet of a public right-of-way.

(c) No material shall be tracked or discharged in any manner onto any public right-of-way.

(d) The applicant shall submit a traffic management plan that identifies impacts to existing County infrastructure and an assessment as to the ability of the existing infrastructure to withstand increased traffic loading and usage. The County Engineer shall review the submitted plan and shall certify, based on findings relating to the Multnomah County Rules for Street Standards, that the road(s) identified in the plan:

1. Are suitable for all additional traffic created by the fill operation for the duration of the activity, or

2. If the roads are unsuitable for all additional traffic created by the fill operation for the duration of the activity that:

A. The applicant has committed to finance installation of the necessary improvements under the provisions of 02.200 (a) or (b) of the Multnomah County Rules for Street Standards, and

B. A program has been developed for the number and weight of trucks that can safely be accommodated at specific levels of road improvement. Based upon those findings, the Hearing Authority may attach related conditions and restrictions to the conditional use approval.

(e) Truck movements related to the dumping of materials shall occur entirely

on-site and not utilize the public right-of-way or private easements.

(f) Proposals in proximity to state highway facilities need to be reviewed by the Oregon Department of Transportation.

(2) Buffer requirements.

(a) All existing vegetation and topographic features which would provide screening and which are within 100 feet of the proposed area of fill shall be preserved. The applicant shall demonstrate that the existing screening is sufficient to ensure the project site will not noticeably contrast with the surrounding landscape, as viewed from an identified viewing areas, neighboring properties, or accessways, or

(b) If existing vegetation and topography is insufficient to obscure the site from neighboring properties, accessways or identified key viewing areas, the applicant shall propose methods of screening and indicate them on a site plan. Examples of screening methods include landscape berms, hedges, trees, walls, fences or similar features. All required screening shall be in place prior to commencement of the fill activities.

(c) The Approval Authority may grant exceptions to the screening requirements if:

1. The proposed fill area, including truck line-up area and fill areas are not visible from any neighboring properties, key viewing areas and accessways identified in (b) above, or

2. Screening will be ineffective because of the topographic location of the site with respect to surrounding properties.

(3) Signing.

One directional sign for each point of access to each differently named improved street may be allowed for any operation. Signing

shall be specified and controlled by the standards of MCC 36.7490.

(4) Timing of Operation.

(a) Hours of operation shall be specified on each application. At a maximum operating hours shall be allowed from 7:00 am to 6:00 pm. Large fills shall not operate on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

(b) The placement of fill materials shall not occur from October 1st - May 1st.

(5) Air, water, and noise quality.

(a) The applicant shall obtain and comply with the standards of all applicable permits from the Department of Environmental Quality. Copies of all required permits shall be provided to Multnomah County prior to beginning filling. If no permits are required, the application shall provide written conformation of that from the Department of Environmental Quality.

(b) Sound generated by an operation shall comply with the noise control standards of the Department of Environmental Quality. Compliance with the standards may be demonstrated by the report of a certified engineer.

(6) Minimum Setbacks.

(a) For filling activities the minimum setback shall be 100 feet to a property line, or if multiple parcels, to the outermost property line of the site.

(b) For access roads and residences located on the same parcel as the filling or processing activity, setbacks shall be as required by the underlying district.

## (7) Reclaimed Topography.

All final reclaimed surfaces shall be stabilized by ground control methods as specified by the landscape architect. Reclaimed surfaces shall conform with the natural landforms of the surrounding terrain.

## (8) Safety and security.

Safety and security measures, including fencing, gates, signing, lighting, or similar measures, shall be provided to prevent public trespass and minimize injury in the event of trespass to identified hazardous areas such as steep slopes, water impoundments, or other similar hazards.

## (9) Phasing program.

Each phase of the operation shall be reclaimed within the time frame specified in subsection (11) or as modified in the decision.

## (10) Timeline.

Timelines for Large fill Conditional Use Permits shall be for a 2-year period unless otherwise approved by the Approval Authority. The applicant may request a longer time period for completion as part of the initial application. If an approval has been issued, the applicant may request a longer time period for completion pursuant to the procedures for a Type III permit as described in MCC Chapter 37.

If completion of a large fill project extends beyond 2 years, the applicant shall submit an engineering report prepared and signed by a licensed engineer at least once per year by October 31, or as otherwise specified by the Approval Authority. The engineering report shall describe at a minimum the following:

- (a) The amount of fill added to the site since the start of the fill or the last engineering report and stability measures used and planned for the new fill;
- (b) Future fill locations within the approved site and stability measures

planned both within and outside the fill site;

- (c) Incidents of landslide or other instability within and outside the fill site, clean-up efforts for these incidents, and measures used and planned to prevent future incidents.

## (11) Reclamation Schedule.

- (a) Reclamation shall begin within twelve (12) months after fill activity ceases on any segment of the project area. Reclamation shall be completed within three (3) years after all filling ceases, except where the Approval Authority finds that these time standards cannot be met.

- (b) The owner shall provide an acceptable guarantee of financial surety to the County prior to beginning work. The applicant shall provide an estimate of the cost to implement the approved plan. Estimated costs shall be based upon the current local construction costs. The financial guarantee shall be 150 percent of the estimated cost to complete the plan. The financial guarantee may be reduced to 125 percent of the cost in cases where the property owner has a written contract with a contractor to guarantee completion of the work which has been reviewed and approved by the County. All such contracts are subject to review by the County. Prior to release of the financial guarantee, the applicant shall submit a report from a licensed professional engineer whose main area of expertise is geotechnical engineering to the County, approving the construction and reclamation and certifying its completion.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.6720 MONITORING**

(A) The Planning Director shall periodically monitor all fill operations. The dates and frequency of monitoring shall be determined by the Approval Authority based upon the number and type of surrounding land uses and the nature of the fill operation. If the Director determines that a fill operation is not in compliance with the approval, enforcement proceedings pursuant to MCC 36.0910 or as deemed appropriate by the Multnomah County Attorney shall be instituted to require compliance.

(B) For multiple year projects, prior to commencement of material placement in the spring, an engineers report shall be submitted detailing the condition of the fill after the rainy season. The report shall include any remediation needed and any necessary modifications to fill placement due to failure, slumpage, slides, etc.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**FARM STANDS****§ 36.6770 PURPOSES.**

The purposes of these regulations are to limit the area, location, design, and function of farm stand promotional activities, events and farm gatherings to the extent allowed by law in order to retain a maximum supply of land in production for farm crops or livestock, to ensure public health and safety, to minimize impacts on nearby farming operations, residents, roads, traffic circulation, wildlife and other natural resources, and to maintain the rural character.

(Ord. 1248, Added, 07/13/2017)

**§ 36.6775 DEFINITIONS.**

As used in MCC 36.6770 through 36.6785, the following words shall have the following meaning:

**Farm Crops or Livestock** - 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. “Processed farm 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.

**Local Agricultural Area** - Oregon or an adjacent county in Washington that borders Multnomah County.

**Prepared Food Items** - Food that has been prepared and is sold for immediate consumption.

**Promotional Activity** – A fee-based activity, gathering or event in conjunction with a farm stand that promotes the contemporaneous sale of farm crops or livestock from the farm stand and whose primary purpose is significantly and directly related to the farming operation. Permissible farm stand promotional activities include harvest festivals, corn mazes, hayrides, farm animal exhibits, small farm-themed gatherings such as birthday parties and picnics, school tours, musical entertainment (but not concerts), farm product food contests and food preparation demonstrations, and similar activities. Fee-based activities, such as weddings, corporate retreats, family reunions, anniversary gatherings, concerts, amusement park rides, sporting events and other activities for which the primary focus is the underlying cause for the gathering or activity rather than the farm operation and the sale of farm crops, are prohibited. Farm-to-plate meals can also be a promotional activity if more than 50 percent of the food making up the farm-to-plate meal comes from farm crops or livestock grown on the farm.

(Ord. 1248, Added, 07/13/2017)

**§ 36.6780 FARM STAND PERMITS.**

(A) A farm stand that occupies one acre or less, inclusive of parking area, ingress and egress driveways, product display area outside the farm stand structure, and has no promotional activities, shall be reviewed as a Type I permit.

(B) A farm stand that occupies more than one acre, inclusive of parking area, ingress and egress driveways, product display area outside the farm stand structure, or has one or more promotional activities, shall be reviewed as a Type II permit.

(Ord. 1248, Added, 07/13/2017)

**§ 36.6785 STANDARDS FOR FARM STANDS.**

(A) The farm stand is associated with and located on the same lot, parcel or tract as an active farm operation.

(1) Not more than one farm stand permit, whether Type I or Type II, shall be granted per farm tract.

(2) Not more than one Type II farm stand permit shall be granted where any Person has a financial or operational interest in more than one farm operation or in an farm operation occurring on more than one lot, parcel or tract. The prohibition in this paragraph applies, but is not limited, to those instances in which more than one legal entity has a financial or operational interest in the active farm stands described in this paragraph and one or more individuals has a financial or operational interest in such entities.

(B) One or more structures may be approved as part of the farm stand provided that such structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. Whether permanent or temporary, structures for banquets, public gatherings or public entertainment and structures designed or used for occupancy as a residence or for activity other than the sale of farm crops and livestock are prohibited.

(C) The sale of retail incidental items may occur in farm stand structures. Promotional activity shall occur outside of farm stand structures. The farm stand shall be open for retail sales of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, during the hours that promotional activity is offered.

(D) The annual gross revenue derived from the sale of retail incidental items and from fees collected for promotional activity, including sales made and fees collected by third parties, shall not make up more than 25 percent of the total gross annual retail revenue of the farm stand. When taken together, the nature and extent of the farm stand promotional activity shall be reasonable in

light of the 25 percent limitation set forth in this subsection in relation to the total gross annual retail revenue of the farm stand. On an annual, calendar-year basis, and prior to July 1 of each year, the farm stand operator shall submit a written statement prepared by a certified public accountant that certifies compliance with the 25 percent limitation set forth in this subsection for the previous tax year. The compliance statement required in this subsection shall be submitted on the form and in the manner directed by the County.

(E) The floor area of the retail area of all farm stand structures shall not exceed 1,500 square feet.

(F) The maximum land area occupied by farm stand structures and associated permanent parking shall be two acres.

(G) As compared to other alternatives, the siting of the farm stand, together with all associated structures, promotional activity areas, parking areas, and vehicular and pedestrian traffic circulation routes, or any part thereof, minimizes the amount of land area removed from the agricultural land base and, secondarily, minimizes interference with agricultural operations on adjacent lands.

(H) The amount of land used for promotional activity, including temporary parking, shall not exceed five percent or five acres of the property on which the farm stand is located, whichever is less, and is the minimum amount necessary to serve the promotional activity.

(I) Temporary parking for promotional activity may occur on high-value soils only if non-high-value soils are unavailable and the final harvest of the area to be used for temporary parking occurs prior to commencement of the temporary parking use or the area to be used for temporary parking was not farmed during the current growing season. The temporary parking area shall not be graded or otherwise rendered unusable for agriculture in the following growing season and may not be permanently taken out of agricultural production in order to serve as a temporary parking area.



(1) No mud, dirt, rock or other debris from the temporary parking area shall be deposited upon a public road. If these materials are tracked onto a public road, the event operator shall be responsible for its immediate removal.

(J) There shall be no charge or fee collected for the parking of vehicles in either permanent or temporary parking areas. Permanent parking areas are to remain available for public parking during all hours that the farm stand is open to the public and may not be used for promotional activity or occupied by picnic tables, sales displays, or other structures that obstruct the parking use.

(K) No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall a promotional event generate noise above 60 dB(A) (decibels adjusted) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(L) Farm stand signage shall comply with the applicable provisions of MCC 36.7400 through 36.7505.

(M) Exterior lighting shall be in compliance with the dark sky lighting standards of MCC 36.0570.

(Ord. 1248, Added, 07/13/2017)

### **WINERIES**

#### **§ 36.6800- PURPOSES.**

The purposes of these regulations are to establish standards for siting wineries in accordance with the provisions of ORS 215.452 and to specify the uses and activities that may be conducted as part of a winery. Other purposes are to regulate the area, location, design and function of agri-tourism or other commercial events at wineries to the extent allowed by law in order to retain a maximum supply of land in agricultural production, to ensure public health and safety, to minimize impacts on nearby farming operations, residents, roads, traffic circulation, wildlife and other natural resources and to maintain the rural character.

(Ord. 1249, Added, 07/13/2017)

#### **§ 36.6805 DEFINITIONS.**

(S-2 2017)

As used in MCC 36.6800 through 36.6820:

**AGRI-TOURISM OR OTHER COMMERCIAL EVENTS** - Includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

**ON-SITE RETAIL SALE** - Includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

**WINERY** - Means an operation with a maximum annual production of:

(1) Less than 50,000 gallons of wine from grapes and:

(a) Owns an on-site vineyard of at least 15 acres;

(b) Owns a contiguous vineyard of at least 15 acres;

(c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

(d) Obtains grapes from any combination of subsection (1) (a), (b) or (c) of this definition; or

(2) At least 50,000 gallons of wine from grapes and the winery:

(a) Owns an on-site vineyard of at least 40 acres;

(b) Owns a contiguous vineyard of at least 40 acres;

(c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;

(d) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or

(e) Obtains grapes from any combination of subsection (2)(a), (b), (c) or (d) of this definition.

(Ord. 1249, Added, 07/13/2017)

### **§ 36.6810 STANDARDS FOR ESTABLISHMENT AND OPERATION OF WINERIES.**

A winery authorized under MCC 36.2625(H) shall comply with the following:

(A) The applicant shall show that vineyards described in the definition of the term “winery” in MCC 36.6805 have been planted or that the contract has been executed, as applicable.

(B) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(1) There must be a setback of at least 100 feet from all property lines for the winery and all public gathering places unless an adjustment or variance allowing a setback of less than 100 feet is granted.

(2) The winery shall have direct access onto a public road. Internal vehicle circulation shall avoid conflicts with accepted farming or forest practices on adjacent lands.

(C) In addition to the off-street parking and loading standards of MCC 36.4100 through 36.4215, a winery shall provide minimum required off-street parking spaces for all activities or uses of the lot, parcel or tract on which the winery is established in accordance with the following:

Winery (production, bottling and storage)	One space for each two employee positions on the largest shift.
Areas for use by or for patrons, including tasting room, reception area and retail sales	One space for each 300 square feet of gross floor area.
Agri-tourism or other commercial events	One space per each 2.5 expected attendees. The total area provided for event parking shall be based on a ratio of 300 square feet for every 2.5 persons anticipated.

