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PART 1 – ADMINISTRATION, PROCEDURES, ENFORCEMENT, PERMITS AND FEES

PART 1.A – GENERAL PROVISIONS

§ 39.1000 TITLE.

This Chapter shall be known and may be cited as the *Zoning Code of Multnomah County, Oregon.*

§ 39.1005 POLICY 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.

§ 39.1010 SEVERABILITY.

If any section, 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 section, subsection, subdivision, clause, sentence or word held invalid or unconstitutional.

PART 1.B - PROCEDURES

§ 39.1100 APPLICABILITY.

(A) This subpart 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 enactments and amendments to the Multnomah County Comprehensive Plan and Multnomah County Zoning Code. The provisions of MCC 39.1105 through 39.1240 supersede all conflicting provisions in the Multnomah County Code except as provided in MCC Chapter 38 for the Columbia River Gorge National Scenic Area.

(B) The procedures in this subpart do not apply to permits authorized in Multnomah County Code Chapter 38 or to permits reviewed by a city on behalf of the county pursuant to intergovernmental agreement.

§ 39.1105 SUMMARY OF DECISION MAKING PROCESSES.

The following decision making processes chart shall control the County's review of the indicated permits:

APPROVAL PROCESS					
Permit Type	**I**	**II**	**III**	**IV**	**PC**
Initial Approval Body	**(Not a "land use decision")**	**(Planning Director)**	**(Hearings Officer)**	**(Planning Commission)**	**(Legislative)**
Allowed Uses	**X**				
Review Uses		**X**			
Conditional Uses			**X**		
Community Service			**X**		
Design Review		**X**			
Plan/Zone Change (single tract) quasi-judicial				**X**	
Demolition of historic building or structure before 120 day permit delay				**X**	
Plan/Zone Changes-legislative					**X**
Zone Code Text Changes (Initiated by county only)					**X**
Creation of a parcel/lot not abutting a street			**X**		
Adjustment		**X**			
Variance			**X**		
Non-conforming Uses/Determination of Non-conforming Use		**X**			
Extensions of Decisions in EFU & CFU Zones	**X**				

APPROVAL PROCESS					
Permit Type	**I**	**II**	**III**	**IV**	**PC**
Initial Approval Body	**(Not a "land use decision")**	**(Planning Director)**	**(Hearings Officer)**	**(Planning Commission)**	**(Legislative)**
All other Extensions of Decisions		**X**			
Revocation of Decision		**X**			
Property Line Adjustments		**X**			
Planned Developments			**X**		
Category 1 & 2 Land Divisions			**X**		
Category 3 & 4 Land Divisions		**X**			
Significant Environmental Concern		**X**			
Geologic Hazards Permit		**X**			
Willamette River Greenway		**X**			
Zoning Code Interpretations		**X**			
Temporary Permits		**X**			
Temporary Dwelling for a Health Hardship Permit		**X**			
Temporary Health Hardship Renewal	**X**				
Bus Shelter		**X**			
Lot of Record Verification		**X**			
Lot of Exception		**X**			
Exceptions		**X**			

APPROVAL PROCESS					
Permit Type	**I**	**II**	**III**	**IV**	**PC**
Initial Approval Body	**(Not a "land use decision")**	**(Planning Director)**	**(Hearings Officer)**	**(Planning Commission)**	**(Legislative)**
Post Emergency response to emergency/disaster event		**X**			
Lot Consolidation	**X**				
Replat		**X**			
All other discretionary decisions		**X**			
First response to emergency/disaster event	**X**				
Agricultural Fill	**X**				
Erosion and Sediment Control	**X**				
Flood Development	**X**				
Property Addressing	**X**				
Street Naming & Renaming			**X**		
Type A Home Occupation	**X**				

(A) Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. Type I decisions include, but are not limited to, site plan approval of building or other specialty permits and final subdivision and planned unit development plans where there are no material deviation from the approved preliminary plans. Because no discretion is involved, Type I decisions do not qualify as land use or limited land use decisions. The process requires no notice to any party other than the applicant. The Planning Director's decision is final and not appealable by any party through the normal land use process. Type I decisions may only be appealed through a writ of review proceeding to circuit court.

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look.

However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Director's decision shall become final at the close of business on the 14th day after the date on the decision.

(1) If there is an appeal of the Planning Director's decision, the Hearings Officer shall conduct a public hearing on the application pursuant to MCC 39.1140. After the Hearings Officer issues a signed decision, the Planning Director may appeal the decision to the Board within seven days. If there is no appeal by the Planning Director, the signed Hearings Officer decision and the information required in MCC 39.1170 (D)(1) through (7) shall be mailed to those who submitted written comment, those who requested the decision in writing or provided oral testimony at a hearing on the matter, and DLCD at the discretion of the applicant. The mailed decision is the county's final decision on the application and may be appealed to the Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed.

(2) If the Planning Director appeals the Hearings Officer decision, then notice of the appeal and public hearing before the Board shall be mailed as required in MCC 39.1160 (B)(2). A staff report by the Planning Director shall also be available 14 days before the hearing. The Board shall then conduct a public hearing on the application under the provisions of MCC 39.1145. The Board's decision shall be mailed to those who submitted written comment, requested the decision in writing or provided oral testimony at a hearing on the matter. The mailed decision is the county's final decision on the application and may be appealed to LUBA within 21 days of when the signed decision is mailed. Any person who participated orally or in writing in the proceeding before the Hearings Officer or Board may appeal the final decision.

(C) Type III decisions involve the greatest amount of discretion and evaluation of subjective approval criteria, yet are not required to be heard by the Board. Applications evaluated through this process primarily involve conditional uses and some land divisions applications. The process for these decisions is controlled by ORS 197.763. Notice of the application and Hearings Officer hearing is published and mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. The Hearings Officer shall accept into the record all testimony and evidence relevant to the matter, prior to the close of the hearing.

After the Hearings Officer issues a signed decision, the Planning Director may appeal the decision to the Board within seven days. If there is no appeal by the Planning Director, the signed Hearings Officer decision shall be mailed to those persons entitled to notice of a Type III decision under MCC 39.1170(D). The mailed decision is the county's final decision on the application and may be appealed to the LUBA within 21 days of the date the decision is mailed.

If the Planning Director appeals the Hearings Officer decision, then notice of the appeal and hearing before the Board shall be mailed as required in MCC 39.1160(B)(2). A staff report by the Planning Director shall also be available 14 days before the hearing. The Board shall then conduct a public hearing on the

application under the provisions of MCC 39.1145. The Board's decision shall be mailed to those who submitted written comment, requested the decision in writing or provided oral testimony at a hearing on the matter. The mailed decision is the county's final decision on the application and may be appealed to LUBA within 21 days of when the signed decision is mailed.

(D) Type IV decisions include plan amendment and/or zone change applications of an individual parcel or tract. These applications involve substantial discretion and evaluation of subjective approval criteria. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and Planning Commission hearing is published and mailed to the applicant, recognized neighborhood association and property owners within 750 feet. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. At the evidentiary hearing held before Planning Commission all testimony and evidence relevant to the matter shall be accepted prior to the close of the hearing. If the Planning Commission denies the application, any party who appeared before the Planning Commission either in person or in writing, may appeal the Planning Commission's denial to the Board within 14 days after the decision is signed. If no appeal is filed, the Planning Commissions denial shall become final upon the close of business on the last day of the appeal period. If the Planning Commission votes to approve the application, that decision is forwarded as a recommendation to the Board for final consideration. In either case, any review by the Board is de novo, as if new, and all issues relevant to the applicable approval criteria may be considered. The Board's decision is the county's final decision and is appealable to LUBA within 21 days of when the signed Board order is mailed.

(E) PC reviews are legislative actions that involve the adoption or amendment of the county's land use regulations, comprehensive plan, map inventories and other policy documents that affect the entire county, large areas, or multiple properties. These applications involve the greatest amount of discretion and evaluation of subjective approval criteria, and must be referred by the Planning Commission onto the Board for final action prior to adoption by the county. The Board's decision is the county's final decision and is appealable to LUBA within 21 days of the date that the signed Board order or ordinance is mailed.

(F) When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the Planning Director may require the proceedings be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application. An applicant may also request to consolidate applications for two or more related permits needed for a single development project.
(Ord. 1271, Amended, 03/14/2019)

§ 39.1110 ASSIGNMENT OF DECISION MAKERS.

The following county entity or official shall decide the following types of applications:

(A) Type I Decisions. The Planning Director shall render all Type I decisions. The Planning Director's decision is the county's final decision on a Type I application.

(B) Type II Decisions. The Planning Director shall render the initial decision on all Type II permit applications. The Planning Director's decision is the county's final decision unless appealed to the Hearings Officer. Unless the Planning Director appeals the decision to the Board, the Hearings Officer decision on such an appeal is the county's final decision on a Type II application and is appealable to LUBA. If the Planning Director appeals the decision to the Board, the Board's decision is the county's final decision on a Type II application and may be appealed to LUBA.

(C) Type III Decisions. The Hearings Officer shall render all Type III decisions. Unless the Planning Director appeals the decision to the Board, the Hearings Officer decision is the county's final decision on a Type III application and is appealable to LUBA. If the Planning Director appeals the decision to the Board, the Board's decision is the county's final decision on a Type III application and may be appealed to LUBA.

(D) Type IV Decisions. The Planning Commission shall render the initial decision on all Type IV permit applications. If the Planning Commission denies the Type IV application, that decision is final unless appealed to the Board in accordance with MCC 39.1160(A). If the Planning Commission recommends approval of the application, that recommendation is forwarded to the Board. The Board's decision is the county's final decision on a Type IV application and is appealable to LUBA.

(E) PC Actions. The Planning Commission shall review all PC actions. If the Planning Commission adopts a resolution to recommend an action, the Planning Commission refers the resolution to the Board for final action. The Board's decision is the county's final decision on a PC application and is appealable to LUBA.

§ 39.1115 INITIATION OF ACTION.

Except as provided in MCC 39.1200 and 39.9700, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser, or by a government agency that has the power of eminent domain. PC (legislative) actions may only be initiated by the Board, Planning Commission, or Planning Director.

§ 39.1120 PRE-APPLICATION CONFERENCE MEETING.

(A) Prior to submitting an application for a Type II, Type III or Type IV application, the applicant shall schedule and attend a pre-application conference with County staff to discuss the proposal. The pre-application conference shall follow the procedure set forth by the Planning Director and may include a filing fee, notice to neighbors, neighborhood organizations, and other organizations and agencies.

(B) To schedule a pre-application conference, the applicant shall contact the Land Use Planning Division and pay the appropriate conference fee. The purpose of the pre-application conference is for the applicant to provide a summary of the applicant's development proposal to staff and in return, for staff to provide feedback to an applicant on likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal. The Planning Director may provide the applicant with a written summary of the pre-application conference within 10 days after the pre-application conference.

(C) Notwithstanding any representations by County staff at a pre-application conference, staff is not authorized to waive any requirements of the County Zoning Code. Any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the County of any standard or requirement.

(D) A pre-application conference shall be valid for a period of 6 months from the date it is held. If no application is filed within 6 months of the conference or meeting, the applicant must schedule and attend another conference before the County will accept a permit application. The Planning Director may waive the pre-application requirements if, in the Director's opinion, the development does not warrant these steps.

§ 39.1125 APPLICATION REQUIREMENTS FOR TYPE I – IV APPLICATIONS.

All permit applications must be submitted at the Land Use Planning Division office on the most current form provided by the county, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable

approval criteria. The applicant has the burden of demonstrating, with evidence, that all applicable approval criteria are, or can be met. An application shall not be approved unless it meets the applicable approval criteria.

§ 39.1130 COMPLETE APPLICATION – REQUIRED INFORMATION.

Unless stated elsewhere in the Multnomah County Zoning Code, a complete application includes all the materials listed in this section. The Planning Director may waive the submission of any of these materials if not deemed to be applicable to the specific review sought. Likewise, within 30 days of when the application is first submitted, the Planning Director may require additional information, beyond that listed in this section or elsewhere in the County Zoning Code, such as a traffic study or other report prepared by an appropriate expert, where needed to address relevant approval criteria. In any event, the applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation. The County will not deem the application complete until all information required by the Planning Director has been submitted. Unless specifically waived by the Planning Director, the following must be submitted:

(A) One copy of a completed county application form that includes the following information:

(1) An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application.

(2) Name, address, telephone number and authorization signature of all record property owners or contract owners or a representative for the government agency that has the power of eminent domain, and the name, address and telephone number of the applicant, if different from the property owner(s) or the government agency.

(B) A complete list of the permit approvals sought by the applicant.

(C) A current (within 30 days prior to application) preliminary title report for the subject property(ies).

(D) A complete and detailed narrative description that describes the proposed development, existing site conditions, existing buildings, public facilities and services and other natural features. The narrative shall also explain how the criteria are or can be met, and address any other information indicated by staff at the pre-application conference as being required.

(E) Copy of the pre-application meeting notes.