(Ord. 1249, Added, 07/13/2017)

### **§ 36.6815 USES AND ACTIVITIES IN CONJUNCTION WITH A WINERY.**

(A) In addition to producing and distributing wine, a winery authorized under MCC 36.2625(H) may engage in the following uses and activities subject to the standards in MCC 36.6810 and the applicable standards in this section:

(1) Market and sell wine produced in conjunction with the winery.

(2) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

(a) Wine tastings in a tasting room or other location on the premises occupied by the winery;

(b) Wine club activities;

(c) Winemaker luncheons and dinners;

(d) Winery and vineyard tours;

(e) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

(f) Winery staff activities;

(g) Open house promotions of wine produced in conjunction with the winery; and

(h) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

(3) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine.

(a) Items allowed to be marketed and sold under this subsection (A)(3) of this section include food and beverages:

(i) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

(ii) Served in conjunction with an activity authorized by subsection (A)(2), (A)(4), or (A)(5) of this section.

(b) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in this subsection (A)(3) of this section. Food and beverage services authorized under this subsection (A)(3) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.

(4) Carry out agri-tourism or other commercial events on the tract occupied by the winery, subject to the provisions in MCC 36.6820.

(5) Host charitable activities for which the winery does not charge a facility rental fee.

(B) The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (A)(3), (A)(4) and (A)(5) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. A winery shall submit a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

(C) When a bed and breakfast facility is sited as a home occupation within a lawfully established dwelling on the same tract as a winery established under MCC 36.2625(H) and in association with the winery:

(1) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(2) The meals may be served at the bed and breakfast facility or at the winery.

(Ord. 1249, Added, 07/13/2017)

### **§ 36.6820 STANDARDS FOR AGRI-TOURISM OR OTHER COMMERCIAL EVENTS AT WINERIES.**

Agri-tourism or other commercial events carried out by a winery as authorized by MCC 36.2625(U) shall be subject to the following:

(A) Events on the first six days of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year license that:

- (1) Has a term of five years; and
  - (2) Is subject to a Type I administrative review to determine necessary conditions pursuant to subsection (E) of this section.
- (B) The decision on a license under subsection (A) of this section is not:
- (1) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.
  - (2) A permit, as defined in ORS 215.402.
- (C) Events on days seven through 18 of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year permit that:
- (1) Has a term of five years;
  - (2) Is subject to a Type II administrative review to determine necessary conditions pursuant to subsection (E) of this section; and
  - (3) Is subject to notice as specified in ORS 215.416(11).
- (D) The decision on a permit under subsection (C) of this section is:
- (1) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.
  - (2) A permit, as defined in ORS 215.402.
- (E) As is necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the following standards shall apply to a license or permit issued pursuant to subsection (A) or (C) of this section:
- (1) Hours of Operation: Events shall begin no earlier than 8:00 AM and shall conclude no later than 9:00 PM.
  - (2) Parking and Traffic Management: Events shall comply with the following:
    - (a) The event will be conducted in compliance with a parking plan approved by the Planning Director. All event parking shall be accommodated on the tract; off-tract parking is prohibited. The amount of land used for parking associated with agri-tourism or other commercial events at wineries shall be the minimum necessary to accomplish the objective of supporting winery operations on the property and retaining farm land in production. The amount of land used for temporary event parking shall not exceed five percent or five acres of the tract on which the winery is located, whichever is less.
    - (b) The event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.
    - (c) Temporary parking for agri-tourism or other commercial events shall use areas on the property that are not high-value soils if available, but if lacking these soils, temporary parking may use farmed areas of the property that have already been harvested or on areas that were not farmed during the current growing season. The temporary parking area shall not be graveled or otherwise rendered less productive for agricultural use in the following growing season.
  - (3) Noise Management: No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall the event generate noise above 60 dB(A) (decibels adjusted) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(4) Sanitation Facilities: Sufficient restroom facilities meeting County health standards for the expected number of attendees shall be provided.

(5) Solid Waste: The event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

(F) If a winery conducts agri-tourism or other commercial events authorized by ORS 215.452(5) and MCC 36.2625(U), the winery may not conduct agri-tourism or other commercial events or activities authorized by ORS 215.283(4) and 36.2620(BB) or 36.2625(V).

(Ord. 1249, Added, 07/13/2017)

### ***AGRI-TOURISM***

#### **§ 36.6850 STANDARDS FOR A SINGLE, ONE-DAY AGRI-TOURISM EVENT.**

Satisfaction of the following standards of approval for a single, one-day agri-tourism event on a tract per calendar year shall be determined through the Type I permit review process.

(A) Limitations on Use: The agri-tourism event is held on a tract that is ten acres or larger in size and there is existing farm use on the tract.

(B) Maximum Attendance: Attendance shall not exceed 20 total attendees and 20 total vehicles.

(C) Parking and Traffic Control:

(1) The agri-tourism event will be conducted in compliance with a parking plan approved by the decision maker.

(2) All agri-tourism event parking shall be accommodated on the tract; off-tract parking is prohibited.

(3) The agri-tourism event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the

County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.

(D) Temporary Structures: Temporary structures, if any, are set up no earlier than 7:00 AM of the day of the event and taken down no later than 10:00 PM of the day of the event. A temporary structure shall be placed no closer than 100 feet from a property line.

(E) Hours of Operation: The agri-tourism event shall begin no earlier than 9:00 AM and shall conclude no later than 9:00 PM. No guest vehicle may arrive prior to 8:30 AM or depart later than 9:30 PM on the day of the event.

(F) Noise: No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall the event generate noise above 60 decibels (dBA) at or beyond the property lines of the property on which the agri-tourism event is being held. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(G) Lighting: Any outdoor lighting for the event shall comply with MCC 36.4185 and MCC 36.0570.

(H) Sanitation Facilities: A restroom located in an existing permanent structure or a portable restroom facility with a hand washing station shall be provided on the tract for use by attendees of the event.

(I) Solid Waste: The agri-tourism event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

(J) Signage: One temporary non-illuminated sign not to exceed 16 square feet per sign face shall be permitted and shall only be placed on the tract. The sign may be a double faced sign. Off-tract signs are prohibited, whether placed in the public right-of-way, adjacent properties or elsewhere. The sign may be displayed only on the day of the event.

(K) Camping is prohibited.

(L) Inspection of Event: The agri-tourism event shall be open to inspection by any authority having jurisdiction over the event or any part thereof, including but not limited to, law enforcement, public health, fire control, and code compliance personnel.

(M) Notwithstanding the transfer of approval rights in MCC 37.0770, approval of the agri-tourism event does not run with the property and is not transferred with ownership of the tract. Approval of the agri-tourism event permit is personal to the applicant and specific to the authorized tract. The permit terminates automatically, immediately and without notification if farm use ceases to occur on the tract or the applicant no longer has control of the tract as its owner or lessee.

(N) Violation by the permit holder of any standard or condition of approval issued with the permit may be considered in any subsequent agri-tourism permit application and may be grounds for denial of any subsequent permit.

(O) A permit for up to six one-day agri-tourism events has not been issued for the same tract in the same calendar year nor has a permit been issued for a farm stand promotional activity or a winery agri-tourism or other commercial event for the same tract.

(P) Agri-tourism events are not permitted in conjunction with a farm operation involving any form of marijuana business.

(Ord. 1261, Added, 07/26/2018)

### **§ 36.6855 STANDARDS FOR OTHER AGRITOURISM EVENTS.**

Satisfaction of the following standards of approval for up to six one-day agri-tourism events on a tract per calendar year shall be determined through the Type II permit review process.

(A) Limitations on Use: The agri-tourism event is held on a tract that is ten acres or larger in size and there is existing farm use on the tract.

(B) Maximum Attendance: Attendance shall not exceed 50 total attendees and 35 total vehicles per event.

#### **(C) Parking and Traffic Control:**

(1) The agri-tourism event will be conducted in compliance with a parking plan approved by the decision maker.

(2) All event parking shall be accommodated on the tract; off-tract parking is prohibited.

(3) The agri-tourism event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.

(D) Temporary Structures: Temporary structures, if any, are set up no earlier than 7:00 AM of the day of the event and taken down no later than 10:00 PM of the day of the event. A temporary structure shall be placed no closer than 100 feet from a property line.

(E) Hours of Operation: Each agri-tourism event shall begin no earlier than 9:00 AM and shall conclude no later than 9:00 PM. No guest vehicle may arrive prior to 8:30 AM or depart later than 9:30 PM on the day of the event.

(F) Noise: No artificial amplification of sounds shall occur before 9:00 AM or after 8:00 PM. At no time shall an event generate noise above 60 decibels (dBA) at or beyond the property lines of the property on which the agri-tourism event is being held. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(G) Lighting: Any outdoor lighting for the agri-tourism event shall comply with MCC 36.4185 and MCC 36.0570.

(H) Sanitation Facilities: A restroom located in an existing permanent structure or a portable restroom facility with a hand washing station shall be provided on the tract for use by attendees of the event.

(I) Solid Waste: The agri-tourism event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

(J) Signage: One temporary non-illuminated sign not to exceed 16 square feet per sign face shall be permitted and shall only be placed on the tract. The sign may be a double faced sign. Off-tract signs are prohibited, whether placed in the public right-of-way, adjacent properties or elsewhere. The sign may be displayed only on the day of the event.

(K) In order to approve the permit application, findings must be made that the agri-tourism event:

- (1) Has as its primary focus the farm use rather than the underlying cause of the activity or event; and
- (2) Significantly and directly relates to and supports the farm use; and
- (3) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (4) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(5) Will 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.

(L) Camping is prohibited.

(M) Inspection of Event: The agri-tourism event shall be open to inspection by any authority having jurisdiction over the event or any part thereof, including but not limited to, law enforcement, public health, fire control, and code compliance personnel.

(N) Notwithstanding the transfer of approval rights in MCC 37.0770, approval of the agri-tourism event does not run with the property and is not transferred with ownership of the tract. Approval of the agri-tourism event permit is personal to the applicant and specific to the authorized tract. The permit terminates automatically, immediately and without notification if farm use ceases to occur on the tract or the applicant no longer has control of the tract as its owner or lessee.

(O) Permit Duration and Application Period: The first agri-tourism permit issued to an applicant under this section is limited to one calendar-year. After an applicant conducts the first calendar-year of agri tourism events approved under this section in compliance with the permit for such events, subsequent agri-tourism event permits may be approved for two consecutive calendar-year periods for up to six events in each calendar year of the permit. Each subsequent permit after the initial calendar year permit shall be processed as a new Type II permit application and shall be subject to the current approval criteria and standards at the time of the application.

(P) Violation by the permit holder of any standard or condition of approval issued with the permit may be considered in any subsequent agri-tourism permit application and may be grounds for denial of any subsequent permit.

(Q) Modifications: The Planning Director may approve minor modifications to the approved permit and the conditions of approval without the need for a new permit application. A minor modification is one that:

- (1) Does not modify the requirements of (A), (B) and (E) of this section;
- (2) Is consistent with the current permit; and
- (3) Does not increase the impact to surrounding properties.

(R) A permit for a single, one-day agri-tourism event has not been issued for the same tract in the same calendar year nor has a permit been issued for a farm stand promotional activity or a winery agri-tourism or other commercial event for the same tract.

(S) Agri-tourism events are not permitted in conjunction with a farm operation involving any form of marijuana business.  
(Ord. 1261, Added, 07/26/2018)



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***PART 7 - DESIGN REVIEW;  
NONCONFORMING USES; SIGNS;  
VARIANCES; LAND DIVISIONS***

***DESIGN REVIEW***

**§ 36.7000- PURPOSES.**

MCC 36.7000 through 36.7065 provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7005 ELEMENTS OF DESIGN REVIEW PLAN.**

The elements of a Design Review Plan are: The layout and design of all existing and proposed improvements, including but not limited to, buildings, structures, parking and circulation areas, outdoor storage areas, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill actions, accessways, pedestrian walkways, buffering and screening measures.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7010 DESIGN REVIEW PLAN APPROVAL REQUIRED.**

No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final design review plan is approved by the Planning Director, under this ordinance.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7015 EXCEPTIONS.**

The provisions of MCC 36.7000 through 36.7065 shall not be applied to the following:

(A) Single family residences.

(B) Type C Home Occupations unless located in the OR or PH-RC districts.

(C) Type C Home Occupations located in the OR or PH-RC districts that require the addition of less than 400 square feet of ground coverage.

(D) Commercial photovoltaic solar power generation facility.

(Ord. 1197, Amended, 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7020 APPLICATION OF REGULATIONS.**

(A) Except those exempted by MCC 36.7015, the provisions of MCC 36.7000 through 36.7060 shall apply to all conditional and community service uses, and to specified uses, in any district.

(B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 36.4205 shall only be subject to the following Design Review approval criteria: MCC 36.7050(A)(1)(a) and (1)(c), (4) and (7), except when located in the PH-RC, OR, or OCI zone districts.

(C) All other uses are subject to all of the Design Review Approval Criteria listed in MCC 36.7050 and 36.7055.

(D) Alteration or modification of the physical development previously reviewed through the Design Review process shall be subject to the Design Review Approval Criteria listed in MCC 36.7050 and 36.7055.

(Ord. 1197, Amended, 02/16/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7030 DESIGN REVIEW PLAN CONTENTS.**

(A) The design review application shall be filed on forms provided by the Planning Director and shall be accompanied a site plan, floor plan, architectural elevations and landscape plan, as appropriate, showing the proposed development.

(B) Plans shall include the following, drawn to scale:

(1) Access to site from adjacent rights-of-way, streets, and arterials;

- (2) Parking and circulation areas;
- (3) Location, design, materials and colors of buildings and signs;
- (4) Orientation of windows and doors;
- (5) Entrances and exits;
- (6) Existing topography and natural drainage;
- (7) Pedestrian circulation;
- (8) Boundaries of areas designated Significant Environmental Concern, Hillside Development and Areas of Special Flood Hazards;
- (9) Service areas for uses such as mail delivery, trash disposal, above-ground utilities, loading and delivery;
- (10) Areas to be landscaped;
- (11) Exterior lighting location and design;
- (12) Special provisions for handicapped persons;
- (13) Surface and storm water drainage and on-site waste disposal systems; and
- (14) The size, species, and approximate locations of plant materials to be retained or placed on the site; and
- (15) Proposed ground-disturbance, grading, filling and site contouring.