(F) Up to 10 copies of all reports, plans, site plans and other documents required by the section of this Zoning Code corresponding to the specific approval(s) sought.

(G) At least one copy of the site plan and all related drawings shall be in a readable/legible 8 ½ by 11 inch format for inclusion into the County's record of the application.

(H) All required application fees.

§ 39.1133 COMPLETENESS REVIEW – TYPE I APPLICATIONS.

(A) Upon submission of a Type I application, the Planning Director shall date stamp the application form and verify that the appropriate application fee has been submitted. The Planning Director will then review the application and evaluate whether the application is complete. Within 30 days of receipt of the application, the Planning Director shall complete this initial review and issue to the applicant a completeness letter indicating whether the application is complete. If not complete, the Planning Director shall advise the applicant what information must be submitted to make the application complete.

(B) Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days from the original application submittal date

within which to submit the missing information or the application shall be void and all materials returned to the applicant. If the applicant submits the requested information within the 180-day period, the Planning Director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection (A) of this section. If the Planning Director determines the application is complete, the County may begin processing it.

(C) The approval criteria and standards which control the County's review and decision on a complete application are those which were in effect on the date the application was first submitted.

§ 39.1134 Repealed by Ord. 1262

§ 39.1135 COMPLETENESS REVIEW AND 150-DAY RULE.

(A) Upon submission of a Type II or Type III application, or a Type IV zone change application, the Planning Director shall date stamp the application form and verify that the appropriate application fee has been submitted. The Planning Director will then review the application and evaluate whether the application is complete. Within 30 days of receipt of the application, the Planning Director shall complete this initial review and issue to the applicant a completeness letter indicating whether the application is complete. If not complete, the Planning Director shall advise the applicant what information must be submitted to make the application complete.

(B) Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days from the original application submittal date within which to submit the missing information or the application shall be void and all materials returned to the applicant. If the applicant submits the requested information within the 180-day period, the Planning Director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection (A) of this section.

(C) An applicant shall file within 30 days of the mailing of the initial completeness letter, a statement accepting the 180 day time period to complete the application. Failure of an applicant to accept the time to complete the application within 30 days of the mailing of the completeness letter will constitute a refusal to complete the application.

(D) Once the Planning Director determines the application is complete, or the applicant refuses to submit any more information, the County shall declare the application complete and take final action on the application within 150 days of that date unless the applicant waives or extends the 150-day period. The 150-day period, however, does not apply in the following situations:

(1) Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the 150-day period.

(2) The 150-day period shall be replaced with a 120-day period on all lands within an Urban Growth Boundary or applications involving mineral extraction.

(3) The 150-day period does not apply to any application for an amendment to the County's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.

(4) The 150-day period may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days.

(5) The 120-day period on all lands within an Urban Growth Boundary or for applications involving mineral extraction may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days.

(E) The approval criteria and standards which control the County's review and decision on a complete application are those which were in effect on the date the application was first submitted.

§ 39.1140 HEARINGS PROCESS – TYPE II APPEALS, TYPE III OR TYPE IV APPLICATIONS.

All public hearings on Type II, Type III, or Type IV applications shall be quasi-judicial and comply with the procedures of this section.

(A) Once the Planning Director determines that an application for a Type III or Type IV decision is complete, or once an appeal of a Planning Director's decision on a Type II application has been properly filed, the Land Use Planning Division shall schedule a hearing.

(B) Notice of the hearing shall be issued in accordance with MCC 39.1150.

(C) The property subject to a Type III or Type IV application shall be posted in accordance with MCC 39.1155.

(D) The Planning Director shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's proposal, summarizes all relevant County department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria, and makes a recommendation as to whether each of the approval criteria are met.

(E) At the beginning of the initial public hearing authorized under these procedures, a statement shall be announced to those in attendance, that:

(1) Lists the applicable substantive criteria;

(2) The hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, deliberation and decision;

(3) That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The decision maker may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open;

(4) Failure to raise an issue on the record, with sufficient specificity and accompanied by statements or evidence sufficient to afford the County and all parties to respond to the issue, may preclude appeal on that issue to the Land Use Board of Appeals;

(5) Any party wishing a continuance or to keep open the record must make that request while the record is still open;

(6) That the decision maker shall disclose any ex parte contacts, conflicts of interest or bias before the beginning of each hearing item and provide an opportunity for challenge. Advised parties must raise challenges to the procedures of the hearing at the hearing and raise any issue relative to ex parte contacts, conflicts of interest or bias, prior to the start of the hearing.

(F) Requests for continuances and to keep open the record. The decision maker(s) may continue the hearing from time to time to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as the decision maker(s) establishes a time certain and location for the continued hearing. Similarly, the decision maker may close the hearing but keep open the record for the submission of additional written material or other documents and exhibits. The decision maker(s) may limit the factual and legal issues that may be addressed in any continued hearing or open-record period.

(G) Denial by a Hearings Officer of a Type III decision permit application, such as a Conditional Use or a Community Service Use, shall result in denial of all associated Type II decisions applied for at the same time that are subject to some part of the Type III decision. The Type II decisions for which this applies include, but are not limited to Design Review, Variances, Significant Environmental Concern, Willamette River Greenway, and Geologic Hazards Permits.

§ 39.1145 REVIEW PROCEDURES BEFORE THE BOARD OF COUNTY COMMISSIONERS OF AN APPEAL OF A HEARINGS OFFICER DECISION ON A TYPE II OR TYPE III PERMIT.

Review by the Board of County Commissioners (Board) of a Planning Director's appeal of a Hearings Officer decision on a Type II or Type III Permit shall be pursuant to the Multnomah County Home Rule Charter and implementing Rules, with the following additional requirements:

(A) Notice of the hearing shall be given as required by MCC 39.1160 (B)(2).

(B) A staff report by the Planning Director shall be available 14 days before the hearing. The scope of argument and information in the staff report shall be limited to the record made before the Hearings Officer.

(C) Any written testimony submitted by others shall be available 7 days before the hearing. The scope of argument and information in the written testimony shall be limited to the record made before the Hearings Officer and the staff report described in (B) above.

(D) A written response to (C) is not allowed.

(E) The following persons may present oral testimony:

(1) By the applicant (and/or the applicant's representative) and the Planning Director;

(2) Limited to the issues, evidence and arguments on the record that were made before the Hearings Officer;

(3) Limited to 10 minutes of argument on each side, with the provision that the Planning Director may reserve time from that 10 minutes for a rebuttal.

(F) The Board will then deliberate and deliver an oral decision before the end of the hearing. The Board shall then direct staff to prepare an Order and Opinion that reflects the decision and direct the Chair to sign the same. Staff will then mail the signed Order and Opinion to those who submitted written comment, requested the decision in writing or provided oral testimony at a hearing on the matter. The mailed decision is the county's final decision on the application and may be appealed to LUBA within 21 days of the date the decision is signed by the Chair.

§ 39.1150 HEARINGS NOTICE – TYPE II APPEALS, TYPE III OR TYPE IV APPLICATIONS.

Except for appeals of Hearings Officer decisions by the Planning Director which have different notice requirements in MCC 39.1160(B), notice for all public hearings for Type III, IV or an appeal of a Type II application shall conform to the requirements of this section. At least 20 days prior to the hearing, the county shall prepare and send, by first class mail, notice of the hearing to all owners of record, based upon the most recent Multnomah County records, of property within

750 feet of the subject tract and to any county-recognized neighborhood association or identified agency whose territory includes the subject property. The county shall further provide notice at least 20 days prior to a hearing to those persons who have identified themselves in writing as aggrieved or potentially aggrieved or impacted by the decision prior to the required mailing of such notice. The county shall also publish notice in a newspaper of general circulation within the county at least 20 days prior to the hearing. Notice of the hearing shall include the following information:

(A) The time, date and location of the public hearing;

(B) Street address or other easily understood location of the subject property and County assigned case file number;

(C) A description of the applicant's proposal, along with a list of citations of the approval criteria that the County will use to evaluate the proposal;

(D) A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing, and that a staff report will be prepared and made available to the public at least 7 days prior to the hearing;

(E) A statement that any issue which is intended to provide a basis for an appeal to the Land Use Board of Appeals must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties to respond to the issue;

(F) A statement that the application and all supporting materials and evidence submitted in regard to the application may be inspected at no charge, and that copies may be obtained at cost, at the Multnomah County Land Use Planning Division during normal business hours; and

(G) The name and telephone number of the planning staff person responsible for the application and who is otherwise available to answer questions about the application.

(H) Notice published in a newspaper shall include the information in (A), (B) and (G) above, along with a brief description of the applicant's proposal, and a statement that all interested parties may testify at the hearing or submit written comments on the proposal at, or prior to the hearing.

§ 39.1155 POSTING NOTICE REQUIREMENTS – TYPE III, TYPE IV HEARINGS.

The requirements of this subsection shall apply to Type III and Type IV hearings except those hearings resulting from an appeal of a Hearings Officer decision by the Planning Director.

(A) The county shall supply all of the notices which the applicant is required to post on the subject property, and shall specify the dates the notices are to be posted. The date of posting is ten days prior to the date of hearing. Failure to post the notice shall not be a procedural error.

(B) The applicant must place the notice along the frontage of the subject property. If a property's frontage exceeds 300 feet, the applicant shall post one copy of the notice for each 300 feet or fraction thereof, not to exceed four signs. Notices shall be posted within 10 feet of the right of way and shall be clearly visible to pedestrians and motorists. To the extent practicable, all signs shall be equally spaced. Notices shall not be posted within the public right of way nor on trees. The applicant shall remove all signs within 10 days following the event announced in the notice.

§ 39.1160 APPEALS.

Appeals of any decisions of the county must comply with the requirements of this section.

(A) Appeals by applicants or opponents of an application.

(1) Type I decisions by the Planning Director are not appealable to any other decision maker within the county.

(2) A Notice of Appeal of a Type II decision by the Planning Director or Type IV decision by the Planning Commission must be received in writing by the Land Use Planning Division within 14 calendar days from the date notice of the challenged decision is provided to those entitled to notice. If the county's notice of decision is mailed, any appeal must be received by and at the Land Use Planning Division within 14 calendar days from the date of mailing. Late or improperly filed appeals shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

(3) The following must be included as part of the Notice of Appeal:

(a) The county s case file number and date the decision to be appealed was rendered.

(b) The name, mailing address and daytime telephone number for each appellant.

(c) A statement of how each appellant has an interest in the matter and standing to appeal.

(d) A statement of the specific grounds for the appeal.

(e) The appropriate appeal fee. Failure to include the appeal fee within appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

(4) Standing to Appeal. Those who are entitled to appeal a Type II or Type IV decision include those who are entitled to notice under MCC 39.1150.

(5) The Land Use Planning Division shall issue notice of the appeal hearing to all parties entitled to notice had the initial decision been subject to a hearing under MCC 39.1150. Notice of the appeal hearing shall contain the following information:

(a) The case file number and date of the decision being appealed;

(b) The time, date and location of the public hearing;

(c) The name of the applicant, owner and appellant (if different);

(d) The street address or other easily understood location of the subject property;

(e) A description of the permit requested and the applicant's development proposal;

(f) A brief summary of the decision being appealed and the grounds for appeal listed in the Notice of Appeal;

(g) A general explanation of the requirements for participation and the county's hearing procedures.

(6) Appeal hearing, scope of review. Appeal hearings to a Hearings Officer shall comply with the procedural requirements of MCC 39.1140. Appeal hearings shall be de novo, as if new, and all issues relevant to the applicable approval criteria may be considered. However, written Planning Director interpretations, pursuant to MCC 39.1225, are to be given deference pursuant to MCC 39.1225(A).

(B) Appeals by the Planning Director of Hearings Officer Decisions.

(1) The Planning Director may appeal a Hearings Officer decision on a Type II or Type III Permit to the Board. That opportunity to appeal the decision is during the seven days following the signing of the decision by the Hearings Officer.

(2) A Notice of Appeal and Notice of Hearing before the Board shall be mailed at least 14 days prior to the hearing to those who submitted written comment, requested the decision in writing or provided oral testimony at a hearing on the matter, and DLCD at the discretion of the applicant. The following must be included as part of the Notice of Appeal and Notice of the Hearing (which may be one notice):

(a) The county's case file number and date the decision to be appealed was rendered;

(b) The name, mailing address and daytime telephone number of the Planning Director or designee;

(c) A statement of the specific grounds for the appeal.

(3) Standing to Appeal. An appeal of a Hearings Officer decision on a Type II Permit or Type III Permit may only be filed by the Planning Director to the Board.

(4) Appeal hearing, scope of review. Appeal hearings to the Board shall comply with the procedural requirements of MCC 39.1145. The appeal hearing shall be on the record and the Board may substitute its decision for the decision of the Hearings Officer.

§ 39.1165 REAPPLICATION LIMITED.

If an application is denied or withdrawn following the close of the public hearing or the end of the appeal period, no reapplication for the same or substantially similar proposal may be made for one year following the date of final decision denying the permit or the date of withdrawal.

§ 39.1170 CONDITIONS OF APPROVAL AND NOTICE OF DECISION.

(A) All county decision makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can be, met.

(B) The applicant has the burden of demonstrating that the application complies with the approval criteria or will comply with the approval criteria through the imposition of conditions of approval. The applicant must submit evidence demonstrating that an approval criteria can be met with the imposition of conditions as well as demonstrate a commitment to comply with conditions of approval.

(C) Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting code enforcement proceedings pursuant to the county code.

(D) Notice of decision. The County shall send, by first class mail, a notice of all decisions rendered under a Type II, Type III, or Type IV process. For Type II decision, notice shall be mailed to all property owners within 750 feet of the subject tract, to those persons who have identified themselves in writing and to any County-recognized neighborhood association or identified agency whose territory includes the subject property. For Type III and Type IV decisions, notice shall be mailed to those who submitted written comment, requested the decision in writing or provided oral testimony at a hearing on the matter, and DLCD at the discretion of the applicant. The notice of decision shall include the following information:

(1) The file number and effective date of decision;

(2) The name of the applicant, owner and appellant (if different);

(3) The street address or other easily understood location of the subject property;

(4) A brief summary of the decision, and if an approval, a description of the permitted use approved;

(5) A statement that the decision is final at the close of the appeal period unless appealed, and description of the requirements for perfecting an appeal;

(6) A statement that a person receiving notice cannot appeal a Type II or Type IV decision directly to LUBA unless all local appeals are exhausted;

(7) The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.

(E) Modification of Conditions. Any request to modify a condition of permit approval shall be processed in the same manner, and shall be subject to the same standards, as was the original application provided the standards and criteria used to approve the decision are consistent with the current code. However, the decision maker may at its sole discretion, consider a modification request and limit its review of the approval criteria to those issues or aspects of the application that are proposed to be changed from what was originally approved.

§ 39.1175 RECORDING OF DECISION.

The County may impose as a condition of final approval of a Type II, Type III, or Type IV decision, the requirement that the applicant record with the County the Notice of Decision. The Notice of Decision shall run with the land and shall be placed in the county deed records prior to the issuance of any permits or development activity pursuant to the approval. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division. Recording shall be at the applicant’s expense.

§ 39.1180 PERFORMANCE GUARANTEES.

When conditions of permit approval require the applicant to construct certain improvements, the County may allow the applicant to submit a financial guarantee in order to postpone construction, or to guarantee construction to certain standards. Financial guarantees shall be governed by this section.

(A) Form of guarantee. Guarantees shall be in a form approved by the County Attorney, including an irrevocable stand-by letter of credit issued by a recognized lending institution to the benefit of the County, a certified check, dedicated bank account or allocation of a construction loan held in reserve by the lending institution for the benefit of the County. The guarantee shall be filed with the Land Use Planning Division.

(B) Amount of guarantee. The amount of the performance guarantee shall be equal to at least 110% of that estimated cost of constructing the improvement in question. The amount of the performance guarantee may be larger than 110% if deemed necessary by the Planning Director. The cost estimate substantiating the amount of the guarantee must be provided by the applicant supported by either an engineer's or an architect’s estimate or written estimates by three contractors with their names and addresses. The estimates shall separately itemize all materials, labor, and other costs.

(C) Duration of the guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the County. Once the County has inspected and accepted the improvement, the County shall release the guarantee to the applicant. If the improvement is not completed to the County's satisfaction within the time limits specified in the permit approval or the guarantee, the Director may draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the County. Once constructed and approved by the County, any remaining funds shall be refunded to the applicant.

(D) If the applicant elects to defer construction of improvements by using a financial guarantee, the applicant shall agree to construct those improvements upon written notification by the County, or at some other mutually agreed-to time. If the applicant fails to

commence construction of the required improvements within 6 months of being instructed to do so, the County may, without further notice, undertake the construction of the improvements and draw upon the applicant's performance guarantee to pay those costs as provided in paragraph (C) above.

§ 39.1183 EXPIRATION AND EXTENSION OF TYPE I DECISIONS.

(A) Type I permits issued pursuant to this Chapter shall expire six years after the date the permit was issued, unless the use or development was established according to all specifications and conditions of approval in the permit. The decision maker may specify an expiration period in the permit that is shorter than 6 years in order to align with the expiration period for another permit associated with the same use or development or for any other reason determined by the decision maker. Expiration of a Type I permit means that a new application is required for uses that are not established within the approval period.

(B) Extension of a Type I permit is permitted only when the use or development to be established under the Type I permit is contingent on a Type II, III, or IV permit associated with the same use or development. However, a Type I permit shall not be granted an extension beyond the expiration period of the Type II, III, or IV permit associated with the same use or development. An extension request for a Type I permit is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision. The extension request may be approved provided:

(1) An applicant makes a written request for an extension of the approval period;

(2) The request is submitted to the county prior to the expiration of the approval period; and

(3) The requested extension aligns with and does not extend beyond the expiration period of a Type II, III, or IV permit associated with the same use or development.

(C) Expiration under (A) above is automatic. Failure to give notice of expiration shall not affect the expiration of a Type I permit.

(D) If a permit decision is appealed, the expiration period shall not begin until all appeals have been completed, including any remand proceedings.

§ 39.1185 EXPIRATION OF TYPE II OR TYPE III DECISIONS.

(A) Type II or Type III land use approval issued pursuant to this Chapter for a use or development that does not include a structure shall expire two years after the date of the final decision, unless the use or development was established according to all specifications and conditions of approval in the land use approval. Expiration of an approval means that a new application is required for uses that are not established during the approval period. For land divisions, “established” means the final deed or plat has been recorded with the county recorder.

(B) Except for approval of residential developments as specified in (C) below, a Type II or Type III land use approval issued pursuant to this Chapter for a use or development that includes a structure shall expire as described in 1 or 2 below:

(1) When construction has not commenced within two years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.

(2) When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

(C) A Type II or III decision approving residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is subject to the following provisions:

(1) The approval shall expire as described in (a) or (b) below:

(a) When construction has not commenced within four years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.

(b) When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

(2) For the purposes of this section, the expiration provisions in (a) and (b) shall also apply to all other Type II or III decisions associated with approval of the residential development, such as SEC or GHP permits.

(3) The provisions in (C) shall only apply to residential development for which a decision of approval:

(a) Was valid (not expired) on January 1, 2002, or

(b) Was issued after January 1, 2002 (the effective date of Senate Bill 724, 2001).

(4) For the purposes of this section, "residential development" only includes dwellings as provided for under:

(a) ORS 215.283(1)(s) – alteration, restoration or replacement of a lawfully established dwelling in the EFU zones as provided in MCC 39.4220(J), (L) & (M); and

(b) ORS 215.284 – dwelling not in conjunction with farm use in the EFU zones (not currently provided for in this Zoning Code); and

(c) ORS 215.705 (1) to (3) – "Heritage Tract Dwelling" in the EFU zones as provided for in MCC 39.4265(D) and 39.4230 (L) and (M); and

(d) ORS 215.705 through ORS 215.730 – "Heritage Tract Dwelling" in the CFU zones as provided in MCC 39.4095; and

(e) ORS 215.740 – "Large Acreage Dwelling" in the CFU zones as provided for in MCC 39.4085; and

(f) ORS 215.750 – "Template Dwelling" in the CFU zones as provided for in MCC 39.4090; and

(g) ORS 215.755 (1) – alteration, restoration or replacement of a lawfully established dwelling in the CFU zones as provided in MCC 39.4070 (D); and

(h) ORS 215.755 (3) a caretaker residence for a public park or public fish hatchery in the CFU zones as provided for in MCC 39.4070(G).

(D) Expiration under (A), (B), or (C) above is automatic. Failure to give notice of expiration shall not affect the expiration of a Type II or III approval.

(E) Notwithstanding Subsections (A), (B), or (C) of this section, on exception lands the decision maker may set forth in the written decision specific instances or time periods when a permit expires.

(F) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts have been completed, including any remand proceedings.

§ 39.1187 EXPIRATION OF PRIOR TYPE I PERMITS.

All Type I permits issued prior to September 29, 2018 (Ord. 1262) shall expire on September 29, 2024, unless a different timeframe was specifically included in the permit or the use or development has been established according to all specifications and conditions of approval in the permit by September 29, 2024. Expiration of a Type I permit means that a new application is required for uses that are not established within the approval period.

§ 39.1190 EXPIRATION OF PRIOR LAND USE DECISIONS.

All land use decisions authorized prior to January 1, 2001 (Ord. 953 & Ord. 997) shall expire on January 1, 2003, unless:

(A) A different timeframe was specifically included in the decision, or

(B) The decision was for "residential development," as specified in MCC 39.1185(C), which have the expiration timeframes of MCC 39.1185 (C)(1).

§ 39.1195 EXTENSION OF A TYPE II OR TYPE III DECISION.

(A) The Planning Director shall grant one extension period of 24 months for approvals of dwellings listed in MCC 39.1185 (C) and shall grant one extension period of up to 12 months for all other approvals provided:

(1) An applicant makes a written request for an extension of the development approval period;

(2) The request is submitted to the county prior to the expiration of the approval period;

(3) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and

(4) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

(B) Pursuant to OAR 660-033-0140, approval of an extension in EFU and CFU districts is an administrative decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision. All other extension requests authorized by this section are land use decisions and shall be reviewed under the Type II procedures set forth in MCC 39.1125.

(C) Except for approvals of dwellings listed in MCC 39.1185(C), additional one-year extensions shall be authorized where applicable criteria for the decision have not changed. For each additional extension, the Planning Director shall confirm compliance with the standards in MCC 39.1195 (A) (1-4).
(Ord. 1270, Amended, 03/14/2019)

§ 39.1200 REVOCATION OF DECISIONS.

In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the County's approval, the County may institute a revocation or modification proceeding under this section.

(A) All Type I, Type II, Type III and Type IV decisions may be revoked or modified if the Planning Director determines a substantial likelihood that any of the following situations exists:

(1) One or more conditions of the approval have not been implemented or have been violated; or

(2) The activities of the use, or the use itself, are substantially different from what was approved or represented by the applicant.

(B) Revocation or modification shall be processed as a Type III decision. The Land Use Planning Division or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record, that the applicant or the applicant's successor has in some way violated the County's approval.

(C) Possible actions at the revocation hearing. Depending on the situation, the Hearings Officer may take any of the actions described below. The Hearings Officer may not approve the new use or a use that is more intense than originally approved unless the possibility of this change has been stated in the public notice. Uses or development which are alleged to have not fulfilled conditions, violate conditions or the use is not consistent with the County's approval may be subject to the following actions:

(1) The Hearings Officer may find that the use or development is complying with the conditions of the approval or is as approved by the county. In this case, the use or development shall be allowed to continue;

(2) The Hearings Officer may modify the approval if the Officer finds that the use or development does not fully comply with the conditions of approval, that the violations are not substantial enough to warrant revocation, and that the use can comply with the original approval criteria if certain conditions are met. In this case, the Hearings Officer may modify the existing conditions, add new conditions to ensure compliance with the approval criteria, or refer the case to the code compliance officer for enforcement of the existing conditions;

(3) The Hearings Officer may revoke the approval if the Officer finds there are substantial violations of conditions or failure to implement land use decisions as represented by the applicant in the decision approved, such that the original approval criteria for the use or development are not being met.

(D) Effect of revocation. In the event that the permit approval is revoked, the use or development becomes illegal. The use or development shall be terminated within thirty days of the date the revocation final order is approved by the Hearings Officer, unless the decision provides otherwise. In the event the decision maker's decision on a revocation request is appealed, the requirement to terminate the use shall be stayed pending a final, unappealed decision.

§ 39.1205 TYPE IV QUASI-JUDICIAL PLAN AND ZONE CHANGE APPROVAL CRITERIA.

(A) Quasi-judicial Plan Revision. The burden of proof is upon the person initiating a quasi-judicial plan revision. That burden shall be to persuade that the following standards are met:

(1) The plan revision is consistent with the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes;

(2) The proposal conforms to the intent of relevant policies in the comprehensive plan or that the plan policies do not apply. In the case of a land use plan map amendment for a commercial, industrial, or public designation, evidence must also be presented that the plan does not provide adequate areas in appropriate locations for the proposed use; and

(3) The uses allowed by the proposed changes will:

(a) Not destabilize the land use pattern in the vicinity;

(b) Not conflict with existing or planned uses on adjacent lands; and

(c) That necessary public services are or will be available to serve allowed uses.

(4) Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to be considered under this subsection.

(B) Quasi-Judicial Zone Change. The burden of proof is upon the person initiating a zone change request. That burden shall be to persuade that:

(1) Granting the request is in the public interest;

(2) There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property;

(3) The proposed action fully accords with the applicable elements of the Comprehensive Plan; and

(4) Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to be considered under this subsection. The existence of home occupations shall not be used as justification for a zone change.