(Ord. 1197, 02/16/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7040 FINAL DESIGN REVIEW PLAN.**

Prior to land use approval for building permit review or commencement of physical development where no additional permits are necessary, the applicant shall revise the plans to show compliance with the land use approvals granted, all conditions of approval and required modifications. Final design

review plan shall contain the following, drawn to scale:

(A) Site Development and Landscape Plans drawn to scale, indicating the locations and specifications of the items described in MCC 36.7030, as appropriate;

(B) Architectural drawings, indicating floor plans, sections, and elevations; and

(C) Approved minor exceptions from yard, parking, and sign requirements.

(Ord. 1197, Amended, 02/16/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7045 DELAY IN THE CONSTRUCTION OF A REQUIRED FEATURE**

When the Planning Director determines that immediate execution of any feature of an approved final design review plan is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director shall, as a precondition to the issuance of a required permit under MCC 36.7010 and 36.7020, require the posting of a performance bond, cash deposit, or other surety, to secure execution of the feature at a time certain.

(Ord. 1197, Amended, 02/16/2013)

#### **§ 36.7050 DESIGN REVIEW CRITERIA.**

(A) Approval of a final design review plan shall be based on the following criteria:

(I) Relation of Design Review Plan Elements to Environment.

(a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.

(b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.

- (c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter-related, and shall provide spatial variety and order.
- (2) Safety and Privacy - The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.
- (3) Special Needs of Handicapped - Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and braille signs.
- (4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.
- (5) Pedestrian and Vehicular circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.
- (6) Drainage - Surface drainage and storm-water systems shall be designed so as not to adversely affect neighboring properties or streets. Systems that insure that surface runoff volume after development is no greater than before development shall be provided on the lot.
- (7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.
- (8) Utilities - All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.
- (9) Signs and Graphics - The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.
- (B) Guidelines designed to assist applicants in developing design review plans may be adopted by the Planning Commission.  
(Ord. 1001, Reorg&Renum, 12/12/2002)
- § 36.7055 REQUIRED MINIMUM STANDARDS.**
- (A) Private and Shared Outdoor Recreation Areas in Residential Developments:
- (1) Private Areas - Each ground level living unit in a residential development subject to design review plan approval shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents and their guests.
- (2) Shared Areas - Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development, as follows:
- (a) One or two-bedroom units: 200 square feet per unit.
- (b) Three or more bed-room units: 300 square feet per unit.
- (7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures

## (B) Storage

Residential Developments - Convenient areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be entirely enclosed.

## (C) Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

(1) A minimum of 15% of the development area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.

(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.

(3) The following landscape requirements shall apply to parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

(c) A landscaped strip separating a parking or loading area from a street shall contain:

1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;

2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and

## 3. Vegetative ground cover.

(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(e) A parking landscape area shall have a width of not less than 5 feet.

(4) Provision shall be made for watering planting areas where such care is required.

(5) Required landscaping shall be continuously maintained.

(6) Maximum height of tree species shall be considered when planting under overhead utility lines.

(7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

(D) When the Planning Director determines that immediate execution of any feature of an approved final design review plan is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director shall, as a precondition to the issuance of a required permit under MCC 36.7010 through 36.7020, require the posting of a performance bond, cash deposit, or other surety, to secure execution of the feature at a time certain. (Moved from .7040)

(Ord. 1197, Amended, 02/16/2013; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7060 MINOR EXCEPTIONS: YARD,  
PARKING, SIGN, AND  
LANDSCAPE REQUIREMENTS.**

(A) In conjunction with final design review plan approval, the Planning Director may grant minor exceptions from the following requirements:

- (1) Dimensional standards for yards as required in the primary district;
- (2) Dimensional standards for off-street parking as required under MCC 36.4170 and 36.4175;
- (3) Standards for minimum number of off-street parking spaces as required in the primary district; and
- (4) Dimensional standards for signs as required in the primary district;
- (5) In the case of a proposed alteration, standards for landscaped areas under MCC 36.7055 (C).

(B) Except under subsection (A) (5) above, no minor exception shall be greater than 25% of the requirement from which the exception is granted.

(C) Approval of a minor exception shall be based on written findings, as required in this subpart.

- (1) In the case of a minor yard exception, the Planning Director shall find that approval will result in:
  - (a) More efficient use of the site;
  - (b) Preservation of natural features, where appropriate;
  - (c) Adequate provision of light, air, and privacy to adjoining properties; and
  - (d) Adequate emergency accesses.

(2) In the case of a minor exception to the dimensional standards for off-street parking spaces or the minimum required number of off-street parking spaces, the Planning Director shall find that approval will provide adequate off-street parking in relation to user demands. The following factors may be considered in granting such an exception:

- (a) Special characteristics of users which indicate low demand for off-street parking (e.g., low income, elderly);
- (b) Opportunities for joint use of nearby off-street parking facilities;
- (c) Availability of public transit;
- (d) Natural features of the site (topography, vegetation, and drainage) which would be adversely affected by application of required parking standards.

(3) In the case of a minor exception to the dimensional standards for signs, the Planning Director shall find that approval is necessary for adequate identification of the use on the property and will be compatible with the elements of the design review plan and with the character of the surrounding area.

(4) In the case of a minor exception to the standards for landscaped areas, the Planning Director shall find that approval is consistent with MCC 36.7000, considering the extent and type of proposed alteration and the degree of its impact on the site and surrounding areas.

(Ord. 1001, Reorg&Renum, 12/12/2002)



**NONCONFORMING USES****§ 36.7200- NONCONFORMING USES.**

(A) The purpose of this section is to establish standards and procedures regulating the continuation, alteration, expansion, and replacement of nonconforming uses. The intent is to allow procedures for considering changes to nonconforming uses that do not increase the level of adverse impacts on the neighborhood, or changes required for the use to comply with State or County health or safety requirements.

(B) The Planning Director must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of the nonconforming use will have a greater adverse impact on the neighborhood under MCC 36.7214(C).

(C) Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 36.7209 and 36.7214 after verification under MCC 36.7204.

(D) If a nonconforming use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this Zoning Code at the time of the proposed resumption.

(E) Notwithstanding any other provisions of this Code, a surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:

(1) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a State of Oregon exemption from surface mining regulation; and

(2) The surface mining use was not inactive for a period of 12 consecutive years or more.

(3) For purposes of this subsection, inactive means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

(F) A nonconforming use may be maintained with ordinary care.

(G) A change in ownership or occupancy of a nonconforming use is permitted.

(H) No application under this section is required for the alteration, expansion, or replacement of a lawfully established habitable dwelling when a governing zoning district regulates such alteration, expansion, or replacement and the proposed alteration, expansion, or replacement satisfies the dimensional requirements of the district.

(Ord. 1128, Amended, 01/29/2009; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7204 VERIFICATION OF NONCONFORMING USE STATUS.**

(A) The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:

(1) Was legally established and operating at the time of enactment or amendment of this Zoning Code, and

(2) Has not been abandoned or interrupted for a continuous two year period.

(B) The Planning Director shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature



and extent of a nonconforming use, the Planning Director shall consider:

- (1) Description of the use;
  - (2) The types and quantities of goods or services provided and activities conducted;
  - (3) The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;
  - (4) The number, location and size of physical improvements associated with the use;
  - (5) The amount of land devoted to the use; and
  - (6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.
- (7) A reduction of scope or intensity of any part of the use as determined under this subsection (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.
- (C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.
- (D) Except for nonconforming uses considered under MCC 36.7214 (B), the Planning Director

may impose conditions to any verification of nonconforming use status to insure compliance with said verification.

(E) An applicant may prove the continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

(F) For purposes of verifying a nonconforming use, the Planning Director shall not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application. Evidence proving the continuity, nature and extent of the use for the 20-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

(Ord. 1128, Renumbered, 01/29/2009; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7209 RESTORATION OR REPLACEMENT DUE TO FIRE, OTHER CASUALTY OR NATURAL DISASTER.**

After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.7204, the Planning Director may authorize restoration or replacement of that nonconforming use based on findings that:

- (A) The restoration or replacement is made necessary by fire, other casualty or natural disaster, and

(B) The application for restoration or replacement must be submitted within one year from the date of occurrence of the fire, casualty or natural disaster.

(Ord. 1128, Renumbered, 01/29/2009; Ord. 1001, Reorg&Re-num, 12/12/2002)

**§ 36.7214 ALTERATION, EXPANSION OR REPLACEMENT OF NONCONFORMING USES.**

(A) Alteration, expansion or replacement of a nonconforming use includes a change in the use, structure, or physical improvement of no greater adverse impact on the neighborhood, or alterations, expansions or replacements required for the use to comply with State or County health or safety requirements.

(B) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.7204, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that:

(1) The alteration, expansion or replacement is necessary to comply with state or local health or safety requirements, or

(2) The alteration is necessary to maintain in good repair the existing structures associated with the nonconformity.

(C) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.7204, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider the factors listed below. Adverse impacts to one of the factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

(1) The character and history of the use and of development in the surrounding area;

(2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood;

(3) The comparative numbers and kinds of vehicular trips to the site;

(4) The comparative amount and nature of outside storage, loading and parking;

(5) The comparative visual appearance;

(6) The comparative hours of operation;

(7) The comparative effect on existing flora;

(8) The comparative effect on water drainage or quality; and

(9) Other factors which impact the character or needs of the neighborhood.

(D) Any decision on alteration, expansion or replacement of a nonconforming use shall be processed as a Type II permit as described in MCC Chapter 37.

(Ord. 1128, Renumbered, 01/29/2009; Ord. 1001, Reorg&Re-num, 12/12/2002)



**SIGNS****§ 36.7400- PURPOSE.**

(A) This Chapter regulates signs which are visible from the right-of-way and from beyond the property where erected. These regulations balance the need to protect the public safety and welfare, the need for a well maintained and attractive community, and the need for identification, communication and advertising for all land uses. The regulations for signs have the following specific objectives:

- (1) To ensure that signs are designed, constructed, installed and maintained so that public safety and traffic safety are not compromised;
- (2) To allow and promote positive conditions for meeting sign users' needs while at the same time avoiding nuisances to nearby properties;
- (3) To reflect and support the desired character and development patterns of the various zones; and,
- (4) To ensure that the constitutionally guaranteed right of free speech is protected.

(B) The regulations allow for a variety in number and type of signs for a site. The provisions do not necessarily assure or provide for a property owner's desired level of visibility for the signs.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7405 APPLICABILITY AND SCOPE.**

This Chapter regulates the number, size, placement and physical characteristics of signs. The regulations are not intended to, and do not restrict, limit or control the content or message of signs. The regulations of this Chapter apply to all zones. The regulations of this Chapter are in addition to all other regulations in the Multnomah County Code and State Building Code applicable to signs.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7410 CONFORMANCE.**

No sign may be erected unless it conforms with the regulations of this Chapter. Sign permits must be approved prior to erection of the sign.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7415 SEVERABILITY.**

If any portion of this Chapter is for any reason ruled invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision and such ruling shall not affect the validity of the remaining portions of this Chapter, Title or Code.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7420 EXEMPT SIGNS.**

The following signs are exempt from the provisions of this Chapter, but may be subject to other portions of the County Code:

- (A) Signs not oriented or intended to be legible from a right-of-way, private road or other private property;
- (B) Signs inside a building, except for strobe lights visible from a right-of-way, private road or other private property;
- (C) Signs legally erected in the right-of-way in accordance with MCC 29.500 through 29.583, the Rules For Street Standards adopted thereunder, and Administrative Rules and Regulations pursuant to MCC 15.225 through 15.236;
- (D) Building numbers required by the applicable street naming and property numbering provisions in Multnomah County Code;
- (E) Signs carved into or part of materials which are an integral part of the building;
- (F) Flags on permanent flag poles which are designed to allow raising and lowering of the flags;
- (G) Banners on permanent poles which are designed and intended as a decorative or ornamental feature;

(H) Painted wall decorations and painted wall highlights;

(I) Bench advertising signs which have been lawfully erected.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7425 PROHIBITED SIGNS.**

The following signs are prohibited and shall be removed:

(A) Strobe lights and signs containing strobe lights which are visible beyond the property lines;

(B) Signs placed on or painted on a motor vehicle or trailer and parked with the primary purpose of providing a sign not otherwise allowed for by this Code;

(C) Abandoned signs;

(D) Balloon signs; and

(E) Signs in the right-of-way in whole or in part, except signs legally erected for informational purposes by or on behalf of a government agency.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7430 DETERMINATION OF FRONTAGES.**

(A) Primary Building Frontages

Primary building frontages are derived from each ground floor occupant's qualifying exterior walls (See MCC 36.7505 Figure 1).

(B) Corner Signs

Corner signs facing more than one street shall be assigned to a frontage by the applicant. The sign must meet all provisions for the frontage it is assigned to.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7435 NON-CONFORMING SIGNS.**

Repealed.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7440 VARIANCES.**

Under the provisions of MCC 36.7600, variances may be requested for all sign regulations except as provided herein, and except for prohibited signs.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7445 BASE ZONE SIGN REGULATIONS.**

Signs are allowed in unincorporated Multnomah County depending on the zoning district in which a property is situated as described in MCC 36.7450. Signs are allowed on properties that are zoned OP, PD, and LF or have CS designations to the extent that signs are allowed in the underlying zoning district except as provided herein. Signs are allowed in the SPA subdistricts to the extent provided for in the regulations for each such subdistrict.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7450 SIGNS GENERALLY IN THE EFU, CFU, MUA-20, RR, PH-RC, OCI AND OR ZONES.**

For all uses and sites in the above listed zones, the following types, numbers, sizes and features of signs are allowed. All allowed signs must also be in conformance with the sign development regulations of MCC 36.7460 through 36.7500.

(A) Free Standing Signs:

(1) Allowable Area - Free standing signs are allowed .25 square feet of sign face area per linear foot of site frontage, up to a maximum of 40 square feet.

(2) Number - One free standing sign is allowed per site frontage.

(3) Height - The maximum height of a free standing sign is 16 feet.

(4) Extension into the Right-Of-Way - Free standing signs may not extend into the right-of-way.

(B) Signs Attached to Buildings:

(1) Total Allowable Area - The total allowable area for all permanent signs attached to the building is determined as follows:

Eighteen square feet of sign face area is allowed, or .25 square feet of sign face area per linear foot of the occupant's primary building frontage, whichever is more.

(2) Individual Sign Face Area - The maximum size of an individual sign within the total allowable area limit is 50 square feet.

(3) Types of Signs - Fascia, marquee, awning and painted wall signs are allowed. Projecting roof top and flush pitched roof signs are not allowed.

(4) Number of Signs - There is no limit on the number of signs if within the total allowable area limit.