§ 39.1210 (PC) LEGISLATIVE HEARING PROCESS.

(A) Purpose. Legislative actions involve the adoption or amendment of the County's land use regulations, comprehensive plan, map inventories and other policy documents that affect the entire County or large portions of it. Legislative actions which affect land use must begin with a public hearing before the Planning Commission.

(B) Planning Commission Review:

(1) Hearing Required. The Planning Commission shall hold at least one public hearing before adopting a recommendation on a proposal for legislative action. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing.

(2) Planning Director's Report. The Planning Director shall prepare and make available a staff report on the proposal for legislative action at least 7 days prior to the hearing described in paragraph (B)(1) of this section.

(3) Planning Commission Recommendation. At the conclusion of the hearing on a proposal for legislative action, the Planning Commission shall adopt a recommendation to the Board of Commissioners on the proposal. The Planning Commission may recommend adoption of the proposal as presented to or modified by the Planning Commission or rejection of the proposal. If the Planning Commission recommends adoption of some form of the proposal, the Planning Commission shall prepare and forward to the Board of Commissioners a report and recommendation to that effect. If the Planning Commission recommends rejection of the proposal, the matter is terminated and may not be appealed unless otherwise provided by law. If the Board of Commissioners has initiated the proposal, the Planning Commission shall prepare and forward to the Board of Commissioners a report and recommendation of rejection.

(C) Board of Commissioners Review:

(1) Board of Commissioners Action. Upon a recommendation from the Planning Commission on a proposal for legislative action, the Board of Commissioners shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the Board of Commissioners may adopt, modify or reject the proposal, or it may remand the matter to the Planning Commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the County's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the Board of Commissioners decision shall be enacted as an ordinance and final upon signing. The Board of Commissioner's decision is appealable to LUBA in accordance with OAR Chapter 661, Division 10 and ORS 197.830 or current applicable state statutes.

(2) Notice of Final Decision. Not later than 5 days following the Board of Commissioner's final decision on a proposal for legislative action, the Planning Director shall mail notice of the decision to DLCD in accordance with ORS 197.615 or current applicable state statutes.

§ 39.1215 NOTICE OF LEGISLATIVE HEARINGS.

(A) Notice of the date, time, place and subject of a legislative hearing before the Planning Commission shall be published in a newspaper of general circulation within the County at least 20 days prior to the hearing and as required by law. The Planning Director shall also notify the Oregon Department of Land Conservation and Development (DLCD) 35 days prior to the initial public hearing or as required by law.

(B) Notice of the date, time, place and subject of a legislative hearing before the Board of Commissioners shall be published in a newspaper of general circulation within the County at least 10 days prior to the hearing and as required by law.

(C) Individual notice of a legislative hearing before the Planning Commission that amends the Comprehensive Plan, adopts a new Comprehensive Plan, or rezones property shall be mailed at least 20 days but not more than 40 days prior to the hearing to the owners of all affected properties. Such notice shall adhere to the format provided in ORS 212.503.

(D) For the purpose of this section, property is rezoned when the County:

(1) Changes the base zoning classification of the property; or

(2) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(E) The provisions of subsection (2) above do not apply to legislative acts by the County resulting from action by the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047.

§ 39.1220 CONTINUANCE OF PC HEARINGS.

The decision maker(s) may continue the hearing from time to time to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as the decision maker establishes a time certain and location for the continued hearing. Similarly, the decision maker may close the hearing but keep open the record for the submission of additional written material or other documents and exhibits. The decision maker(s) may limit the factual and legal issues that may be addressed in any continued hearing or open-record period.

§ 39.1225 INTERPRETATIONS AND REQUESTS FOR LOT OF RECORD VERIFICATION.

(A) The Planning Director has the authority to decide all questions of interpretation or applicability to specific properties of any provision of the comprehensive plan, or other land use code. Any interpretation of a provision of the comprehensive plan, or other land use code shall consider applicable provisions of the comprehensive plan and the purpose and intent of the ordinance adopting the particular code section in question.

(B) A person may specifically request an interpretation of a provision in the code. An application for an interpretation shall be processed as a Type II application.

(C) A person may request verification of the Lot of Record status of a lot or parcel. The application shall be processed as a Type II application.

(D) The Planning Director may refuse to accept an application for an interpretation or Lot of Record verification if:

(1) The Planning Director determines that the question presented or Lot of Record verification can be decided in conjunction with approving or denying a pending land use action application or if in the Planning Director's judgment the requested determination should be made as part of a decision on an application for a quasi-judicial land use or zone change permit not yet filed; or

(2) The Planning Director determines that there is an enforcement case pending in which the same issue necessarily will be decided.

(E) A determination by the Planning Director not to accept an application under paragraph (B) or (C) of this section is not a land use decision and shall be the county's final decision.

§ 39.1230 TRANSFER OF APPROVAL RIGHTS.

Unless otherwise stated in the County's decision, any approval granted under this code runs with the land and is transferred with ownership of the land. Any conditions, time limits or other restrictions imposed with a permit approval shall bind all subsequent owners of the property for which the permit was granted.

§ 39.1235 EX PARTE CONTACT, CONFLICT OF INTEREST AND BIAS.

The following rules and procedures govern a decision maker's participation in a quasi-judicial or legislative proceeding or action affecting land use:

(A) Ex Parte Contacts. Any factual information obtained by a decision maker from anyone other than staff outside the context of a quasi-judicial hearing shall be deemed an ex parte contact. Prior to the close of the record in any particular matter, any decision maker that has obtained any material factual information through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact. This paragraph does not apply to legislative proceedings or contacts between county staff and the decision maker.

(B) Conflict of Interest.

(1) Planning Commission. A member of the Planning Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or the spouse, sibling, child, parent, parent-in-law of the member; any business in which the member is then serving or has served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at

the meeting of the Planning Commission where the action is being taken.

(2) Board of Commissioners. With respect to a potential or actual conflict of interest, a member of the Board of Commissioners shall participate in Board proceedings and actions in accordance with the Rules for Board Meetings.

(C) Bias. All decisions in quasi-judicial matters shall be fair, impartial and based on the applicable approval standards and the evidence in the record. Any decision maker who is unable to render a decision on this basis in any particular matter shall refrain from participating in the deliberation or decision on that matter. This paragraph does not apply to legislative proceedings.

§ 39.1240 PROCEDURAL OBJECTIONS.

Any party who objects to the procedure followed in a quasi-judicial or legislative proceeding or action affecting land use must make a procedural objection prior to the County's rendering a final decision. Procedural objections may be raised at any time prior to a final decision, after which they are deemed waived. In making a procedural objection, the objecting party must identify the procedural requirement that was not properly followed and identify how the alleged procedural error harmed that person's substantial rights. No decision or action of the Planning Commission or Board of Commissioners shall be voided solely by reason of the failure of a member thereof to disclose an actual or potential conflict of interest.

§ 39.1245 FEES.

Fees shall be imposed for land use services provided pursuant to this Chapter. The amount of the fees will be set by resolution.

1.C – VIOLATIONS, ENFORCEMENT AND FINES

§ 39.1500- TITLE.

MCC 39.1500–MCC 39.1565, shall be known as the Enforcement Code and may be so cited and referred to.

§ 39.1505 DEFINITIONS.

As used in MCC 39.1505 –39.1565, the following words mean:

Days - Calendar days, not business days unless specifically provided otherwise.

Director - The Director of the Department of Community Services or such Director's delegates.

Hearings Officer Order - The imposition of a fine according to criteria set by the Director or a decision in the appeal of a Notice of Violation, which shall be signed by the respondent and property owner, if different.

Notice of Violation - A written notice given to a person whose action or failure to act constitutes a violation under MCC 39.1510 and the property owner, if different. The Notice shall include assessed fines for such violation and the appeal rights and requirements.

Person means:

(1) The owner, title holder, contract seller, contract buyer, possessor or user of the land upon which the violation is occurring; and/or, the person taking the action, or responsible for the conduct or omission which constitutes a violation under MCC 39.1510;

(2) The United States or agencies thereof, any state or state agency, public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof; or

(3) For the purposes of this Enforcement Code, "person" also includes individuals who reside or conduct business or other activities in the unincorporated areas of Multnomah County.

Respondent means: The person alleged to have committed a violation or to be responsible for such violation.

Violation: Any act or failure to act that is prohibited or not allowed, including any failure to take any required action, under the goals, laws, rules, regulations or permits specified in MCC 39.1510.

§ 39.1510 VIOLATIONS.

Any use of land, land division, adjustment to property boundaries, work within a County right-of-way, or other activity by a person in violation of any provision of:

(A) MCC Chapters 39, 29.001 through 29.207 and 29.500 through 29.583; Multnomah County Road Rules or the terms and conditions of any permit issued under those code provisions; or

(B) Any statute adopted by the Oregon Legislature and those land use planning goals and rules of the Land Conservation and Development Commission (LCDC) that apply directly to the County through ORS 197.646 may be subject to enforcement and fines as provided in this Enforcement Code.

§ 39.1515 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

§ 39.1520 POLICY; PURPOSE; POWERS OF DIRECTOR.

It is county policy and the Director shall:

(A) Seek voluntary compliance in addressing violations and to use an enforcement approach when voluntary compliance fails or is not practicable. The purpose of the Enforcement Code is to implement this policy in a prompt, effective and efficient manner.

(B) Adopt rules necessary for the administration of the Enforcement Program.

(C) Exercise the county's authority under the Enforcement Code and all rules adopted under it. The Director may appoint one or more Code Compliance Specialists (CCS) for purposes of administering the county's authority under the Enforcement Code and all rules adopted under it. The Director may delegate the duties of the CCS to other staff of Department of Community Services.

§ 39.1525 VOLUNTARY COMPLIANCE AGREEMENT.

(A) The County may enter into a written voluntary compliance agreement with respondent, and the property owner, if different, before or after a Notice of Violation is issued. The agreement shall include the applicable code provision(s), required corrective action, time limits for compliance, fines if applicable and shall be binding.

(B) As part of a voluntary compliance agreement, the Director may agree to accept in full satisfaction of any fine, costs, fees or other debt due and owing to the County under the Enforcement Code payment in an amount less than the total amount due and owing and may agree to terms of payment. The Director shall establish factors to be considered prior to making the agreement authorized in this paragraph.

(C) The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation.

(D) The CCS will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the required corrective action.

(E) Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by these provisions, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The CCS may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.

§ 39.1530 NOTICE OF VIOLATION, ABATEMENT, FINE AND RIGHT TO APPEAL.

(A) The CCS may issue respondent, and property owner, if different, a Notice of Violation and may require the respondent and property owner, if different, to abate the violation and/or enter into a voluntary compliance agreement within a specified time period. The Notice of Violation shall contain: name and address of the person committing the violation and property owner, if different; address or location of the alleged violation; nature of violation, including, County Code provisions, statute or administrative rules section violated; relief sought; department initiating procedure, and the fine to be paid as a result of committing the violation.

(B) Respondent or property owner, if different, may admit the existence of a violation by paying the fine and correcting the violation. Payment of the fine does not relieve respondent or property owner of the requirement to correct the violation.

(C) An appeal, if any, from a Notice of Violation shall be made in accordance with MCC 39.1550(A) and by submitting to the CCS a written request for an appeal hearing together with the appeal fee indicated in the Notice of Violation within 14 days of the date of service of the Notice of Violation.

(D) Notice of Violation may be served by personal service on respondent and property owner, if different. Notice of Violations may also be served by certified mail, return receipt requested through the United States Postal Service.

(E) The CCS may proceed directly into the state court system in any matter to secure compliance with the requirements of this Enforcement Code if efforts to secure voluntary compliance have failed.

§ 39.1535 EMERGENCY ENFORCEMENT.

If the CCS determines that the violation presents an immediate danger to the public health, safety, welfare of persons or property; or if there is any evidence of harm to the environment including but not limited to, any discharge of pollutants to waters of the state that cause or contribute to a violation of applicable water quality standards, the CCS may require immediate remedial action, and/or may issue a Stop Work Order. If the CCS

is unable to serve a Notice of Violation on the respondent or, if after such service, the respondent refuses or is unable to remedy the violation, the CCS may proceed to remedy the violation by any means available under law, and the County shall be entitled to recover its actual costs of remediation, its reasonable administrative costs, as well as its attorney fees and costs for its enforcement actions, including appeals.

§ 39.1540 STOP WORK ORDERS.

A Stop Work Order may be issued whenever the code enforcement staff or other Department of Community Services staff has determined that non-permitted construction and/or land use is occurring on property or within any County right-of-way, or has determined that construction and/or land use is occurring not in compliance with any land use or building permit issued for a property or a transportation permit within a County right of way. Failure to comply with a Stop Work Order may result in a Notice of Violation.

§ 39.1545 NO APPEAL.

If the respondent or property owner does not file a written appeal of the violation within 14 days of the date when the Notice of Violation is served or mailed, the CCS shall forward the Notice of Violation to the Compliance Hearings Officer for review and issuance of a final order.