(5) Extension into the Right-Of-Way - Signs attached to buildings may not extend into the right-of-way.

(C) Sign Features

Permanent signs may have the following features:

(1) Signs may be indirectly illuminated downward onto the sign face.

(2) Electronic message centers are not allowed.

(3) Flashing signs are not allowed.

(4) Rotating signs are not allowed.

(5) Moving parts are not allowed.

(D) Additional Signs Allowed - In addition to the sign amounts allowed based on the site and building frontages, the following signs are allowed in all zoning districts for all usages:

(1) Directional signs pursuant to MCC 36.7490.

(2) Temporary lawn, banner and rigid signs.

(3) Subdivisions may have a free standing sign at each entrance, up to a total of four, each of which may be up to ten feet in height and 50 square feet in area.

(Ord. 1128, Amended, 01/29/2009; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7455 BILLBOARD REGULATIONS.**

Billboards are allowed in unincorporated Multnomah County as described in MCC 36.7400 et. seq.

(A) Number of Billboards within Unincorporated Multnomah County

(1) No billboard, other than as provided in this ordinance, may be erected in unincorporated Multnomah County.

(2) The Planning Director shall prepare an inventory of all billboards in existence in the unincorporated area of Multnomah County on the effective date of this ordinance. A billboard shall be considered to be in existence if it meets the definition criteria of MCC 36.7505 and is currently being adequately maintained or has been issued a building permit prior to the effective date of this ordinance. The inventory shall be known as the Total Billboard Allowance for Unincorporated Multnomah County.

(3) After the inventory has been established, one permit shall be established for each poster face billboard and two permits shall be established for each paint face billboard.

(4) Each permit shall reflect the location, size and height of each billboard as well as any other information deemed pertinent by the County.

(5) The size, shape, orientation or height of any billboard in existence on the effective date of this ordinance shall not be changed unless such modifications bring the billboard closer to or into, conformance with the provisions of this ordinance, except that "cut-out" extensions may be temporarily added to any billboard in order to conform to an advertiser's specifications.

(6) An existing billboard may be upgraded by substituting two permits authorizing two poster face billboards for one paint face billboard, and likewise may substitute one paint face for two poster face, provided the upgraded billboard(s) meets the requirements of this ordinance.

(7) As areas are annexed to Cities, the number of billboards located in the annexed area will be subtracted from the Total Billboard Allowance for Unincorporated Multnomah County.

**(B) Limitation on the Relocation of Existing Billboards**

(1) An existing billboard may be relocated to a new location, as described in this ordinance, only in the event that such relocation is necessitated because:

(a) the owner is unable to continue the existing lease for the premises upon which the existing billboard is located;

(b) the billboard structure has been destroyed by other than the owner or has deteriorated and is no longer in safe condition;

(c) the economic viability of the existing location has been substantially impaired solely as a result of the full or partial obstruction of the billboard or changes in the automobile traffic pattern moving past the existing location; or

(d) the owner has lost a billboard site or sites as a result of acquisition of real property by a public entity for a public purpose.

(2) The owner shall notify the County prior to the removal or relocation of any billboard.

(3) Regardless of the number of billboards which are eligible for relocation at any time, within one calendar year the owner shall not relocate more than five percent of the total number of billboards that it maintains, provided however, that the owner shall have sole discretion in accordance with (B) (1) above which billboards are to be relocated and when a particular relocation shall occur.

(4) The owner of a billboard shall not maintain any greater number of billboards on interstate highways in unincorporated Multnomah County than were established prior to the effective date of this Ordinance. However, in the event that the owner is unable to continue the lease for the property upon which the existing billboard is located, the owner may relocate that billboard to another location on an interstate highway, except that any relocated billboard structure must be a minimum of two thousand feet from any other billboard structure subject to this subparagraph and in no event shall the owner relocate more than one billboard subject to this subparagraph within a calendar year.

(5) The owner of a billboard may, upon notice to the County, interchange two existing side-by-side poster face billboards with one paint face billboard and likewise may interchange one paint face with two side-by-side poster faces.

(6) No billboard relocated pursuant to this Ordinance shall be required to go through design review.

(7) Upon removal of an existing billboard, the permit for such billboard shall be deemed a relocation permit authorizing relocation of a billboard to a new site. There shall be no time limit on the owner's eligibility to utilize such relocation permits and the owner shall have the right to accumulate the number of permits for billboards to be relocated.

(8) When the owner elects to construct a relocated billboard, he/she may select from the size and height of those permits available to it and may interchange size and height among permits; however, the owner may not accumulate height by adding heights from more than one permit.

**(C) Standards Governing the Relocation of Billboards**

(1) There shall not be more than four billboard faces in either direction within any 660 lineal feet on the roadway measured to include streets intersecting the initially measured roadway.

(2) A single billboard structure cannot be located within less than 330 lineal feet of zoning in which billboards are permitted in this ordinance. There shall be a minimum of 660 feet of contiguous zoning to allow two or more billboards.

(3) The zoning on the opposite side of the street from the proposed relocation also must permit billboards.

(4) There shall be at least 100 feet from any billboard to any residential zone fronting on the same side of the street.

(5) No painted billboard shall be relocated on a thoroughfare with less than two lanes utilized for traffic in one direction at all times.

(6) Districts in Which Billboards are Permitted, pursuant to the other requirements of this ordinance:

C-3 Retail Commercial  
C-2 General Commercial  
LM Light Manufacturing  
GM General Manufacturing  
HM Heavy Manufacturing

(7) Sign free areas

No billboard shall be relocated on any lot approved for a Community Service land use.

**(D) Development Standards**

(1) When a billboard is erected, its maximum height shall be determined by available relocation permits. A permit may be used for the height of the prior billboard or for a lesser height. However, in no case may a billboard be erected which is above the allowable height of the zone where located, or 50 feet, whichever is lower.

(2) All height measurements are measured from the top of the sign to the grade below the middle of the sign. Height measurements do not include temporary cutouts.

(3) No billboard shall have an area less than 288 square feet nor more than 672 square feet, except that cutout extensions may be temporarily added to any billboard from time to time in order to conform to an advertiser's specifications.

(4) Billboards shall be maintained in safe condition and all maintenance and reconstruction as may be necessary shall be in conformance with applicable County building regulations.

(5) No billboard shall be located on a roof.

(6) No billboard shall be located so that any portion of it extends over a property line and/or a public right-of-way.

(7) Billboards located within 45 feet of an intersection shall comply with Section 8.14 of the Administrative Rules and Regulations under MCC 15.229 (A) (14).



(8) No single billboard structure shall support more than two painted billboards or four poster faces.

(9) No billboard shall contain moving parts or flashing or intermittent lights.

(10) No permit shall be required to change the message on a billboard or to add or remove a cutout.

(11) Billboard lights shall be placed so the light is directed downward onto the billboard face and not directed toward a street or adjacent residential unit.

(12) Access to solar radiation for an existing solar energy collector shall be protected from encroachment by placement of a billboard.

(13) No billboard shall be located in a landscape area as required by design review on an approved site plan.

(14) V-shaped faces shall be allowed if located on a single billboard structure and the angle is less than 90 degrees.

(15) In addition to the Sign Free Areas listed above, relocated billboards must be positioned with care and consideration of the preservation of panoramic views of the rivers, the mountains and downtown Portland.

(E) Variances - No variances are allowed pursuant to the provisions of MCC 36.7455.

(Ord. 1236, Amended, 09/22/2016; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7460 APPLICABILITY.**

All signs allowed under the base zone provisions must comply with the development regulations of the following Sections.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7465 SIGN PLACEMENT.**

#### **(A) Placement**

(S-2 2016)

All signs and sign structures shall be erected and attached totally within the site except when allowed to extend into the right-of-way.

#### **(B) Frontages**

Signs allowed based on the length of one site frontage may not be placed on another site frontage. Signs allowed based on a primary building frontage may be placed on a secondary building frontage.

#### **(C) Vision Clearance Areas**

(1) No sign may be located within a vision clearance area as defined in subsection (C) (2) below. No support structure(s) for a sign may be located in a vision clearance area unless the combined total width is 12 inches or less and the combined total depth is 12 inches or less.

(2) Location of vision clearance Areas - Vision clearance areas are triangular shaped areas located at the intersection of any combination of rights-of-way, private roads, alleys or driveways. The sides of the triangle extend 45 feet from the intersection of the vehicle travel area (See MCC 36.7505 Figure 2). The height of the vision clearance area is from three feet above grade to ten feet above grade.

#### **(D) Vehicle Area Clearances**

When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign structure shall be at least 14 feet above the ground. Vehicle areas include driveways, alleys, parking lots, and loading and maneuvering areas.

**(E) Pedestrian Area Clearances**

When a sign extends over private sidewalks, walkways or other spaces accessible to pedestrians, the bottom of the sign structure shall be at least 8-1/2 feet above the ground.

**(F) Required Yards and Setbacks**

Signs may be erected in required yards and setbacks.

**(G) Parking Areas**

(1) Unless otherwise provided by law, accessory signs shall be permitted on parking areas in accordance with the provisions specified in each district, and signs designating entrances, exits or conditions of use may be maintained on a parking or loading area.

(2) Any such sign shall not exceed four square feet in area, one side. There shall not be more than one such sign for each entrance or exit to a parking or loading area.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7470 FASCIA SIGNS.****(A) Height**

Fascia signs may not extend more than six inches above the roof line.

**(B) Extensions**

No point on the face of a fascia sign may extend more than 18 inches from the wall to which it is attached. Fascia signs may not extend beyond the corner of buildings.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7475 PROJECTING SIGNS.****(A) Height**

The face of projecting signs may not extend more than six inches above the roof line.

**(B) Placement**

Projecting signs are not allowed on roof tops or on pitched roofs.

**(C) Support Structures**

Support structures shall be designed so that there is the minimum visible support structure above the sign face. There shall be no more than one foot of support structure between the building wall and the sign.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7480 FLUSH PITCHED ROOF SIGNS.****(A) Height**

The face of flush pitched roof signs may not extend more than six inches above the roof line.

**(B) Placement**

Flush pitched roof signs shall be parallel to the building face. They may not extend beyond the building wall.

**(C) Visual Backing**

When viewed straight on, flush pitched roof signs shall have a visual backing formed by the roof.

**(D) Support Structures**

Support structures shall be designed so that there is no visible support structure above the sign.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7485 MARQUEES AND AWNINGS.**

Signs may be placed on or incorporated into marquees and awnings provided they do not extend above the upper surfaces of the structure. Signs may be hung below marquees and awnings if the sign clears the sidewalk by at least 8-1/2 feet.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7490 DIRECTIONAL SIGNS.**

Directional signs shall comply with the following provisions:

Maximum Sign Face Area:	Six Square Feet
Types of Signs Allowed:	Free Standing, Fascia, Projecting, Painted Wall
Maximum Height:	Free Standing 42 Inches Fascia and Projecting 8 Feet
Extensions into R/W:	Not Allowed
Lighting:	Indirectly Illuminated downward onto the sign face
Flashing Lights:	Not Allowed
Electronic Message Centers:	Not Allowed
Moving or Rotating Parts:	Not Allowed

(Ord. 1236, Amended, 09/22/2016; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7495 TEMPORARY SIGNS.****(A) Time Limit**

Temporary signs and support structures, if any, must be removed within six months of the date of erection.

**(B) Attachment**

Temporary signs may not be permanently attached to the ground, buildings, or other structures.

**(C) Lawn Signs**

Lawn signs may not be greater than three square feet in area and may not be over 42 inches in height.

**(D) Banners**

One banner is allowed per primary building frontage and may not exceed 60 square feet.

Additional temporary flags and pennants are allowed, but may not extend into the right-of-way.

**(E) Temporary Rigid Signs**

(1) Type - Rigid signs may be free-standing or placed on building sides.

(2) Size - The maximum size of a rigid sign is 32 square feet.

(3) Number - One rigid sign is allowed per site frontage.

(4) Height - Rigid signs on buildings may not be placed above roof lines. The maximum height free standing is eight feet.

(5) Extensions into the Right-of-Way - Rigid signs may not extend into the right-of-way.

(6) Lighting and Movement - Rigid signs may not be illuminated or have moving or rotating parts.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7500 APPLICABILITY IN THE EVENT OF CONFLICTS.**

The provisions of MCC 36.7400 through 36.7505 supersede all conflicting provisions in the Multnomah County Code Chapter 36.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7505 SIGN RELATED DEFINITIONS AND FIGURES.**

(A) **Abandoned Sign** - A sign structure not containing a sign for 120 continuous days or a sign not in use for 120 continuous days.

(B) **Awning Sign** - A sign incorporated into or attached to an awning.

(C) **Balloon Sign** - An inflatable temporary sign anchored by some means to a structure or developed parcel.

(D) **Banner** - A temporary sign made of fabric or other non-rigid material with no enclosing framework.

(E) **Bench Advertising Sign** - An outdoor advertising sign that is placed on a stationary object that is used primarily for sitting.

(F) **Billboard** - Billboard shall mean a sign face supported by a billboard structure.

(1) A painted billboard shall mean a 14' x 48' billboard.

(2) A poster billboard shall mean a 12' x 24' billboard.

(G) **Billboard Structure** - Billboard structure shall mean the structural framework which supports a billboard.

(H) **Building Frontage** -

(1) Primary - Primary building frontages are exterior building walls facing a right-of-way or private roadway, and any other exterior building wall facing a parking lot which contains a public entry to the occupant's premises.

(2) Secondary - Secondary building frontages are exterior building walls which are not classified as primary frontages.

(I) **Cutout** - Every type of display in the form of letters, figures, characters or other representations in cutout or irregular form attached to or superimposed upon a billboard.

(J) **Directional Sign** - A permanent sign which is designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which the public is directed.

(K) **Electronic Message Center** - Signs whose message or display is presented with patterns of lights that may be changed at intermittent intervals by an electronic process.

(L) **Fascia Sign** - A single faced sign attached flush to a building.

(M) **Flush Pitched Roof Sign** - A sign attached to a roof with a pitch of one to four or greater and placed parallel to the building wall.

(N) **Free Standing Sign** - A sign on a frame, pole or other support structure which is not attached to any building.

(O) **Interstate Highway** - Every state highway that is part of the National System of Interstate and Defense Highways established pursuant to Section 103(d), Title 23, United States Code.

(P) **Lighting Methods:**

(1) Direct - Exposed lighting or neon tubes on the sign face.

(2) Flashing - Lights which blink on and off randomly or in sequence.

(3) Indirect - The light source is separate from the sign face or cabinet and is directed so as to shine on the sign.

(4) Internal - The light source is concealed within the sign.

(Q) **Maintenance** - Normal care needed to keep a sign functional such as cleaning, oiling and changing of light bulbs.

(R) **Marquee Sign** - A sign incorporated into or attached to a marquee or permanent canopy.

(S) **Moving Parts** - Features or parts of a sign structure which through mechanical means are intended to move, swing or have some motion.

(T) **Non-Conforming Sign** - A sign or sign structure lawfully erected and properly maintained that would not be allowed under the sign regulations presently applicable to the site.

(U) **Painted Wall Decorations** - Painted wall decorations are displays painted directly on a wall and are designed and intended as a decorative or ornamental feature.

(V) **Painted Wall Sign** - A sign applied to a building wall with paint and which has no sign structure.

(W) **Permanent Sign** - A sign attached to a building, structure, or the ground in some manner requiring a permit and made of materials intended for more than short-term use.

(X) **Projecting Sign** - A sign attached to and projecting out from a building face or wall and generally at right angles to the building. Projecting signs include signs projecting totally in the right-of-way, partially in the right-of-way or fully on private property.

(Y) **Repair** - Fixing or replacement of broken or worn parts. Replacement is of comparable materials only. Repairs may be made with the sign in position or with the sign removed.

(Z) **Right-of-Way** - Any way, street, alley or road dedicated to the use of the public.

(AA) **Rigid Sign** - A temporary sign, other than a lawn sign, made of rigid materials such as wood, plywood, plastic.

(BB) **Roof Line** - The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, chimneys or other minor projections.

(CC) **Roof Top Sign** - A sign on a roof with a pitch of less than one to four.

(DD) **Rotating Sign** - Sign faces or portions of a sign face which revolve around a central axis.

(EE) **Secondary Building Wall** - Exterior building walls or faces which are oriented toward another lot, not a right-of-way or private roadway.

(FF) **Sign** - Materials placed or constructed primarily to convey a message or other display and which can be viewed from a right of-way, private roadway or another property.

#### (GG) **Sign Face Area** -

(1) The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet surrounding the sign face (see MCC 36.7505 Figure 3). Sign area does not include foundations, supports, and other essential structures which are not serving as a backdrop or border to the sign. Only one side of a double faced sign is counted.

(2) When a sign is on a base material and attached without a frame, such as a wood board or Plexiglas panel, the dimensions of the base material are to be used unless it is clear that part of the base contains no sign, related display or decoration.

(3) When signs are constructed of individual pieces attached to a building wall, sign area is determined by a perimeter drawn (the greatest height multiplied by the greatest width) around all the pieces (See MCC 36.7505 Figure 4).

(4) For sign structures containing multiple modules oriented in the same direction, the modules together are counted as one sign face (See MCC 36.7505 Figure 5).

(5) The maximum surface area visible at one time of a round or three dimensional sign is counted to determine sign area.

(6) When signs are incorporated into awnings, the entire panel containing the sign is counted as the sign face unless it is clear that part of the panel contains no sign, related display or decoration.

(HH) **Sign Height** - The vertical distance from the natural ground elevation at the midpoint of the sign to the highest point of the sign display surface, including cutouts.

(II) **Sign Structure** - A structure specifically intended for supporting or containing a sign.

(JJ) **Site** - A plot, parcel or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

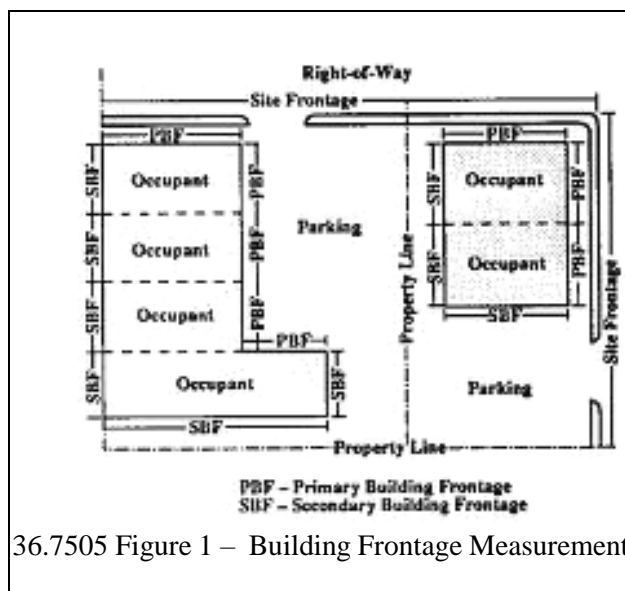
(KK) **Site Frontage** - That portion of a lot on one side of a street between two intersecting streets, accessways, or other rights-of-way (crossing or terminating) measured along the line of the street or for a dead-end street or accessway, all the property between an intersecting street or other right-of-way and the dead-end of the street or accessway.

(LL) **Structural Alteration** - Modification of the size, shape, or height of a sign structure. Also includes replacement of sign structure materials with other than comparable materials, for example metal parts replacing wood parts.

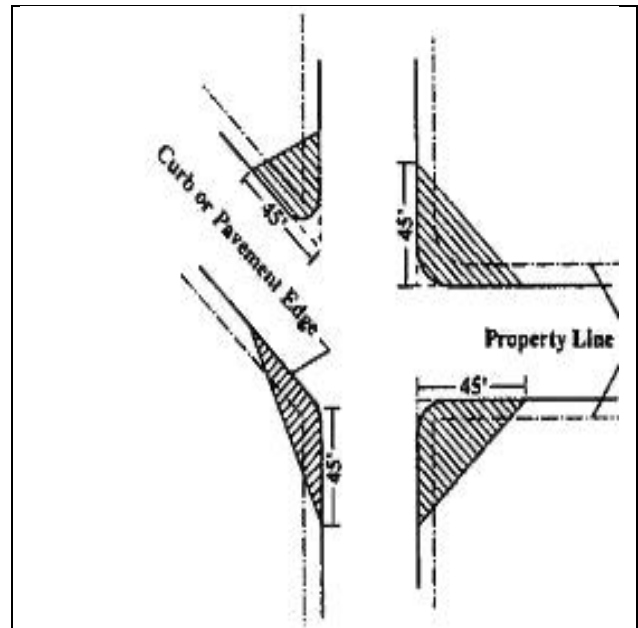
(MM) **Temporary Sign** - A sign not permanently attached to a building, structure, or the ground.

(NN) **Vision Clearance Area** - Those areas near intersections of roadways and ingress and egress points where a clear field of vision is necessary for public safety.

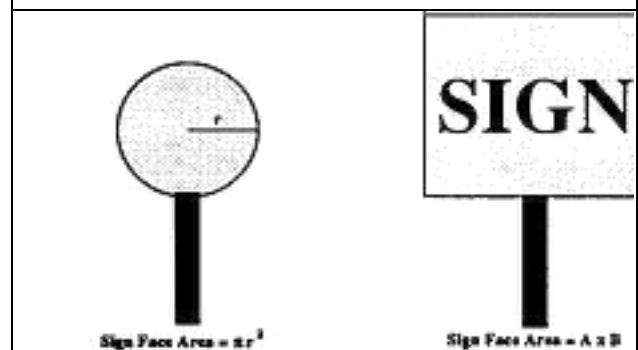
[Figures 1 through 5 on next page.]



36.7505 Figure 1 – Building Frontage Measurement



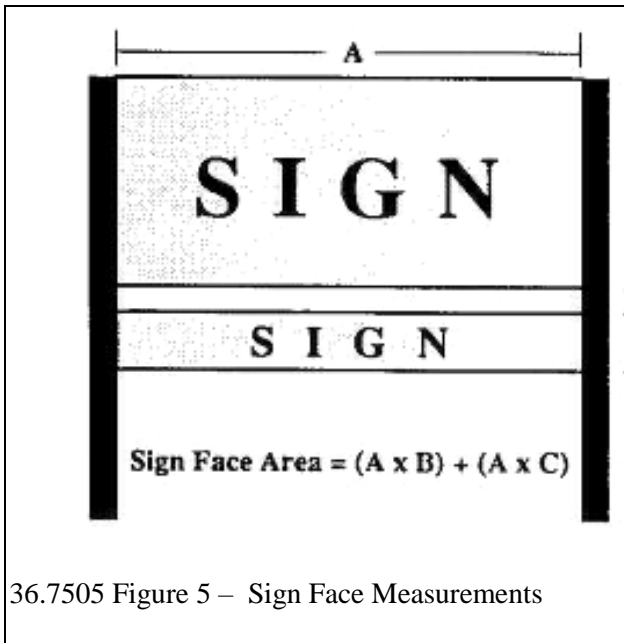
36.7505 Figure 2 – Visibility Triangle  
Visibility Triangle Areas at Typical Intersections



36.7505 Figure 3 – Sign Face Measurements



36.7505 Figure 4 – Sign Face Measurements



36.7505 Figure 5 – Sign Face Measurements

(Ord. 1001, Reorg&amp;Renum, 12/12/2002)

**ADJUSTMENTS AND VARIANCES**

(Ord. 1082, Amended, 09/28/2006)

**§ 36.7601 PURPOSE**

(A) The regulations of this Zoning Code Chapter are designed to implement the Policies of the Comprehensive Framework Plan and each Rural Area Plan. However, it is also recognized that because of the diversity of lands and properties found in the county there should be a zoning provision that permits justifiable departures from certain Zoning Code dimensional standards where literal application of the regulation would result in excessive difficulties or unnecessary hardship on the property owner.

(B) To address those situations, modification of the dimensional standards given in MCC 36.7606 may be permitted if the approval authority finds that the applicant has satisfactorily addressed and met the respective approval criteria in MCC 36.7611, Adjustments, or 36.7616, Variances. If an Adjustment or Variance request is approved, the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

(C) The Adjustment review process provides a mechanism by which certain dimensional standards may be modified no more than 40 percent if the proposed development continues to meet the intended purpose of the regulations. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the regulation.

(D) The Variance review process differs from the Adjustment review by providing a mechanism by which a greater variation from the standard than 40 percent may be approved for certain zoning dimensional requirements. The Variance approval criteria are based upon the traditional variance concepts that are directed towards consideration of circumstances or conditions on a subject property that do not apply generally to other properties in the same vicinity.

All proposed modification of the dimensional standards given in MCC 36.7606(A)(2) shall be reviewed under the Variance review process regardless of the proposed percentage modification.

(Ord. 1082, Add, 09/28/2006)

**§ 36.7606 SCOPE**

(A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

- (1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts are prohibited. Additionally, reductions to the fire safety zones in the Commercial Forest Use zones are not allowed under the Adjustment process; and

(2) Reduction of yards and setback requirements within the Hillside Development overlay shall only be reviewed as a Variance; and

(3) Reduction of yards/setback/buffer/resource protection setback requirements within the Large Fills, Mineral Extraction, and Radio and Television Transmission Towers Code Sections and any increase to the maximum building height shall only be reviewed as Variances; and

(4) Minor modification of yards and setbacks in the off-street parking and design review standards are allowed only through the “exception” provisions in each respective Code section.

(B) Dimensional standards that may be modified under a Variance review are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, building height, sign height, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

(1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts; and

(2) Modification of fire safety zone standards given in Commercial Forest Use districts; and

(3) Increase to any billboard height or any other dimensional sign standard.

(C) The dimensional standards listed in (A) and (B) above are the only standards eligible for Adjustment or Variance under these provisions. Adjustments and Variances are not allowed for any other standard including, but not limited to, minimum lot area, modification of a threshold of review (e.g. cubic yards for a Large Fill), modification of a definition (e.g. 30 inches of unobstructed open space in the definition of yard), modification of an allowed density in a Planned Development or houseboat moorage, or to allow a land use that is not allowed by the Zoning District.

(Ord. 1176, Amended, 03/03/2011; Ord. 1082, Add, 09/28/2006)

### **§ 36.7611 ADJUSTMENT APPROVAL CRITERIA**

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 36.7606 upon finding that all the following standards in (A) through (E) are met:

(A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

(B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

(C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and

(D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and

(E) If in a Rural Residential (RR) or Rural Center (RC) zone, the proposal will not significantly detract from the livability or appearance of the residential area.

(Ord. 1082, Add, 09/28/2006)

### **§ 36.7616 VARIANCE APPROVAL CRITERIA**

The Approval Authority may permit and authorize a variance from the dimensional standards given in



MCC 36.7606 upon finding that all the following standards in (A) through (F) are met:

(A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to:

(1) The size, shape, natural features and topography of the property, or

(2) The location or size of existing physical improvements on the site, or

(3) The nature of the use compared to surrounding uses, or

(4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district, or

(5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.

(6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

(B) The circumstance or condition in (A) above that is found to satisfy the approval criteria is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.

(C) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.

(D) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or ad

versely affects the appropriate development of adjoining properties.

(E) The Variance requested is the minimum necessary variation from the Code requirement which would alleviate the difficulty.

(F) Any impacts resulting from the variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.

(Ord. 1082, Add, 09/28/2006)

**LAND DIVISIONS****§ 36.7700- TITLE.**

This part of Chapter 36 shall be known as the Multnomah County Land Division Ordinance and may be so pleaded and referred to.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7705 DEFINITIONS.**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

**Cul-de-sac** means a short public street which is open to traffic at one end and is terminated by a vehicle turnaround at the other.

**Development** permit means any permit required by this or other Multnomah County Ordinances as a prerequisite to the use or improvement of any land and includes a building, land use, occupancy, sewer connection or other similar permit.

**Frontage street** means a minor street substantially parallel and adjacent to an arterial street, providing access to abutting properties and separation from through traffic.

**Half street** means a portion of the standard width of a street along the boundary of a land division, where the remaining portion of the street width could be provided from the adjoining property.

**Land Division** means a subdivision or partition. For the purposes of this Chapter, land divisions are further classified as Category 1, Category 3, and Category 4 Land Divisions, as provided in MCC 36.7765 through 36.7780.

**Land Feasibility Study** means a Site Evaluation Report as defined in OAR 340-71-150(1) which is the first step in obtaining a construction permit for an on-site sewage disposal system.

**Lot**, as used in this land division section, means a unit of land that is created by a subdivision of land.

**Parcel** means a unit of land that is created by a partitioning of land.

**Partition** means either an act of partitioning land or an area or tract of land partitioned as defined in this Chapter.

**Partition land** means to divide an area or tract of land into not more than three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partition land does not include:

- (1) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- (2) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment is not reduced below the minimum lot size established by the base zone of the property; or
- (3) A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies, in the case of a county road, with the Street Standards Code and Rules, or, in the case of other right of way, the applicable standards of the agency to which the sale or grant is made. However, any property divided by the sale or grant of property for state highway or county road or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
- (4) The sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

**Partition Plat** means a final map and other writing containing all the descriptions, locations,

specifications, provisions and information concerning a partition.