(A) If the Hearings Officer affirms the violation, the Hearings Officer shall set a time within which the responsible party must comply. The order may require such person to do any of the following:

(1) Obtain any and all necessary permits, inspections and approvals;

(2) Install any equipment necessary to achieve compliance;

(3) Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;

(4) Reimburse the County for actual costs of remediation, its reasonable administrative costs, as well as its attorney fees and costs for its enforcement actions, including appeals;

(5) Pay a civil fine for the violation and any fees and costs to the County;

(6) Pay a reduced fine;

(7) Undertake any other action reasonably necessary to remedy the violation.

(B) The Hearing Officer's order shall be in writing and may be accompanied by an opinion.

§ 39.1550 APPEAL.

(A) Persons Authorized to Appeal Notice of Violation

(1) The Notice of Violation may be appealed by the respondent, owner of the subject property, the property owner's representative or other person who has been included as part of the Notice of Violation.

(2) A representative of the property owner must have documentation demonstrating that they are an authorized agent of the property owner.

(B) Notice of Hearing

(1) The notice shall contain the time, date, and place of the hearing. A copy of the Notice of Violation and a description of the appeal process and associated rights shall be attached to the notice.

(2) Notice shall be served on the respondent and property owner, if different, by personal service or certified mailed, return receipt requested at least 15 days prior to the hearing date. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail. Notice will also be provided to surrounding properties within 750

feet of the subject property, complainant if known and other known interested parties who have made a written request for notice. Written notice includes email and faxes in addition to surface mail or hand-delivered documents.

(3) Failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this Enforcement Code.

(C) Appeal Hearing

(1) Hearings to determine whether a violation has occurred shall be held before the Hearings Officer. The County must prove the violation alleged by a preponderance of the evidence.

(2) The Hearings Officer shall set a time within which the respondent must comply. The order may require the respondent to do any of the following:

(a) Obtain any and all necessary permits, inspections and approvals;

(b) Install any equipment necessary to achieve compliance;

(c) Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;

(d) Reimburse the County for actual costs of remediation, its reasonable administrative costs, as well as its attorney fees and costs for its enforcement actions, including appeals;

(e) Pay a civil fine for the violation and any fees and costs to the County;

(f) Pay a reduced fine;

(g) Undertake any other action reasonably necessary to remedy the violation.

(3) The Hearing Officer's order shall be in writing and may be accompanied by an opinion.

§ 39.1555 ENFORCEMENT OF HEARINGS OFFICER ORDER.

(A) Fines, fees and costs are payable on the effective date of the order and are a debt owed to the County, under ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines, fees or costs are not paid within 60 days after payment is ordered, the County may file and record the order in the County Clerk Lien Record.

(B) The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Hearings Officer, including, an action to obtain judgment for any civil fine, fees or costs imposed by such order.

§ 39.1560 CIVIL FINE.

Violations as defined in MCC 39.1510 may be subject to fines and liens. Fines may be assessed for each violation each day.

(A) The maximum fines per violation shall not exceed $3,500 for each day of noncompliance; the minimum fine per violation shall not be less than $45 for each day of noncompliance.

(B) The Director shall set criteria for determining the fines, appeal fees and administrative fees as appropriate.

§ 39.1565 JUDICIAL REVIEW.

Review of the final order of a Hearings Officer under this subchapter by any aggrieved party, including Multnomah County, shall be by writ of review as provided in ORS 34.010 through 34.100, unless the Hearings Officer makes a land use decision, in which case the land use decision may be reviewed by the Land Use Board of Appeals pursuant to ORS Chapter 197. Any appeal of a Hearings Officer decision in the National Scenic Area may be reviewed by the Columbia River Gorge Commission.

1.D – PLANNING COMMISSION

§ 39.1600- PLANNING COMMISSION.

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.

§ 39.1605 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.

§ 39.1610 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.

§ 39.1615 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.

§ 39.1620 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.

§ 39.1625 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.

§ 39.1630 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 39.1105 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.

§ 39.1635 MEETINGS.

(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.

§ 39.1640 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.

§ 39.1645 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 this Part of MCC Chapter 39, 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.

1.E – PLANNING DIRECTOR

§ 39.1700- 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 therefore established by the Director of the Department of Community Services 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.

§ 39.1705 ENFORCEMENT.

The Director of the Department of Community Services and the Director's delegates shall be responsible for securing the enforcement of the provision of MCC Chapter 39.

1.F – HEARINGS OFFICER

§ 39.1800- HEARINGS OFFICER ESTABLISHMENT.

The Planning Director is authorized to appoint one or more planning and zoning hearings officers. The Planning Director may make such appointments by executing one or more contracts for planning and zoning hearings officer services and the term of any such appointments shall be as set forth in such contract. The hearings officer shall conduct hearings on applications for the permits and contested cases to which this Part applies.

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PART 2 – DEFINITIONS

§ 39.2000 DEFINITIONS.

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

A

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

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.

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.

Adult Bookstore – An establishment having, as a substantial or significant portion of its merchandise, such items as books, magazines, other publications, films, video tapes or video discs which are for sale, rent or viewing on premises and which are distinguished by their emphasis on matters depicting specific sexual activities.

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 39.8875. 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.

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 buildings do 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.

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.

Agriculture Fill – Ground disturbing activity in the form of topsoil deposition to support a farming practice.

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.

Alley – A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Alteration – May be a change in construction, including a Structural Alteration, 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) – Includes, but is not limited to, any change in the external dimensions of a building; and 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 in 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.

B

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 MCC Chapter 29, certifying compliance with all applicable building regulations.

C

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 base zone.

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.

Car Wash (Full Service or Self-Service) – Mechanical facilities for the washing, waxing and vacuuming of automobiles, light trucks and vans.

Certified Engineering Geologist – Any person who has obtained certification by the State of Oregon as an engineering geologist.

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 – The Comprehensive Plan adopted by Multnomah County, including any plan or plan element adopted as a component of the Comprehensive Plan (also referred to as "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 Planning Director and may include maps, a text, or both.

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.

Cut – When used in the context of ground disturbing activity:

(A) An excavation;

(B) The difference between a point on the original ground surface and the point of lowest elevation on the final grade.

(C) The material removed in excavation work.

D

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 base zones and applicable only to certain standards for approval of a dwelling in those base zones, 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.

Days – Calendar days, not business days unless specifically provided otherwise.

Development – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including, but not limited to, a building, land use, occupancy, sewer connection or other similar permit, and any associated ground disturbing activity. As the context allows or requires, the term "development" may be synonymous with the term "use" and the terms "use or development" and "use and development."

Development Permit – Any permit required by this Chapter 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.

Director – The Director of Multnomah County Department of Community Services or the Director's delegate.

Disturbed Area – When used in reference to ground disturbing activity, the area where ground disturbing activity is occurring or has, will or is proposed to occur.

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.

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

Duplex Dwelling – See Dwelling (Duplex or Two Unit).

E

Earth Materials – Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

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 or ground disturbing activity) 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-disturbing activity (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 wearing away of the ground surface or other earth layer, whether dry, submerged or submersible, due to the forces of wind, water ice gravity, or other element.

Excavation – The motorized removal of earth material or other motorized activity resulting in the exposure of the ground surface or other earth layer to wind, water, ice, gravity, or other element, including, but not limited to, cutting, digging, grading, stripping, trenching, dredging, bulldozing, benching, terracing, mining or quarrying, and vegetation or tree removal. Work conducted by hand without the use of motorized equipment is not excavating.

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.

F

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 the Multnomah County Department of County Human Services pursuant to Chapter 23 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.

Farming Practice – As defined in ORS 30.930.

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 deposit (noun or verb) of any earth materials by motorized means for any purpose, including, but not limited to, stockpiling, storage, dumping, raising elevation or topography, and tracking materials such as mud onto a road surface with vehicle tires. Work conducted by hand without the use of motorized equipment is not filling.

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 or Flooding – A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters, and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source

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 Practice – As defined in ORS 30.930.

Forest Practice Building – See Agricultural Building.

Forest Practices Setback – A type of dimensional setback in the forest base zones 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).

Future street plan -- A plan approved by the Hearings Officer or Planning Commission, as appropriate, for the continuation into nearby property of any street in an Urban Area Type 1 Land Division to facilitate the future division of the nearby land according to the provisions of this Chapter.

G

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.

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.

Gravel – Aggregate composed of hard and durable stones or pebbles, crushed or uncrushed, more than half of which is retained on a No. 4 sieve (2 mm).

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.

Ground Disturbing Activity – Any excavating or filling or combination thereof.

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).

H

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.

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 Landmark – 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.

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.

I

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.

J

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.

K

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

L

Landscaping or Landscaped – The improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Landslide – Any downward slope movement of earth material, including, but not limited to, soil creep, debris flow, mudflow, earth flow, mudslide, rock slide, rotational slide, slide, slump, slope failure, block failure, rock fall, fall, topple, and spread.

Large Fill – The cumulative deposit of more than 5,000 cubic yards of fill to a site within the 20-year period preceding the date of an application for a Large Fill permit and including the fill proposed in the Large Fill permit application. For purposes of this definition, the term site shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area. For purposes of this definition, the phrase same ownership shall refer 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 definition, the seller of a property by sales contract shall be considered to not have possessory interest.

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. 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 135 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 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.

M

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 Home – See Mobile home.

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 base zone:

(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 (MCC 39.5000 – 39.5055) 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 base zones.

Motel – Same as Hotel.

Mulch - Organic materials, such as straw, bark, jute, coconut fibers, or nut shells spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as stormwater, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

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.

N

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 base zone. 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.

O

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

P

Parcel – A unit of land created by a partitioning of land. 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 base zone 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 MCC 39.1600.

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.

R

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.

Restaurant – An establishment:

(a) Where food or drink is prepared for consumption by the public;

(b) Where the public obtains food or drink so prepared in form or quantity consumable then and there, whether or not it is consumed within the confines of the premises where prepared; or

(c) That prepares food or drink in consumable form for service outside the premises where prepared; and

(d) Is not a bed and breakfast facility or a seasonal temporary restaurant or single-event temporary restaurant as defined in ORS 624.010.

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.

Right-of-Way – Any way, street, alley or road dedicated to the use of the public.

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.

Row House – A one-story apartment structure having three or more dwelling units.

S

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) – A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or a private or parochial elementary or secondary school described in ORS 339.030 (1).

School (Private School) – A privately owned primary, elementary or high school. In the Exclusive Farm Use Zone, “private school” does not include a nursery school, kindergarten or day nursery except those operated in conjunction with a school.

School (Public School) – A publicly owned primary, elementary or high school. In the Exclusive Farm Use Zone, “public school” does not include a nursery school, kindergarten or day nursery except those operated in conjunction with a school.

Sedimentation (sediment) – The deposit in a waterbody of any earthen material by wind, water, ice, gravity, or other element.

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).

Sidewalk – A pedestrian walkway with all-weather surfacing.

Side Yard – See Yard (Side).

Single Family Detached Dwelling – See Dwelling (Single Family Detached).

Slope –

(A) Any ground whose surface makes an angle from the horizontal; or

(B) The face of an embankment or cut section.

Small-Scale Low Impact Commercial or Industrial Use [Burlington Rural Center] – As used in the rural community of Burlington, these terms have the following meanings:

(A) 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.

(B) 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 with a maximum footprint of 5,000 square feet.

Small-Scale Low Impact Commercial or Industrial Use [Springdale Rural Center] – As used in the rural community of Springdale, these terms have the following meanings:

(A) 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.

(B) A small-scale low impact industrial use is one which takes place in a building or buildings not exceeding 15,000 square feet of floor space with a maximum footprint of 7,500 square feet.

Small-Scale Low Impact Commercial or Industrial Use [Orient Rural Center and Orient Commercial Industrial] – As used in the rural community of Orient, these terms have the following meanings:

(A) 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.

(B) 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.

Small-Scale Low Impact Commercial or Industrial Use [Pleasant Home Rural Center] – As used in the rural community of Pleasant Home, these terms have the following meanings:

(A) 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.

(B) 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.

Spoil Material – Any rock, sand, gravel, soil or other earth material removed by ground disturbing activity.

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.

T

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.

Topsoil – The top organic and mineral rich layer of soil that provides nutrients to growing plants.

Trade School – See School (Trade and Commercial).

Transitional Area – An area consisting of a lot, lots, or parts of lots, within any residential base zone, having side lot lines abutting a boundary of a commercial or industrial base zone, and extending not more than 100 feet from such boundary into the residential base zone.

Transitional Use – A use allowed in a transitional area which is intended to create a gradual change in uses from industrial and commercial areas to residential areas.

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).

U

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.

W

Water Body - Any surface or ground water, or wetland of the state or the United States, including but not limited to, rivers, streams, creeks, sloughs, drainageways, swales, seeps, springs, watercourses, canals, drainages, ponds, lakes, bays, aquifers, coastal waters, impounding reservoirs, estuaries, marshes, and inlets, regardless of whether perennial, intermittent, ephemeral, or otherwise, and regardless of whether natural or human-made.