***Pedestrian path and bikeway*** means a right-of-way or easement for pedestrian, bicycle or other non-motorized traffic.

***Person*** means 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.

***Plat*** includes a final subdivision plat or partition plat.

***Private driveway*** means a private means of access to a public road or private road which is part of and provides access only to one lot or parcel.

***Private Road*** means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

***Private street***—See private road.

***Property Line*** means the division line between two units of land.

***Property Line Adjustment*** means the relocation of a common property line between two abutting properties.

***Public Road*** means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

***Public street***—See public road.

***Right-of-way*** means the area between boundary lines of a public street or other area dedicated for pedestrian or vehicular circulation.

***Road*** means the entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;

(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(c) Structures such as bridges that provide for continuity of the right-of-way.

***Rural Area*** means the unincorporated area of Multnomah County located outside of the Urban Growth Boundary as designated by the Multnomah County Comprehensive Plan.

***Sale or sell*** includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

***Sidewalk*** means a pedestrian walkway with all weather surfacing.

***Street***—See road.

***Street classifications*** such as Arterial, Collector, Minor Arterial, etc., shall have the meanings stated in the Multnomah County Street Standards Code and Rules.

***Street lighting*** means the total system of wiring, poles, arms, fixtures and lamps, including all parts thereof that are necessary to light a street or pedestrian path and bikeway.

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

**Subdivision** means either an act of subdividing land or an area or a tract of land subdivided as defined in this Chapter.

**Subdivision Plat** means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a subdivision.

**Tentative plan** means the applicant's proposal for subdivision or partition and consists of the drawings, written information and supplementary material required by this Chapter.

**Urban Area** means the unincorporated area of Multnomah County located within the Urban Growth Boundary as designated by the Multnomah County Comprehensive Plan.

**Utility Easement** means an easement for the purpose of installing or maintaining public or private utility infrastructure for the provision of water, power, heat or telecommunications to the public.

(Ord. 1128, Amended, 01/29/2009; Ord. 1114, Amended, 05/29/2008; Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.7710 PURPOSE.

This Chapter is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.7715 INTENT.

In the regulation of the division of land, it is intended that this Chapter shall minimize street congestion, secure safety from fire, flood, geologic hazards, pollution and other dangers, provide for adequate light and air, prevent the overcrowding of land and facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities, all in accord with Oregon Revised Statutes, Chapter 92.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.7720 SCOPE.

Chapter 36 shall apply to the subdivision and partitioning of all land within the area of the West of Sandy River Rural Area Plan.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.7725 COMPLIANCE REQUIRED.

No land may be divided in the area of the West of Sandy River Rural Area Plan of Multnomah County except in accordance with this Chapter.

(A) No person shall create a street for the purpose of dividing land without the approval of a subdivision or partition as provided by this Chapter.

(B) No development permit shall be issued for the improvement or use of any land divided in violation of the provisions of this Chapter, regardless of whether the permit applicant created the violation. A division of land which is contrary to an approved subdivision plat or partition map is a violation of this Chapter.

(C) The requirements of this Chapter shall apply to the applicant for a land division and to the applicant's successors in interest in the land division or any portion thereof.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.7735 BOARD FINDINGS CONCERNING LAND DIVISION CLASSIFICATIONS.

The Board of County Commissioners finds that:

(A) The Comprehensive Framework Plan, adopted in accordance with the Statewide Planning Goals, classifies certain County lands as within the Urban Area and therefore suitable for intensive development, and other lands as within the Rural Area and therefore suitable for agricultural, forest, natural resource and other non-intensive uses.

(B) Land division proposals, consisting of subdivisions, and partitions are steps in the land development process which should be encouraged

in the Urban Area where supportive services exist, subject to review for conformance with the Comprehensive Plan and other legal requirements.

(C) Under ORS 92.044 and 92.046, it is the Board's policy to delegate the review and approval function over certain land division proposals to the Hearings Officer or Planning Commission and over certain other proposals to an administrative official, provided that decisions in either instance shall be guided by the procedures and standards established by this Chapter.

(D) Determination of whether administrative or public hearing review should be required depends on the size, location and foreseeable impacts on the community of a given land division proposal. Category 3 and 4 Land Division proposals, as defined in this Chapter, are appropriate for administrative review and decision due to their minor impacts on nearby properties and their consistency with the objectives of facilitating development in accordance with the Statewide Planning Goals, particularly Nos. 9, 10, 11, 13 and 14, and with the Comprehensive Plan.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7765 LAND DIVISION CATEGORIES DISTINGUISHED.**

For the purposes of this Chapter, the land division classifications listed in sections MCC 36.7770 through 36.7780 are established.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7770 CATEGORY 1 LAND DIVISIONS.**

The following proposals are designated Category 1 Land Divisions:

(A) A Rural Area subdivision;

(B) A Rural Area partition which creates a new street when the Planning Director determines that:

(1) The proposal includes the continuation of an existing or planned street to adjacent property, or,

(2) The proposal either eliminates or makes impractical the continuation of an existing street or the provision of needed access to adjacent property.

(C) A subdivision or partition associated with an application affecting the same property for any action proceeding requiring a public hearing under MCC Chapter 36; and

(D) Any other land division proposal which, as determined by the Planning Director, will have a substantial impact on the use or development of nearby property such that determination at a public hearing is required, considering:

(1) The nature of nearby land uses or the pattern of existing land divisions in relation to the applicable elements of the Comprehensive Plan;

(2) Plans or programs for the extension of the street or utility systems on or near the proposed division; or

(3) Physical characteristics of the tract or nearby area such as steep slopes, a history of flooding, poor drainage, land slides or other existing or potential hazards.

(Ord. 1082, Amended, 09/28/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7775 CATEGORY 3 LAND DIVISIONS.**

A land division proposal under any of the following circumstances is designated a Category 3 Land Division:

(A) A partition located at the end of a street;

(B) A partition abutting a street which has a centerline to property line width less than one-half the width specified for that functional street classification according to the Multnomah County Street Standards Code and Rules;

(C) A partition which will result in a flag lot;

(D) A partition which will result in one or more parcels with a depth-to-width ratio exceeding 2.5 to 1;

(E) A partition which will result in a proposed parcel with an area four or more times the area of the smallest proposed parcel; and

(F) A partition of land classified as Significant Environmental Concern (SEC), Exclusive Farm Use (EFU), or Special Plan Area (SPA) under MCC Chapter 36.

(G) A partition resulting in the creation of a lot for which an Exception, Adjustment or Variance is required under another part of MCC Chapter 36.

(Ord. 1082, Amended, 09/28/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7780 CATEGORY 4 LAND DIVISION.**

Partitions not listed in MCC 36.7770 to 36.7775 are designated Category 4 Land Divisions.

(A) The Planning Director may approve a Category 4 Land Division based on findings that:

(1) The proposed parcels comply with the area and dimensional requirements of the zoning district in which the land division site is located; and

(2) The proposed parcels satisfy the applicable General Standards and Requirements of MCC 36.7885 through 36.7965.

(B) Notwithstanding (A) above, compliance with the area and dimensional requirements of the zoning district is not required to approve a lot or parcel that was unlawfully divided prior to January 27, 1994, as provided in MCC 36.7785(A). The applicable approval criteria are those listed in MCC 36.7785(A) and 36.7935 Easements, 36.7950 Water System, 36.7955 Sewage Disposal, and 36.7960 Surface Drainage.

(C) The procedure and forms for review and approval of a Category 4 Land Divisions shall be as provided for by the Planning Director. The contents of the tentative plan shall include those maps, written information and supplementary material listed for contents of a Category 3 tentative plan in MCC 36.7860 that are determined by the Planning Director to be adequate to demonstrate compliance with the applicable approval criteria.

(Ord. 1080, Amended, 09/21/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7785 CREATION OF LOTS AND PARCELS THAT WERE UNLAWFULLY DIVIDED**

This Code section provides the mechanism to review and, based upon findings of compliance with specific approval criteria, to approve certain unlawfully divided lots or parcels. The review mechanism to correct an unlawfully divided unit of land differs according to the date the unlawful lot or parcel was divided as provided in (A) and (B) below, or under (C) if a land use permit was issued for a primary use. For the purposes of this section, an “unlawfully divided” lot or parcel means a lot or parcel that, when divided, did not satisfy all applicable zoning and land division laws.

(A) An application to create a legal lot or parcel from an unlawfully divided unit of land divided before January 27, 1994 (eff. date of Mult. Co. Ord. 781) shall be a Category 4 Land Division and be reviewed as a Type II process. In addition to the applicable Category 4 Land Division requirements, the application shall satisfy the following approval criteria:

(1) The lot or parcel either:

(a) Conforms to current dimensional, access and area standards,

(b) Conforms to the dimensional, access and density standards in effect when the lot or parcel was unlawfully divided, or

(c) The lot or parcel has a property line that is contiguous to a road, street or zone boundary that intersected the

property and the applicable zoning district on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or zoning district boundary intersects a parcel of land. The zoning districts and effective dates that apply to this provision are as follows:

1. The Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20) zoning districts on or after October 6, 1977 (eff. date of Mult. Co. Ord. 148) and before January 27, 1994;
  2. The Multiple Use Forest-20 (MUF-20) zoning district on or after October 6, 1977 (eff. date of Mult. Co. Ord. 148) and before August 14, 1980 (eff. date of Mult. Co. Ord. 236); and
  3. The Multiple Use Forest-19 (MUF-19) and Multiple Use Forest-38 (MUF-38) zoning districts on or after August 14, 1980 (eff. date of Mult. Co. Ord. 236) and before January 7, 1993 (eff. date of Mult. Co. Ord. 743).
- (2) The owner or applicant demonstrates that the resulting lot or parcel can physically accommodate a use allowed in the zone, including necessary facilities and utilities, in compliance with all applicable siting standards of this zoning code chapter.
- (3) Practical physical access to the site currently exists from a public road or can be provided through an irrevocable easement or equivalent means. Practical physical access at a minimum must meet the standards of MCC 29.003 and allow emergency vehicle access to the building site.

(4) The application shall include a tentative plan consisting of maps, written information and supplementary material adequate to provide the information required for a Category 4 land division.

(B) An application to create legal lots or parcels from an unlawfully divided unit of land divided on or after January 27, 1994 (effective date of Mult. Co. Ord. 781) to January 1, 2007, shall be subject to current review procedures for a land division. The application shall satisfy the following approval criteria:

- (1) The lot or parcel conforms to current zoning requirements, or
- (2) An unlawfully divided lot or parcel may be approved notwithstanding the required dimensional, access, and area requirements, subject to the following:
  - (a) The lot or parcel has a property line that is contiguous to a road, street or zone boundary that intersected the property; and
  - (b) The applicable zoning district on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or zoning district boundary intersects a parcel of land. The zoning districts and effective dates that apply to this provision are the Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20) zoning districts on or after January 27, 1994 (eff. date of Mult. Co. Ord. 781) and before October 4, 2000 (eff. date of “Rural Residential” amendments to OAR 660-004-0040).

(C) A lot legalization application to create a lot or parcel may be made through a Type I application process when the County issued a land use permit prior to January 1, 2007 for a dwelling or other building on an unlawfully estab-

lished unit of land, provided the following criteria are met:

- (1) The land use permit was issued after the sale of the unlawfully established unit of land to a new property owner; and
- (2) There is a clear property description on the permit for the unlawfully established unit of land for which the building or placement permit was issued. The description may be confirmed by tax lot references, tax lot maps, site plans, or deeds recorded at the time; and
- (3) The land use permit was for a building for a new principle use, such as a new dwelling, commercial, industrial, community service, or conditional use; and
- (4) There is a copy of the land use permit in the records of Multnomah County or its authorized agents and the land use permit indicates that the proposed development on the unlawfully established unit of land complied with zoning and land division requirements; and
- (5) If the approved land use permit was for a dwelling, the building currently qualifies as a habitable dwelling as defined in this chapter; and
- (6) The building was constructed under a valid building permit and the building remains on the unlawfully established unit of land described in (2) above.

(a) A County building permit was issued at the time and does not include plumbing, mechanical, electrical or other type of trade permit. An exempt farm structure approval is not a building permit.

(D) Within 90 days of a final decision being approved under (A), (B) or (C) of this section, the property owner(s) shall record a partition plat or subdivision plat, as appropriate, in accordance with the requirements of ORS Chapter 92.

(E) If an application to legalize a unit of land is approved under (A), (B) or (C) of this section, the date of creation of the legalized parcel or lot shall

be the date the partition or subdivision plat is recorded.

(F) Development of a parcel or lot approved pursuant to this section shall be subject to the laws in effect at the time of the development application pursuant to ORS 215.427(3)(a). No retroactive use of land use laws is authorized by this code provision once the parcel or lot is lawfully created.

(G) From January 5, 1966 to December 31, 2000, the County's zoning ordinance specified that in cases where a building permit is required under the Multnomah County Building Code, such building permit shall be deemed to be a land use permit. When reviewing a lot legalization application under (C) above, building permits during this time period shall constitute a land use permit.

(H) The following do not qualify to legalize a lot or parcel under this code section:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;
- (2) An area of land created by the foreclosure of a security interest;
- (3) A mortgage lot.

(4) An area of land created by court decree.  
(Ord. 1186, Amended, 10/13/2011; Ord. 1114, Amended, 05/29/2008; Ord. 1080, Add, 09/21/2006)

### **§ 36.7790 PROPERTY LINE ADJUSTMENT**

A property line adjustment is the relocation of a common property line between two abutting properties. The Planning Director may approve a property line adjustment based upon findings that the following standards are met:

(A) No additional lot or parcel shall be created from any parcel by the property line adjustment; and



(B) Owners of both properties involved in the property line adjustment shall consent in writing to the proposed adjustment and record a conveyance or conveyances conforming to the approved property line adjustment; and

(C) The adjusted properties shall meet the approval criteria for a property line adjustment as given in the underlying zoning district; and

(D) The procedure and forms shall be submitted for obtaining approval of a property line adjustment as provided for by the Planning Director.

(Ord. 1079, Amend&Renum, 07/27/2006, from 36.7970; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7794 CONSOLIDATION OF PARCELS AND LOTS**

This section states the procedures and requirements for removing property lines between adjacent parcels or lots in the same ownership in order to create one parcel or lot. The act of parcel or lot consolidation does not, in itself, remove prior conditions of land use approvals. A property owner may also choose to consolidate parcels or lots as part of a land division application. The parcel and lot consolidation process described in this section is different from (and does not replace) the process used by the County Assessment and Taxation Program to consolidate parcels and lots under one tax account.