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.

Y

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 base zone. 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. 1271, Amended, 03/14/2019)

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PART 3 – LOT OF RECORD

3.A – GENERAL PROVISIONS

§ 39.3005- LOT OF RECORD – GENERALLY.

(A) An area of land is a **"**Lot of Record**"** if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. 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.

(Ord. 1270, Amended, 03/14/2019)

3.B – LOT OF RECORD REQUIREMENTS SPECIFIC TO EACH ZONE

§ 39.3010- LOT OF RECORD – COMMERCIAL FOREST USE (CFU).

(A) In addition to the standards in MCC 39.3005, for purposes of the CFU 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 in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots 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 39.4135, 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.

§ 39.3020 LOT OF RECORD – COMMERCIAL FOREST USE-1 (CFU-1).

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-1 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 an 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 in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots 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, BRC, 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) August 8, 1998, CFU-1 zone applied, Ord. 916 (reenacted by Ord. 997);

(8) May 15, 2002, Lot of Record section amended, Ord. 982 & reenacted by Ord. 997;

(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 39.4135, 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.

§ 39.3030 LOT OF RECORD – COMMERCIAL FOREST USE-2 (CFU-2).

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-2 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 in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots 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, BRC, 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) August 8, 1998, CFU-2 zone applied, Ord. 916 (reenacted by Ord. 997);

(8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;

(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 39.4135, 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.

§ 39.3040 LOT OF RECORD – COMMERCIAL FOREST USE-3 (CFU-3).

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-3 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 in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots of Record:

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, SRC, R-10, GGA-40), 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) August 8, 1998, CFU-3 zone applied, Ord. 916 (reenacted by Ord. 997);

(8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(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 39.4135, 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.

§ 39.3050 LOT OF RECORD – COMMERCIAL FOREST USE-4 (CFU-4).

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-4 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 in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots of Record:

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, SRC, R-10, GGA-40), 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.

(c) Disaggregation of a Lot of Record for consideration of a new template or heritage tract dwelling may be allowed subject to the standards in (E) below.

(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) August 8, 1998, CFU-4 zone applied, Ord. 916 (reenacted by Ord. 997);

(8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(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 39.4135, 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.

(E) Disaggregation of Lots of Record existing on or before August 8, 1998, being the effective date of Ordinance 916.

(1) A Lot of Record may be disaggregated for consideration of a new dwelling under MCC 39.4090 and 39.4095 if:

(a) It consists of two legally created, aggregated lots or parcels and:

1. The disaggregation occurs along existing lot or parcel lines without creating any new lots or parcels;

2. One of the lots or parcels is currently developed with a legally established dwelling;

3. The lot or parcel on which application will be made for the new dwelling is less than 19 acres; and

4. The lots or parcels constituting the disaggregated Lot of Record were in the same ownership prior to January 1, 1985.

(b) It consists of three or more lots or parcels and:

1. Only one lot of less than 19 acres shall be disaggregated;

2. The remaining lots or parcels shall be combined into a single lot; and

3. The disaggregation occurs along existing lot or parcel lines without creating any new lots or parcels;

4. One of the lots or parcels is currently developed with a legally established dwelling;

5. The lot or parcel on which application will be made for the new dwelling is less than 19 acres; and

6. The lots or parcels constituting the disaggregated Lot of Record were in the same ownership prior to January 1, 1985.

(2) A property that was originally a portion of a Lot of Record that would otherwise satisfy the standards of MCC 39.3050(E)(1) above, but has subsequently been legally transferred to another owner, may be developed with a single family dwelling if found to satisfy the standards of MCC 39.4090 or 39.4095.

§ 39.3060 LOT OF RECORD – COMMERCIAL FOREST USE-5 (CFU-5).

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-5 district the significant dates and ordinances 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) January 21, 1999, CFU-5 zone applied, Ord. 924 (reenacted by Ord. 997);

(8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(B) Separate Lots of Record may be created under the provisions of MCC 39.4140.

(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 39.4135, 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.

§ 39.3070 LOT OF RECORD – EXCLUSIVE FARM USE (EFU).

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU 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 in Figure 1 below with the solid thick line outlining individual Lots 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, SRC, BRC, 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, zone change from EFU-38 to EFU-76 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, reenacted by Ord. 997;

(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 39.4260 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;

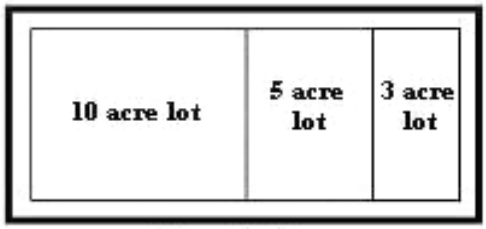
(3) A Mortgage Lot.

(4) An area of land created by court decree.

Figure 1

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

§ 39.3080 LOT OF RECORD – MULTIPLE USE AGRICULTURE-20 (MUA-20).

(A) In addition to the standards in MCC 39.3005, for the purposes of the MUA-20 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, reenacted by Ord. 997.

(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 39.4345, 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 39.4330, 39.4335, and 39.5300 through 39.5350, 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.

§ 39.3090 LOT OF RECORD – RURAL RESIDENTIAL (RR).

(A) In addition to the standards in MCC 39.3005, for the purposes of the RR 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, reenacted by Ord. 997.

(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 39.4395, 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 39.4380, 39.4385, and 39.5300 through 39.5350, 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.

§ 39.3100 LOT OF RECORD – RURAL CENTER (RC).

(A) In addition to the standards in MCC 39.3005, for the purposes of the RC 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, reenacted by Ord. 997.

(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 39.4395, 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 39.4380, 39.4385, and 39.5300 through 39.5350, 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.

§ 39.3110 LOT OF RECORD – BURLINGTON RURAL CENTER (BRC) AND SPRINGDALE RURAL CENTER (SRC).

(A) In addition to the standards in MCC 39.3005, for the purposes of the BRC 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) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004 applied a minimum 2 acre lot size to RC zoned areas outside "acknowledged unincorporated communities" except where properties are within one mile of the Urban Growth Boundary the minimum is 20 acres;

(7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(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 39.4495, 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 39.4480, 39.4485, and 39.5300 through 39.5350, 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.

§ 39.3120 LOT OF RECORD – PLEASANT HOME RURAL CENTER (PH-RC) AND ORIENT RURAL CENTER RESIDENTIAL (OR) AND ORIENT COMMERCIAL-INDUSTRIAL (OCI).

(A) In addition to the standards in MCC 39.3005, for the purposes of the PH-RC, OR, and OCI districts 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 39.4545, 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 39.4530, 39.4535, and 39.5300 through 39.5350, 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.

§ 39.3130 LOT OF RECORD – URBAN LIGHT MANUFACTURING (LM).

(A) In addition to the standards in MCC 39.3005, for the purposes of LM district a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to July 26, 1979.

(B) 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 with less than the area or width requirements of the district.

§ 39.3140 LOT OF RECORD – URBAN LOW DENSITY RESIDENTIAL (LR-5, LR-7, LR-10) AND URBAN MEDIUM DENSITY RESIDENTIAL (MR-4).

(A) In addition to the standards in MCC 39.3005, for the purposes of the LR-5, LR-7, LR-10, and MR-4 districts, a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to July 26, 1979.

(B) A Lot of Record which has less than the area minimum required, but at least 3,000 square feet, may be occupied by a single family detached dwelling or approved use when in compliance with the other requirements of the applicable district.

(C) A Lot of Record which has less than the front lot line minimums required may be occupied by any use permitted in the district when in compliance with the other requirements of the applicable district.

(D) 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 the applicable districts.

§ 39.3150 LOT OF RECORD – MULTIPLE USE FOREST (MUF).

(A) In addition to the standards in MCC 39.3005, for the purposes of the MUF district a Lot of Record is:

(1) A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;

(b) Which satisfied all applicable laws when the parcel was created; and

(c) Which satisfies the minimum lot size requirements of MCC 39.4717, or

(2) A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;

(b) Which satisfied all applicable laws when the parcel was created;

(c) Does not meet the minimum lot size requirements of MCC 39.4717; and

(d) Which are held under the same ownership.

(B) For the purposes of this subsection:

(1) Contiguous refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;

(2) Substandard Parcel refers to a parcel which does not satisfy the minimum lot size requirements of MCC 39.4717; and

(3) Same Ownership refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.

(C) Separate Lots of Record shall be deemed created when a County maintained road or an EFU, CFU, MUA-20, RR or RC zoning district boundary intersects a parcel, or aggregated group of contiguous parcels, of land.

(D) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

(E) Except as otherwise provided by MCC 39.4720 and 39.4722, no sale or conveyance of any portion of a Lot of Record, 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 with less than the area or width requirements of this district.

§ 39.3160 URBAN FUTURE (UF-20).

(A) In addition to the standards in MCC 39.3005, for the purposes of the UF-20 district a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Administrative Services or was in recordable form prior to July 26, 1979, and which, when established, satisfied all applicable laws.

(B) A Lot of Record which has less than the area or front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by subsection (B) and MCC 39.4743(D), 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.

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PART 4 – BASE ZONES

PART 4.A – RESOURCE DISTRICTS

PART 4.A.1 – COMMERCIAL FOREST USE DISTRICTS (CFU)

§ 39.4050- PURPOSES.

(A) The purposes of the Commercial Forest Use Base Zones (CFU) 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 applicable Comprehensive Plan policies, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

(B) One of the implementation tools to carry out the purposes of the CFU 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.

(C) The CFU Base Zones are: CFU, CFU-1, CFU-2, CFU-3, CFU-4, and CFU-5. These zones may be referred to collectively as the “CFU” because all standards and requirements applicable to the specific CFU base zone itself also apply to each of the other zones except as expressly stated otherwise.

§ 39.4055 AREA AFFECTED.

MCC 39.4050 through 39.4155 shall apply to those lands designated CFU (CFU, CFU-1, CFU-2, CFU-3, CFU-4, and CFU-5) on the Multnomah County Zoning Map.

§ 39.4060 DEFINITIONS.

As used in MCC 39.4050 through 39.4155, unless otherwise noted, the following terms and their derivations shall have the following meanings:

Auxiliary - For the purposes of MCC 39.4070 (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).

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.

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.

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.

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.

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.

§ 39.4065 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in the CFU except for the uses listed in MCC 39.4070 through 39.4080 when found to comply with MCC 39.4100 through 39.4155 provided such uses occur on a Lot of Record.

§ 39.4070 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(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 39.2000 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 allowed by state law.

(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 MCC 39.8800.

(T) Accessory Structures subject to the following:

(1) The accessory structure is customarily accessory or incidental to any use permitted or approved in this base zone, is located within 100 feet of the dwelling 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 unites, 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 39.8860 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 Building 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 39.2000 pursuant to the provisions of MCC 39.6900.

(V) Wildlife Habitat Conservation and Management Plan. This use is not allowed in the CFU-1, CFU-2, CFU-3, CFU-4, or CFU-5 and authorization of a single family dwelling in conjunction with a Wildlife Habitat Conservation and Management Plan is prohibited.

(W) Signs, as provided in this chapter.

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

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all base zone, overlay, and other zoning 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 must sign and record 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.

§ 39.4075 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:

Base Zone	Large Acreage Dwelling - pursuant to MCC 39.4085 and all other applicable criteria.	Template Dwelling - pursuant to MCC 39.4090 and all other applicable criteria.	Heritage Tract Dwelling - pursuant to MCC 39.4095 and all other applicable criteria.
CFU	YES	YES	YES
CFU-1	YES	NO	NO
CFU-2	YES	YES	YES
CFU-3	NO	NO	NO
CFU-4	YES	YES	YES
CFU-5	NO	YES	NO

(C) A temporary dwelling for health hardship pursuant to all applicable approval criteria, including but not limited to MCC 39.8700 and 39.4110.

(D) An asphalt and concrete batch plant accessory to a specific highway project pursuant to MCC 39.4100.

(E) A mobile home during the construction or reconstruction of a residence allowed under MCC 39.4070 (D) or MCC 39.4075 (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 39.4100, 39.4110 and 39.4115.

(1) In the CFU-4 zone, the mobile home may not exceed a period of two years.

(F) Off-street parking and loading as required by MCC 39.6500 through MCC 39.6600.

(G) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 39.4130.

(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 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through MCC 39.7765.

(J) Lots of Exception pursuant to all applicable approval criteria, including, but not limited to MCC 39.4125, MCC 39.4135 and Part 9 of this Chapter.

(K) Consolidation of Parcels and Lots pursuant to MCC 39.9200.

(L) Structures or uses customarily accessory or incidental to any use permitted or approved in the CFU, which do not meet the "accessory structures" standard in MCC 39.4070 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 unit.

(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 39.8860 is required.

(M) A Type B home occupation when approved pursuant to MCC 39.8850.

§ 39.4080 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 39.4100, MCC 39.4105, MCC 39.4110, MCC 39.4115, and MCC 39.7500 through MCC 39.7525. For purposes of this Section, the applicable criteria of MCC 39.7515 shall be limited to Subsections (A) through (H) of that Section.

(1) Private park and private campground. In addition to the approval standards listed in MCC 39.4080(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 preclude 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 39.7515, 39.7520 (A) (8) and 39.7550 through 39.7575 and wireless communications facilities when found to satisfy the requirements of MCC 39.7700 through 39.7765.

(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 39.7600 through 39.7625.

(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 39.4100, MCC 39.4105, MCC 39.4110, MCC 39.4115, MCC 39.7000 through MCC 39.7035, and MCC 39.7300 through MCC 39.7330. For purposes of this Section, the applicable criteria of MCC 39.7015(A) shall be limited to Subsections (1) through (7) of that Section:

(1) Mining and processing of aggregate and other mineral or subsurface resources as allowed by state law;

(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 39.5180 through 39.5190.

(C) Type C home occupations pursuant to all applicable approval criteria, including but not limited to MCC 39.7400 through 39.7410.

§ 39.4085 LARGE-ACREAGE DWELLING STANDARDS.

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

(A) The lot or lots in the tract(s) meet(s) the applicable Lot of Record standards of Part 3 of this Chapter.

(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 state law;

(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 (December, 1995).

(I) The dwelling meets the applicable development standards of MCC 39.4110 and 39.4115.

§ 39.4090 TEMPLATE DWELLINGS STANDARDS.

(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 applicable Lot of Record standards of Part 3 of this Chapter.

(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with MCC 39.4110 and 39.4115;

(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 Subsections (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.

(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 39.2000, if the lot, parcel or tract does not qualify for a dwelling under the standards in this section, 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 39.2000, 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 subsections (A)(3)(a), (b), and (c) of this Section above: 3, 7, and 11 lots respectively.

(k) "Within" as used in the context of Subsections (a)2., (b)2. and (c)2. of this Section 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 state law;

(7) The dwelling meets the applicable development standards of MCC 39.4110 and 39.4115;

(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).

§ 39.4095 HERITAGE TRACT DWELLINGS STANDARDS.

(A) 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 public road as defined under ORS 368.001 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 39.2000, if the lot, parcel or tract does not qualify for a dwelling under the standards in this section, 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 spouses in a marriage, son, daughter, parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, parent-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 Land Use Planning Division 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 state law;

(5) The dwelling meets the applicable standards of MCC 39.4110 and 39.4115.

§ 39.4100 USE COMPATIBILITY STANDARDS.

(A) Specified uses of MCC 39.4075 (D) and (E) and MCC 39.4080 (A), (B) and (C) may be allowed upon a finding that:

(1) 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; and

(2) 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.

(B) In the East of Sandy River Planning Area single family dwellings as specified in MCC 39.4075 (B) may be allowed upon a finding that they will not significantly impact open space, public facilities, wildlife habitat, and rural community character.

§ 39.4105 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.

§ 39.4110 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

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)
At least a portion of the Temporary Health Hardship Dwelling is within 100 ft. of existing dwelling	N/A	30	30	Primary required
Temporary Heath 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
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

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)
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
Fences 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

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)
Other Structures	N/A	30	130	Primary & Secondary required
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 39.4155 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 farther 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 MCC 39.4155.

(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).

§ 39.4115 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 39.6850:

(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 39.4115;

(b) Expansion of more than 400 square feet additional ground coverage to an existing dwelling: Shall meet the development standards of MCC 39.4115(C);

(2) Replacement or restoration of a dwelling.

(a) Replacement or restoration of a dwelling that is within the same foot-print of the original dwelling and includes less than 400 square feet of additional ground coverage: Not subject to development standards of MCC 39.4115;

(b) Replacement or restoration of a dwelling that is within the same foot-print of the original dwelling with more than 400 square feet of additional ground coverage: Shall meet the development standards of MCC 39.4115(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 39.4115(C).

(3) Accessory buildings.

(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 39.4115(C);

(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 39.4115(B) and (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 39.4115;

(b) A temporary health hardship mobile home located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 39.4115(B) and (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 39.4115;

(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 39.4115(B) and (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 39.4110;

(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 446.003 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.

§ 39.4120 LOT SIZE REQUIREMENTS.

(A) The minimum lot size for new parcels or lots shall be 80 acres, except as provided in MCC 39.4125, 39.4130, 39.4140, 39.3010, 39.3020, 39.3030, 39.3040, 39.3050 and 39.3060.

(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 39.9510(D).

§ 39.4125 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 Subsection (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.

(a) In the CFU-1 and CFU-2 zones, the Lot of Exception will be no larger than 5 acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(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 39.4110; 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 215.283(1)(p);

(3) The new lots or parcels comply with the following size requirements:

(a) In the CFU zone, except for one lot or parcel, each lot or parcel created under this subsection is between two and five acres in size;

(b) In the CFU-1, CFU-2, CFU-3, CFU-4, and CFU-5 zones, one of the parcels created is between two and five acres in size;

(4) At least one dwelling is located on each parcel created;

(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 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 39.4110 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 39.4115, the exception standards for secondary fire safety zones in MCC 39.4155, and the land division requirement that "the tentative plan complies with the area and dimensional requirements of the base zone" 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 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 not-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.

§ 39.4130 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT.

(A) Pursuant to the applicable provisions in MCC 39.9300, 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 base zone;

(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 39.4110;

(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 39.4135 are met after the relocation of the common property line.

§ 39.4135 ACCESS.

All lots and parcels in this base zone 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 preexisting lot and parcel that constitutes a Lot of Record described in MCC 39.3010(C), 39.3020(C), 39.3030(C), 39.3040(C), 39.3050(C) or 39.3060(C).

§ 39.4140 LOT SIZE FOR CONDITIONAL USES.

Lots less than the minimum specified in MCC 39.4120(A) may be created for the uses listed in MCC 39.4070(R) and 39.4080(A)(1) through (6), (9) through (13), and (16) and (B)(1) through (4), after approval is obtained pursuant to MCC 39.4100 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 base zone.

§ 39.4145 OFF-STREET PARKING AND LOADING.

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4150 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.

§ 39.4155 EXCEPTIONS TO SECONDARY FIRE SAFETY ZONES.

(A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of MCC 39.4155 (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 will be located within 130 feet of the centerline of a public or private road serving two or more properties including the subject site; or

(3) The proposed dwelling or structure will 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 subsection (B) (1) above are utilized, or

(5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of subsection (B) (2) above are utilized.

Exception: Expansions of existing single family dwellings as allowed by MCC 39.4075 (A) shall not be required to meet this standard, but shall satisfy the standard of MCC 39.4115(C)(3).

(6) All accessory structures within the fire safety zone setbacks required by MCC 39.4110, 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 underfloor 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.

4.A.2 – EXCLUSIVE FARM USE (EFU)

§ 39.4200- PURPOSE.

The purposes of the Exclusive Farm Use Base Zone 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 base zone 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 Subpart.

One of the implementation tools to carry out the purposes of this base zone 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.

§ 39.4205 AREA AFFECTED.

MCC 39.4200 through 39.4265 shall apply to those areas designated EFU on the Multnomah County Zoning Map.

§ 39.4210 DEFINITIONS.

As used in MCC 39.4200 through MCC 39.4265, unless otherwise noted, the following terms 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 – An area devoted to overnight temporary use for vacation, recreational or emergency purposes. 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.

Channelization – The separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movement of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. Channelization does not include continuous median turn lanes.

Commercial Agricultural Enterprise – 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-today 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. A tract shall not be considered to consist of less than the required area because it is crossed by a public road or waterway. Lots with a common boundary of only single point are not a tract.

§ 39.4215 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone for the uses listed in MCC 39.4220 through 39.4230 when found to comply with MCC 39.4245 through 39.4260 provided such uses occur on a Lot of Record.

§ 39.4220 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(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. Reconstruction or modification also includes “channelization” of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings.

(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 and listed on the National Register of Historic Places.

(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 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.

(3) As a condition of approval, the landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(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 base zone may be maintained, enhanced or expanded:

(1) Use is subject to MCC 39.4235.

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 39.6500 through 39.6600, MCC 39.7525(A), MCC 39.8000 through 39.8050 and MCC 39.6745.

(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 base zone 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 39.8860 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.

(P) Structures or fenced runs for the shelter or confinement of poultry or livestock.

(Q) Type A home occupation pursuant to MCC 39.8800.

(R) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

(S) Wildlife Habitat Conservation and Management Plan. Authorization of a single-family residential dwelling in conjunction with a Wildlife Habitat Conservation and Management Plan is prohibited.

(T) 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.

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

(V) Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 39.6500 through 39.6600 (off-street parking), MCC 39.7525(A) (minimum yards), MCC 39.8000 through 39.8050 (design review), and MCC 39.6745 (signs).

(W) 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.

(X) 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.

(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 base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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) In the West of Sandy River Rural Planning Area and the East of Sandy River Rural Planning Area only, a single, one-day agri-tourism event subject to MCC 39.8925.

§ 39.4225 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 or 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 39.7550 through 39.7575.

(2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 39.7700 through 39.7765.

(3) All other utility facilities and/or 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 39.6500 through 39.6600; 39.7525(A); 39.8000 through 39.8050; and 39.6745.

(B) A farm help dwelling for a relative on real property used for farm use subject to the standards in MCC 39.4265 (A).

(C) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use subject to the standards in MCC 39.4265 (B).

(D) Accessory farm dwellings, which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use subject to all of the standards in MCC 39.4265 (C).

(E) Notwithstanding the same ownership grouping requirements of the Lot of Record Part, a single family heritage tract dwelling may be allowed on land not identified as high-value farmland subject to the standards in MCC 39.4265 (D).

(F) A Farm Stands subject to MCC 39.8870 through MCC 39.8885.

(G) A winery, as described and regulated in ORS 215.452, and subject to MCC 39.8900 – 39.8920, including uses and activities listed in MCC.8915.

(H) Off-street parking and loading pursuant to MCC 39.6500 through 39.6600.

(I) Lot Line Adjustment pursuant to the provisions of MCC 39.4255.

(J) 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.

(K) 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 39.6500 through 39.6600 (off-street parking), MCC 39.4245(C), (D) & (E) (yards), and MCC 39.6745 (signs).

(L) 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 use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(M) In the West of Sandy River Rural Plan Area a 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 MCC 39.8000 through 39.8050, 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.

(N) Consolidation of Parcels and Lots pursuant to MCC 39.9200.

(O) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the "accessory structures" standard in MCC 39.4220, 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 unit.

(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 39.8860 is required.

(P) Existing schools may be enhanced subject to the requirements for Design Review in MCC 39.8000 – 39.8050, Off-street Parking in MCC 39.6500 – 39.6600, and the applicable provisions of MCC 39.4235. 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.

(Q) A temporary dwelling for health hardship pursuant to MCC 39.8700 and 39.4245.

(R) A Type B home occupation when approved pursuant to MCC 39.8850.

(S) A large winery, as described and regulated in ORS 215.453.

(T) 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 39.8920.

(U) In the West of Sandy River Rural Planning Area and the East of Sandy River Rural Planning Area only, agri-tourism events subject to MCC 39.8930.

§ 39.4230 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable provisions in MCC 39.7000 to 39.7035 and 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 MCC 39.4225(K) above. Uses under this provision shall be subject to the approval criteria in MCC 39.7015(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) Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120 and MCC 39.4235.

(D) Private parks, playgrounds, hunting and fishing preserves, and campgrounds.

(1) Existing facilities wholly within an EFU base zone may be maintained, enhanced or expanded subject to the applicable requirements of this Chapter.

(2) New facilities may be allowed, but not on high-value farm lands.

(3) In addition to the approval standards in MCC 39.7000 to 39.7035, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds within three miles of an urban growth boundary shall meet the provisions in MCC 39.4235.

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

(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.

2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

3. As used in this subsection, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) Community centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. The use shall meet the provisions in MCC 39.4235.

(F) Type C home occupation as provided for in MCC 39.7400 through 39.7410.

(G) A facility for the primary processing of forest products, provided that such facility and 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.

(H) Transmission towers over 200 feet in height, except as follows:

(1) Radio and television towers if found to satisfy the requirements of MCC 39.7550 through MCC 39.7575; and

(2) Wireless communications facilities 200 feet and over are not allowed.

(I) Dog kennels. Existing facilities wholly within an EFU base zone may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

(J) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission. In accordance with ORS 215.283(2)(p), 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.

(K) Public road and highway projects 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 required but not resulting in the creation of new land parcels.

(L) 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 39.7015 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of MCC 39.4265 (D) (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.

(M) 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 39.7015 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of MCC 39.4235(D) (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 that 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 flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. 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.

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

(O) Park and ride lots.

(P) Realignment of roads, subject to the following limitations and the approval criteria in MCC 39.7015 and MCC 39.7020:

(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.

(Q) 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 39.7015 and MCC 39.7020:

(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.