Consolidation of parcels and lots may be approved under the applicable descriptions and approval criteria given in subsection (A) for parcels created by “metes and bounds” deed descriptions and subsection (B) for parcels and lots that were created by a Partition or Subdivision Plat.

(A) Consolidation of parcels created by “metes and bounds” deed descriptions may be approved under the standards of either subsections (1) or (2) as follows:

(1) If all the subject parcels proposed for consolidation were created by deed instruments prior to October 19, 1978, (the effect-

tive date of Ord. 174), or are Lots of Record created by deed instrument under the “minor partitions exempted” section 1.224 of Ord. 174 and MCC section 11.45.110, then the following shall apply:

(a) Under a Type I Permit Review and in accordance with MCC 37.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the application shall include maps, copies of all current deeds, a title report, an affidavit signed by the owner that verifies that the owner has the authority to consolidate the parcels, and any supplementary material that is determined by the Planning Director to be necessary and relevant to demonstrate compliance with the standards in (b);

(b) The Planning Director shall verify the following in a written report:

1. The subject parcels are in the same ownership and there are no ownership or financing obstacles to completing the consolidation;

2. The parcels to be consolidated are either existing Lots of Record or the act of consolidation will correct a past unlawful land division;

(c) The applicant shall submit to the Planning Director a copy of an unrecorded deed that conforms to the requirements of the Director’s report; and

(d) The applicant shall record the approved deed that accurately reflects the approved parcel consolidation.

(2) If the subject parcels proposed for consolidation include a parcel created by deed instrument as described in (A)(1) above and include a parcel created by Partition Plat or

lot within a Subdivision Plat, then the following shall apply:

(a) The application and Planning Director verification requirements are those given in (A)(1)(a)&(b);

(b) Before submittal to the County Surveyor, the applicant shall submit to the Planning Director a copy of a “one parcel” Partition Plat that accurately reflects the requirements of the Director’s report; and

(c) The “one parcel” Partition Plat shall meet the technical requirements of ORS Chapter 92 before it is recorded with the County Recorder.

(B) Consolidation of parcels within a Partition Plat or lots within a Subdivision Plat (Parcel and Lot Line Vacation) may be approved with a replat.

(Ord. 1097, Add, 07/26/2007)

#### **§ 36.7797 REPLATTING OF PARTITION AND SUBDIVISION PLATS**

(A) This section states the procedures and requirements for reconfiguring parcels, lots, and public easements within a recorded plat as described in ORS 92.180 through 92.190 (2006). This provision shall be utilized only in those zoning districts in which replatting is a Review Use. Nothing in this section is intended to prevent the utilization of other vacation actions in ORS chapters 271 or 368.

(B) As used in this subsection, “replat” and “replatting” shall mean the act of platting the parcels, lots and easements in a recorded Partition Plat or Subdivision Plat to achieve a reconfiguration of the existing Partition Plat or Subdivision Plat or to increase or decrease the number of parcels or lots in the Plat.

(C) Limitations on replatting include, but are not limited to, the following: A replat shall only apply to a recorded plat; a replat shall not vacate any public street or road; and a replat of a por

tion of a recorded plat shall not act to vacate any recorded covenants or restrictions.

(D) The Planning Director may approve a replatting application under a Type II Permit Review upon finding that the following are met:

(1) In accordance with MCC 37.0550 or 38.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the tentative plan shall include those maps, written information and supplementary material listed for contents of a Category 3 tentative plan that are determined by the Planning Director to be adequate to demonstrate compliance with the applicable approval criteria;

(2) Reconfiguration of the parcels or lots shall not result in an increase in the number of “buildable parcels or lots” over that which exist prior to reconfiguration. “Buildable parcels or lots,” as used in this approval criteria, shall mean that there is confidence that a building and sanitation permit could be approved on the parcel or lot. A replat resulting in an increase in the number of “buildable parcels or lots” shall be reviewed as a land division as defined in this Chapter;

(3) Parcels or lots that do not meet the minimum lot size of the zoning district shall not be further reduced in lot area in the proposed replat;

(4) The proposed reconfiguration shall meet the approval criteria given in the land division code sections on easements, water systems, sewage disposal, and surface drainage;

(5) All reconfigured parcels and lots shall have frontage on a public street except as provided for alternative access in the access requirement sections of each zoning district; and

(6) The applicant shall submit a Partition Plat or Subdivision Plat to the Planning Director and County Surveyor in accordance

with the requirements of ORS 92 and which accurately reflects the approved tentative plan map and other materials.

(Ord. 1097, Add, 07/26/2007)

**§ 36.7800 CRITERIA FOR APPROVAL,  
CATEGORY 1 TENTATIVE PLAN.**

In granting approval of a Category 1 tentative plan, the approval authority shall find that:

(A) The tentative plan is in accordance with the applicable elements of the Comprehensive Plan;

(B) Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances;

(C) The tentative plan complies with the applicable provisions, including the purposes and intent of the Multnomah County Land Division Ordinance, and the applicable General Standards and Requirements of MCC 36.7885 through 36.7965.

(D) The tentative plan complies with the Zoning Ordinance or a proposed change thereto associated with the tentative plan proposal;

(E) If a subdivision, the proposed name has been approved by the County Surveyor and does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in Multnomah County, except for the words town, city, place, court, addition or similar words, unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name or unless the applicant files and records the consent of the party that platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed.

(F) The streets are laid out and designed so as to conform, within the limits of MCC 36.7905 and

36.7910 and the Street Standards Code and Rules, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; and,

(G) Streets held for private use are laid out and designed so as to conform with MCC 36.7905 and 36.7910 and the Street Standards Code and Rules, and are clearly indicated on the tentative plan and all reservations or restrictions relating to such private streets, including ownership, are set forth thereon.

(H) Approval will permit development to be safe from known flooding and flood hazards. Public utilities and water supply systems shall be designed and located so as to minimize or prevent infiltration of flood waters into the systems. Sanitary sewer systems shall be designed and located to minimize or prevent:

(1) The infiltration of flood waters into the system; and

(2) The discharge of matter from the system into flood waters.

(Ord. 1079, Amended, 07/27/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7805 CONTENTS OF CATEGORY 1  
TENTATIVE PLAN.**

A tentative plan shall consist of maps, written information and supplementary material adequate to provide the information required in MCC 36.7810 through 36.7825.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7810 CATEGORY 1 TENTATIVE PLAN  
MAP SPECIFICATIONS.**

The tentative plan map shall be drawn on a sheet 18 x 24 inches or 11 x 17 inches in size or a size approved by the Planning Director. The scale of the map shall be 10, 20, 30, 40, 50, 60, 100 or 200 feet to the inch or multiples of ten of any of these scales. The map shall include one copy of a scaled drawing of the proposed subdivision, on a sheet 8.5 x 11

inches, suitable for reproduction, mailing and posting with the required notices.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7815 CATEGORY 1 TENTATIVE PLAN  
MAP CONTENTS.**

The tentative plan map shall indicate the following:

(A) General information:

- (1) In the case of a subdivision, the proposed name which shall be in accord with subsection (E) of MCC 36.7800.
- (2) Date, north point and scale of drawing.
- (3) Description of the proposed land division sufficient to define its location and boundaries.
- (4) Identification as a tentative plan map.

(B) Existing conditions:

- (1) Streets: the location, name and present width of each street, alley or right-of-way in or serving the tract.
- (2) Easements: location, width and nature of any easement of record on or serving the tract.
- (3) Utilities: location and identity of all utilities on or serving the tract.
- (4) Contour lines at ten foot intervals. The map shall state the source of the contour information.
- (5) The location of at least one temporary bench mark within the land division.
- (6) Any natural features such as rock outcroppings, marshes, wooded areas, major vegetation, etc., which may affect the proposal.
- (7) Water courses on and abutting the tract, including their location, width and direction of flow.

(8) The approximate location of areas subject to periodic inundation and all areas covered by water.

(9) The location of any harbor line.

(10) Scaled location and size of all existing driveways and pedestrian walkways, and the scaled location and size and present use of all existing buildings or other structures, and designation of any existing buildings or structures proposed to remain on the property after division.

(C) Proposed improvements:

- (1) Streets: location, proposed name, right-of-way width and approximate radii of curves of each proposed street.
- (2) Any proposed pedestrian path or bikeway.
- (3) Easements: location, width and nature of all proposed easements.
- (4) Lots or parcels: location and approximate dimensions of all lots or parcels, the minimum lot or parcel size and, in the case of a subdivision, the proposed lot and block numbers.
- (5) Water supply: the proposed domestic water supply system.
- (6) Sewage disposal: the proposed method of sewage disposal.
- (7) Drainage: proposed methods for surface water disposal and any proposed drainage easements.
- (8) Other utilities: the approximate location and nature of other utilities including the location of street lighting fixtures.
- (9) Railroad rights-of-way, if any.
- (10) Changes to navigable streams, if any.

(11) A street tree planting plan and schedule.  
(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7820 WRITTEN INFORMATION:  
CATEGORY 1 TENTATIVE PLAN.**

Written information shall include:

(A) Name, address and telephone number of the record owner(s), owner's representative, and designer(s) of the proposed land division and the name of the engineer(s) or surveyor(s) and the date of the survey, if any.

(B) Proof of record ownership of the tract and the representative's authorization.

(C) Legal description of the tract.

(D) Present and proposed uses of the tract including all areas proposed to be dedicated to the public.

(E) Statements of the manner in which the criteria for approval listed in MCC 36.7800 are satisfied.

(F) Statement of the improvements to be made or installed, including street tree planting, and the time such improvements are to be made or completed.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7825 SUPPLEMENTARY MATERIAL:  
CATEGORY 1 TENTATIVE PLAN.**

The following supplementary material may be required by the Planning Director:

(A) A survey of the tract.

(B) A vicinity map showing existing divided and undivided land adjacent to the proposed land division, the existing uses and structures thereon, and an indication of the manner in which the proposed streets and utilities may be

extended to connect to existing streets and utilities or to serve future land divisions.

(C) Proposed deed restrictions and methods of proposed ownership.

(D) Such other material as the Planning Director deems necessary to assist in the review and assessment of the land division proposal according to the provision of this Chapter.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7855 CRITERIA FOR APPROVAL:  
CATEGORY 3 TENTATIVE PLAN.**

In granting approval of a Category 3 tentative plan, the Planning Director shall find that the criteria listed in subsections (B), (C) and (H) of MCC 36.7800 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7860 CONTENTS OF CATEGORY 3  
TENTATIVE PLAN.**

A tentative plan for a Category 3 Land Division shall consist of maps, written information and supplementary material adequate to provide the following:

(A) Type 3 tentative plan map contents. A tentative plan map of a sheet size and scale as specified in MCC 36.7810 shall indicate the following:

(1) Date, north point and scale of drawing.

(2) Description of the proposed land division sufficient to define its location and boundaries.

(3) Identification as a tentative plan map.

(4) Location, names or purpose and width of all streets, rights-of-way or easements on or abutting the tract.

(5) Natural features, water courses or areas covered by water.

(6) The location and use of any buildings or structures proposed to remain after division.

(7) The proposed parcels, their dimensions and areas.

(8) Contiguous property under the same ownership.

(B) Written information; Category 3 tentative plan. Written information shall include:

(1) Name, address and telephone number of the record owner(s), owner's representative, designer(s), engineer(s) or surveyor(s), and the date of survey, if any.

(2) Proof of record ownership of the tract and the representative's authorization.

(3) Legal description of the tract.

(4) Present and proposed uses.

(5) Description of the water supply, methods of sewage disposal and storm water disposal, and the availability of other utilities.

(6) Statements of the manner in which the criteria for approval listed in MCC 36.7855 are satisfied.

(7) Statement of the improvements to be made or installed and the time scheduled therefore.

(C) Supplementary material; Category 3 tentative plan. The Planning Director may require such additional information, listed in sections MCC 36.7805 through 36.7825, as the Director deems necessary to assist in the review and assessment of the land division proposal according to the provisions of this Chapter.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7865 TENTATIVE PLAN APPROVAL TIME LIMITS; STAGED DEVELOPMENT.**

Tentative plan approval expiration and extension shall be in accordance with MCC 37.0690 through 37.0700.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7885 APPLICATION OF GENERAL STANDARDS AND REQUIREMENTS.**

Every land division proposal shall comply with the applicable provisions of MCC 36.7890 through 36.7965.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7890 LAND SUITABILITY.**

A land division shall not be approved on land found by the approval authority to be both unsuitable and incapable of being made suitable for the intended uses because of any of the following characteristics:

(A) Slopes exceeding 20%;

(B) Severe soil erosion potential;

(C) Within the 100-year flood plain;

(D) A high seasonal water table within 0-24 inches of the surface for three or more weeks of the year;

(E) A fragipan or other impervious layer less than 30 inches from the surface; or

(F) Subject to slumping, earth slides or movement.

(G) Pre-existing field drains or other subsurface drainage systems.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7895 LOTS AND PARCELS.**

The design of lots and parcels shall comply with the following:

(A) The size, shape, width, orientation and access shall be appropriate:

(1) To the types of development and uses contemplated;

(2) To the nature of existing or potential development on adjacent tracts;

(3) For the maximum preservation of existing slopes, vegetation and natural drainage;

(4) To the need for privacy through such means as transition from public to semi-public to private use areas and the separation of conflicting areas by suitable distances, barriers or screens; and

(5) To the climactic conditions including solar orientation and winter wind and rain.

(B) The side lot lines shall be perpendicular to the front lot line or radial to the curve of a street, to the extent practicable.

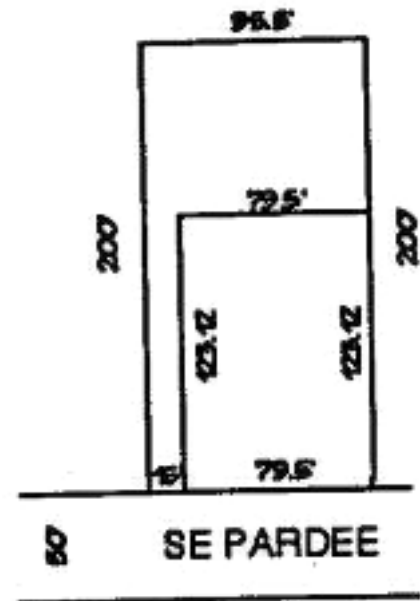
(C) Double frontage or reverse frontage lots or parcels shall be provided only when essential for separation of land uses from arterials or to overcome specific disadvantages of topography or orientation.

(D) A land division may include creation of a flag lot with a pole that does not satisfy the minimum frontage requirement of the applicable zoning district, subject to the following:

(1) When a flag lot does not adjoin another flag lot, as shown in MCC 36.7895 Figure 1, the pole portion of the flag lot shall be at least 16 feet wide.

(2) Where two flag lots are placed back to back as shown in MCC 36.7895 Figure 2, the pole portion of each flag lot shall be at least 12 feet wide.

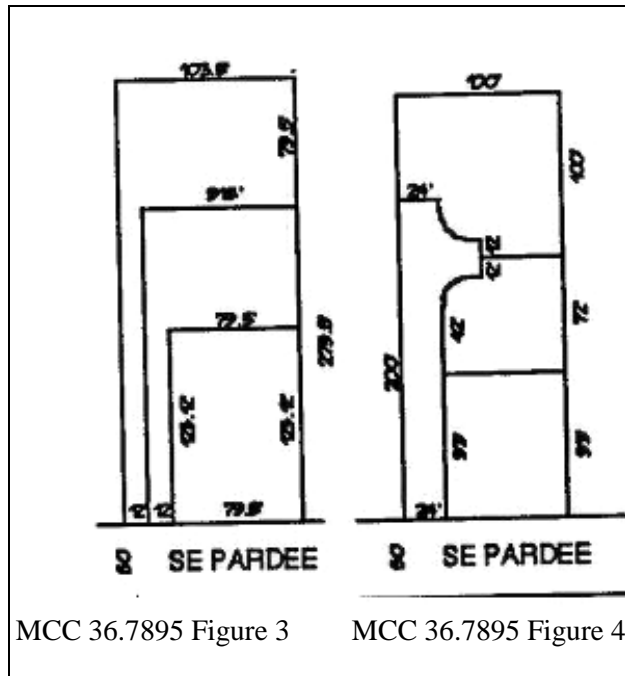
(E) Within a land division, flag lots shall not be stacked one behind the other as shown in MCC 36.7895 Figure 3. Instead, a private accessway shall be used as shown in MCC 36.7895 Figure 4.



MCC 36.7895 Figure 1



MCC 36.7895 Figure 2



(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.7900 ACREAGE TRACTS.

Where a tract of land is to be divided into lots or parcels capable of redivision in accordance with this or any other ordinance, the approval authority shall require an arrangement of lots, parcels and streets which facilitates future redivision. In such a case, building setback lines may be required in order to preserve future rights-of-way or building sites.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### § 36.7905 STREET LAYOUT.

(A) Except as otherwise provided in subsections (B) and (C) of this section, the arrangement of streets in a land division shall be designed:

- (1) To conform to the arrangement established or approved in adjoining land divisions;
- (2) To continue streets to the boundary of any adjoining undivided tract where such is necessary to the proper development of the adjoining land;
- (3) To assure the maximum possible preservation of existing slopes, vegetation and natural drainage;

(4) To limit unnecessary through traffic in residential areas;

(5) To permit surveillance of street areas by residents and users for maximum safety;

(6) To assure building sites with appropriate solar orientation and protection from winter wind and rain;

(7) To assure storm water drainage to an approved means of disposal; and

(8) To provide safe and convenient access.

(B) Where topography or other conditions make conformance to the existing street pattern or continuance to an adjoining tract impractical, the street layout shall conform to an alternate arrangement authorized by the approval authority.

(C) Where a street layout affecting the proposed land division has been established by the Comprehensive Plan, or as an element of a Special Plan Area under MCC 36.5010, the arrangement of streets in the land division shall conform to the established layout.

(D) A half street may be permitted only where appropriate to the future division of adjoining undeveloped property, provided that when possible, additional dedicated right-of-way exceeding one-half of a street may be required to provide adequate width to accommodate two-way vehicle traffic.

(E) When necessary for adequate protection of existing or proposed land uses or to afford separation of through and local traffic, a land division abutting or containing an existing or proposed arterial may be required to include, among other things, a frontage street, reverse frontage lots with extra depth, or screen plantings in a non-access reservation along a property line.

(Ord. 1001, Reorg&Renum, 12/12/2002)



**§ 36.7910 STREET DESIGN.**

The width, design and configuration of all streets in or abutting the land division shall comply with applicable ordinance standards as follows:

(A) For a public street - in accordance with the Street Standards Code and Rules; and

(B) For a private street - in accordance with the Street Standards Code and Rules, subject to the following additional requirements:

(1) Accessways shall be designed in accordance with Permit Requirements for Accessway Construction published by the Multnomah County Department of Environmental Service. Accessways shall have a maximum length of 300 feet.

(C) A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround having a radius of 50 feet.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7915 STREET RESERVE STRIPS.**

The land division shall provide for the appropriate extension or widening of streets serving the division or for allocating the improvement costs among future land divisions. A reserve strip or street plug may be required for such purposes. The control and disposition of reserve strips or plugs shall be placed within the jurisdiction of the County.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7920 TEMPORARY TURNAROUNDS.**

A temporary turnaround shall be provided on any street that is appropriate for continuation, either within the land division or beyond, when the street serves more than six interior lots.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7925 STREET NAMES.**

Names for public streets shall conform to the street naming system of Multnomah County. In order to

discourage unnecessary traffic, the nature of a private street, a dead end street or a cul-de-sac shall be identified by a sign approved as to design, content and placement by the County Engineer.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7930 SIDEWALKS, PEDESTRIAN PATHS AND BIKEWAYS.**

(A) A sidewalk shall be required along any private street serving more than six dwelling units.

(B) A pedestrian path located outside a street right-of-way may be substituted for a required sidewalk when it serves the same circulation function.

(C) Where a pedestrian path and bikeway is part of an approved plan for the area or has been approved on adjoining property, the approval authority may require the provision of a pedestrian path or bikeway within the land division.

(D) In order to provide for an appropriate circulation system, the approval authority may require a pedestrian path and bikeway across an unusually long or oddly-shaped block.

(E) The width, design and configuration of sidewalks and pedestrian paths and bikeways shall comply with applicable ordinance standards, as follows:

(1) In a public right-of-way - in accordance with the Street Standards Code and Rules; and

(2) On private property - as approved by the Planning Director in accordance with the Design Review provisions of this Chapter.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.7935 EASEMENTS.**

Easements shall be provided and designed according to the following:

(A) Along the front property line abutting a Street, a five foot utility easement shall be required. The placement of the utility easement

may be modified as requested by a public or private utility provider. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.

(B) Where a tract is traversed by a water course such as a drainage way, channel or stream, a storm water easement or drainage right-of-way adequate to conform substantially with the lines of the water course shall be provided. In a drainage district or water control district, such easement or right-of-way shall be approved by the district board, in accordance with ORS 92.110. If not within such District, approval shall be by the County Engineer.

(C) Easements for pedestrian paths and bikeways shall be not less than 10 feet in width.

(Ord. 1114, Amended, 05/29/2008; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7940 STREET TREES.**

Street trees shall be planted by the applicant according to the street tree planting plan and schedule approved by the County Engineer as an element of the tentative plan. Trees which have not survived for one year after initial planting shall be replaced by the applicant within four months of loss.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7950 WATER SYSTEM.**

The provision of domestic water to every lot or parcel in a land division shall comply with the requirements of subsections (4) (a), (b), or (c) of ORS 92.090 and MCC 36.7985 of this Chapter.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7955 SEWAGE DISPOSAL.**

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsection (5) (c) of ORS 92.090 and MCC 36.7990 of this Chapter.

Each parcel or lot shall contain adequate land area to accommodate both a primary and reserve septic system drainfield area, and for surface and storm drainage systems.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7960 SURFACE DRAINAGE.**

Surface drainage and storm water control systems shall be provided as required by section MCC 36.7995. On -site water disposal or retention facilities shall be adequate to insure that surface runoff rate or volume from the new parcels after development is no greater than that before development.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7965 ELECTRICAL AND OTHER WIRES.**

Wires serving within a land division, including but not limited to electric power, communication, street lighting and cable television wires, shall be placed underground. The approval authority may modify or waive this requirement in acting on a tentative plan upon a finding that underground installation:

(A) Is impracticable due to topography, soil or subsurface conditions;

(B) Would result in only minor aesthetic advantages, given the existence of above-ground facilities nearby; or

(C) Would be unnecessarily expensive in consideration of the need for low-cost housing proposed on the lots or parcels to be served.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7975 REQUIRED IMPROVEMENTS.**

Improvements in a land division shall be made in accordance with the provisions of MCC 36.7980 through 36.8000 and 36.8010.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.7980 STREETS, SIDEWALKS, PEDESTRIAN PATHS AND BIKEWAYS.**

Any street, pedestrian path or bikeway shall be improved as follows:

(A) In a public street - in accordance with this Chapter and the Street Standards Code and Rules; and,

(B) In a private street - in accordance with the Street Standards Code and Rules.

(C) Underground utilities and street lighting facilities, storm drains and water mains located in a street shall be installed prior to the surfacing of the street.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7985 WATER SYSTEM.**

Water mains, service and fire hydrants shall meet the requirements of the Water District and shall be located as follows:

(A) In a public street - in accordance with the Street Standards Code and Rules; and

(B) In a private street - as approved by the approval authority.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7990 SEWAGE DISPOSAL.**

(A) A sewage disposal system approved by the State Department of Environmental Quality, shall be provided. All lots or parcels in a proposed land division which will utilize private subsurface sewage disposal system shall apply for and obtain approval of a Land Feasibility Study confirming the ability to utilize the system prior to tentative plan approval. In such cases, the approval authority may require that a sanitary sewer line, with branches to the right-of-way line for connection to a future sewer system, be constructed and sealed.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.7995 SURFACE DRAINAGE AND STORM SEWER SYSTEMS.**

Drainage facilities shall be constructed as follows:

(A) In a public street - in accordance with the Street Standards Code and Rules; and

(B) In a private street and on lots or parcels - in accordance with the plans prepared by an Oregon licensed and registered professional engineer and approved by the approval authority.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.8000 OTHER UTILITIES.**

Other utilities, including electric, gas, street lighting and cable television facilities shall be provided as required by this Chapter and as follows:

(A) In a public street - in accordance with the Street Standards Code and Rules; and

(B) In a private street - as approved by the approval authority.

(Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.8005 ADJUSTMENTS AND VARIANCES.**

An adjustment or variance from certain dimensional requirements in MCC 36.7885 through 36.8000 of this Chapter may be authorized by the Approval Authority under the provisions of MCC 36.7601 through 36.7616.

(Ord. 1082, Amended, 09/28/2006; Ord. 1001, Reorg&Renum, 12/12/2002)

### **§ 36.8010 IMPROVEMENT AGREEMENT.**

Prior to approval of a subdivision plat or partition plat by the County Engineer, the applicant shall execute and file with the County Engineer an agreement with the County, which shall include:

(A) A schedule for the completion of required improvements;

(B) Provision that the applicant file with the County Engineer a maintenance bond, on forms provided by the Engineer, guaranteeing the materials and workmanship in the improvements required by this Chapter against defects for a period of 12 months following the issuance of a certificate of acceptance by the County Engineer; and

(C) A surety bond, executed by a surety company authorized to transact business in the State of Oregon, or a certified check or other assurance approved by the County Attorney, guaranteeing complete performance. Such assurance

shall be for a sum equal to 110% of the actual costs of the improvements as estimated by the County Engineer.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.8015 FINAL DRAWING AND PRINTS.**

(A) Two prints of the subdivision or partition plat shall accompany the final drawing, conforming to all applicable requirements as established by the Oregon Revised Statutes (ORS), Chapters 92 and 209.

(B) Notwithstanding optional provisions in ORS Chapter 92, all parcels created shall be surveyed, monumented and platted, regardless of parcel area.

(Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.8020 INFORMATION REQUIRED ON SUBDIVISION PLAT OR PARTITION PLAT.**

In addition to the information required to be shown on the tentative plan, the following shall be shown on the subdivision plat or partition plat:

(A) Corners of adjoining subdivisions or partitions.

(B) The location, width and centerline of streets and easements abutting the boundaries of the land division.

(C) Any plat that includes land in areas of Special Flood Hazard or includes a water body or watercourse, as those features are described in MCC Chapter 29 Flood Hazard Regulations, shall contain a plat note indicating that portions of the plat are subject to flooding and/or high water.

(D) The ownership of each private street shall be shown.

(E) Other certifications required by law.

(Ord. 1176, Amended, 03/03/2011; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.8025 SUPPLEMENTAL INFORMATION WITH SUBDIVISION PLAT OR PARTITION PLAT.**

The following shall accompany the subdivision plat or partition plat, as appropriate:

(A) A copy of any deed restrictions applicable to the subdivision or partition.

(B) A copy of any dedication requiring separate documents.

(C) As used in this section, "lot" means a unit of land that is created by a subdivision of land, and a "tract" will be considered a lot, except for street plugs.

(D) A map, prepared by an Oregon licensed surveyor, of the subdivision plan or partition plat that depicts the normal flood plain or high water line for any water body or watercourse and the extent of areas of Special Flood Hazard as defined in MCC 29.

(Ord. 1176, Amended, 03/03/2011; Ord. 1001, Reorg&Renum, 12/12/2002)

#### **§ 36.8030 TECHNICAL REVIEW AND APPROVAL OF SUBDIVISION PLAT OR PARTITION PLAT.**

(A) The subdivision plat or partition plat and all required material shall be filed with the Planning Director for final approval. Within 10 business days of filing, the Planning Director shall determine whether the material conforms with the approved tentative plan and with the applicable requirements of this Ordinance. If the Planning Director determines that there is not such conformity, the applicant shall be so advised and afforded an opportunity to make corrections. When the plat is found to be in conformity, it shall be signed and dated by the Planning Director.

(B) On a subdivision plat, the approval signature of the Chair of the Board of County Commissioners or the Chair's delegate, shall be required to certify that the plat is approved.

(C) No building permit shall be issued or parcel sold, transferred or assigned until the partition plat has been approved by the Planning Director and County Surveyor and recorded with the public office responsible for public records.

(Ord. 1001, Reorg&Renum, 12/12/2002)

**§ 36.8035 FINAL APPROVAL EFFECTIVE.**

Subdivision and partition approvals shall become final upon the recording of the approved plats, under ORS 92.120, any required street dedications and other required documents with the public office responsible for public records.

(Ord. 1001, Reorg&Renum, 12/12/2002)