(R) Transportation facilities, services and improvements that serve local travel needs, and which:

(1) Are not otherwise listed as a use in this EFU base zone or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and

(2) Satisfy the approval criteria in MCC 39.7015 and MCC 39.7020:

(S) 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 39.7500 – 39.7525 in lieu of the Conditional Use Provisions of MCC 39.7030 – 39.7035 and, if located within three miles of an urban growth boundary, the additional requirements set forth in MCC 39.4235.

(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 base zone may be expanded on the same tract.

(T) Notwithstanding the authority in MCC 39.8300 – 39.8315 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 EFU base 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 39.4230 (S) may be expanded only if:

(1) The expansion meets the requirements for approval of Community Service Uses in MCC 39.7500 – 39.7525 in lieu of the Conditional Use Provisions of MCC 39.7030 – 39.7035 and, if located within three miles of an urban growth boundary, the requirements set forth in MCC 39.4235;

(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.

(U) 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 39.3070.

(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 photo-voltaic 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.

§ 39.4235 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 November 12, 2011 (effective date of Ord. 1186) 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.

§ 39.4240 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.

§ 39.4245 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3070, the minimum lot size for new parcels shall be 80 acres in the EFU base zone.

(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.

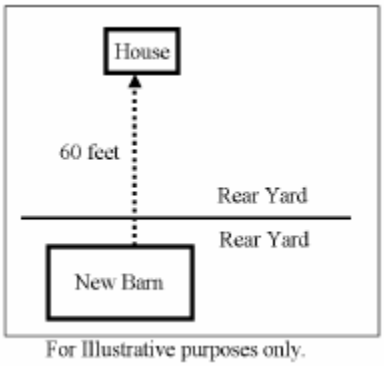
(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the Lot of Record.

(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) 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.

For Illustrative purposes only.

(3) Placement of an agricultural related structure under these provisions in (F) do not change the minimum yard requirements for future dwellings on adjacent property.

(H) All exterior lighting shall comply with MCC 39.6850.

§ 39.4250 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES.

(A) Lots less than the minimum lot size specified in MCC 39.4245 (A) may be created for uses listed in MCC 39.4220(V), MCC 39.4230(C) and (E) 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 base zone.

(B) Except as otherwise provided by MCC 39.3070, 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 base zone.

§ 39.4255 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT.

(A) Pursuant to the applicable provisions in MCC 39.9300, 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 39.4260 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.

§ 39.4260 ACCESS.

All lots and parcels in this base zone 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 39.3070(C).

§ 39.4265 STANDARDS FOR SPECIFIED FARM DWELLINGS.

(A**) Farm Help Dwelling**: A farm help dwelling for a relative on real property used for farm use as provided in MCC 39.4225(B) is not allowed unless 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, the spouses in a marriage, son, daughter, parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, parent-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.

(3) Notwithstanding ORS 92.010 to 92.190 or the minimum lot size requirements of MCC 39.4245, if the owner of a dwelling described in this subsection obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the home site, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the home site to create a new parcel, pursuant to OAR 660-033-0130(9)(b)&(c). However, pursuant to MCC 39.3070(D), the area of land with the home site 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.

(B) **Customary Farm Dwelling**: A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use as provided in MCC 39.4225(C) is not allowed unless the following standards are met:

(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(5)(b) 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 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, 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(5)(b) 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 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(3)(a) or (4)(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.

(C) **Accessory farm dwellings**, which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use as provided in MCC 39.4225(D) are not allowed unless each accessory farm dwelling meets all of the following standards:

(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 39.4265(C)(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 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, 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. 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(8); 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 39.4265 (B), a parcel may be created consistent with the minimum parcel size requirements in MCC 39.4245.

(D) **Heritage Tract Dwelling**: 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 this Chapter.

(8) For purposes of this subsection, and of dwellings considered under MCC 39.4230 (L) and (M), 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, stepparent, 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.
(Ord. 1270, Amended, 03/14/2019)

4.B – NON-RESOURCE RESIDENTIAL BASE ZONES (EXCEPTION LANDS)

4.B.1 – MULTIPLE USE AGRICULTURE (MUA-20)

§ 39.4300- PURPOSE.

The purposes of the Multiple Use Agriculture base zone 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, natural resource base, the character of the area and the applicable County policies.

§ 39.4302 AREA AFFECTED.

MCC 39.4300 to 39.4345 shall apply to those lands designated MUA-20 on the Multnomah County Zoning Map.

§ 39.4305 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4310 through 39.4320 when found to comply with MCC 39.4325 through 39.4345 provided such uses occur on a Lot of Record.

§ 39.4310 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(A) Residential use consisting of a single family dwelling on a Lot of Record.

(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 39.4320(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 to MCC 39.8800.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone 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 u nit, 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 39.8860 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 39.2000 pursuant to the provisions of MCC 39.6900.

(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 base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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 the effective date of this 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.

(M) In the East of Sandy River Rural Planning Area only, a single, one-day agri-tourism event subject to MCC 39.8925.

§ 39.4315 REVIEW USES.

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

(A) Temporary uses when approved pursuant to MCC 39.8700 and 39.8750.

(B) Wholesale or retail sales of farm or forest products raised or grown on the premises or of farm crops or livestock from other farm operations located in Multnomah County or in adjacent counties of Oregon or Washington bordering on Multnomah County, 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.

(C) Property Line Adjustment pursuant to the provisions of MCC 39.4330.

(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) Lots of Exception pursuant to the provisions of MCC 39.4330.

(F) Wireless communication facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765.

(G) Consolidation of Parcels and Lots pursuant to MCC 39.9200 and Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

(H) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the “accessory structures” standard in MCC 39.4310 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 unit.

(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 39.8860 is required.

(I) A Type B home occupation when approved pursuant to MCC 39.8850.

(J) In the West of Sandy River Rural Plan Area, a 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 MCC 39.8000 through 39.8050, 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.

(K) In the East of Sandy River Rural Planning Area only, agri-tourism events subject to MCC 39.8930.

§ 39.4320 CONDITIONAL USES.

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

(A) Community Service Uses listed in MCC 39.7520 pursuant to the provisions of MCC 39.7500 through MCC 39.7810;

(B) The following Conditional Uses pursuant to the provisions of Part 7 of this Chapter:

(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 Development for single family residences, as provided in MCC 39.5300 through MCC 39.5350 and the applicable current “planned unit development” standards within the Oregon Administrative Rules Chapter 660, Division 004;

(2) Except for in the West of Sandy River Rural Plan Area, the following uses pursuant to the provisions of MCC 39.7000 through 39.7020:

(a) Cottage industries,

(b) Limited rural service commercial uses such as local stores, shops, offices, repair services and similar uses, and

(c) Tourist commercial uses such as restaurants, gas stations, motels, guest ranches and similar uses.

(D) Type C home occupation as provided for in MCC 39.7400 through 39.7410.

(E) Large Fills as provided for in MCC 39.7200 through 39.7220.

§ 39.4325 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

All development proposed in this base zone shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 39.3080, 39.4330, 39.4335 and 39.5300 through 39.5350, the minimum lot size for new parcels or lots 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.

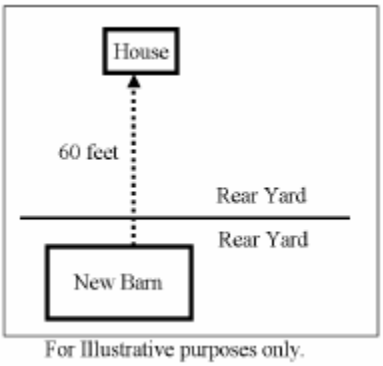
(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(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.

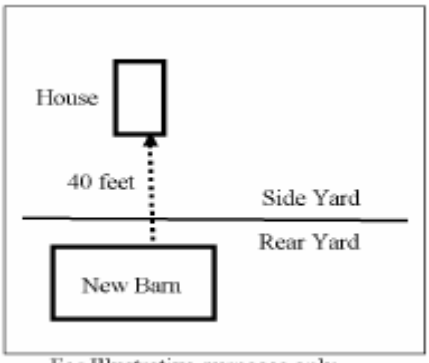
(F) Agricultural structures and equine facilities such as barns, stables, silos, farm equipment sheds, greenhouses or similar structures that do not exceed the maximum height requirement may have a reduced minimum rear yard of less than 30 feet, to a minimum of 10 feet, if:

(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.



For Illustrative purposes only.

(3) Placement of an agricultural related structure under these provisions in (F) does not change the minimum yard requirements for future dwellings on adjacent property.

(G) 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.

(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) Required parking, and yard areas shall be provided on the same Lot of Record as the development being served.

(J) All exterior lighting shall comply with MCC 39.6850.
(Ord. 1271, Amended, 03/14/2019)

§ 39.4330 LOTS OF EXCEPTION AND PROPERTY LINE ADJUSTMENTS.

(A) Lots of Exception

An exception to permit creation of a parcel of less than 20 acres, out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 39.4325(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 39.9300, 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 39.4345 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.

§ 39.4335 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4320, except subsection (C)(1) 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;

(C) Consideration of the purposes of this base zone; and

(D) A finding that the lot or parcel is at least two acres in area and in the West of Sandy River Rural Plan Area, if a lot or parcel is created to support a conditional use, a finding that the remainder parcel is not less than five acres.

§ 39.4340 OFF-STREET PARKING AND LOADING.

Off-Street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4345 ACCESS.

All lots and parcels in this base zone 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 39.3080(B).

4.B.2 – RURAL RESIDENTIAL (RR)

§ 39.4350- PURPOSE.

The purposes of the Rural Residential base zone 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.

§ 39.4352 AREA AFFECTED.

MCC 39.4350 through 39.4395 shall apply to those lands designed RR on the Multnomah County Zoning Map.

§ 39.4355 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4360 through 39.4370 when found to comply with MCC 39.4375 through 39.4395 provided such uses occur on a Lot of Record.

§ 39.4360 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(A) Residential use consisting of a single family dwelling on a Lot of Record.

(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 39.4370 (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 to MCC 39.8800.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone 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 u nit, 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 39.8860 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 39.2000 pursuant to the provisions of MCC 39.6900.

(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 base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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 the effective date of this 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.

§ 39.4365 REVIEW USES.

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

(A) Temporary uses when approved pursuant to MCC 39.8700 and 39.8750.

(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 39.1160.

(C) Property Line Adjustment pursuant to the provisions of MCC 39.4380.

(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 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765.

(F) In the West of Sandy River Planning area only, a 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 MCC 39.8000 through 39.8050, 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 39.4380.

(H) Consolidation of Parcels and Lots pursuant to MCC 39.9200 and Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the "accessory structures" standard in MCC 39.4360 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 unit.

(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 39.8860 is required.

(J) A Type B home occupation when approved pursuant to MCC 39.8850.

§ 39.4370 CONDITIONAL USES.

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

(A) Community Service Uses under the provisions of MCC 39.7500 through 39.7810;

(B) The following Conditional Uses under the provisions of Part 7 of this Chapter:

(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 Development for single family residences as provided in MCC 39.5300 through 39.5350 and the applicable current "planned unit development" standards within the Oregon Administrative Rules Chapter 660, Division 004;

(9) Except for in the West of Sandy River Planning Area, cottage industries, under the provisions of MCC 39.7000 through 39.7020.

(10) Except for in the West of Sandy River Planning Area, limited rural service commercial uses, such as local stores, shops, offices, repair services and similar uses.

(C) Type C home occupation as provided for in MCC 39.7400 through 39.7410.

(D) Large Fills as provided for in MCC 39.7200 through 39.7220.

§ 39.4375 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3090, 39.4380, 39.4385 and 39.5300 through 39.5350, the minimum lot size for new parcels or lots 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 (20 acre minimum as of October 4, 2000).

(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, 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) 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 base zone; or

(2) Where the farm use does not occur on land in the EFU base zone, the owner shall record a covenant that states they recognize and accept that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.

(H) All exterior lighting shall comply with MCC 39.6850.
(Ord. 1271, Amended, 03/14/2019)

§ 39.4380 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 39.4375(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 39.9300, 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 39.4395 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.

§ 39.4385 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a conditional use permitted pursuant to MCC 39.4370, except (B) (8) thereof, shall be based upon:

(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 base zone; and

(D) A finding that the lot or parcel is at least two acres in area and in the West of Sandy River Rural Plan Area, if a lot or parcel is created to support a conditional use, a finding that the remainder parcel is not less than five acres.

§ 39.4390 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4395 ACCESS.

All lots and parcels in this base zone 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 39.3090(B).

4.C – RURAL CENTER AND COMMERCIAL-INDUSTRIAL BASE ZONES

4.C.1 – RURAL CENTER (RC)

§ 39.4400- PURPOSE

The purposes of the Rural Center base zone are to provide standards and review procedures which will encourage concentrations of rural residential development, together with limited local and tourist commercial uses which satisfy area and regional needs; to provide for local employment through light industrial uses consistent with rural character and to manage the location and extent of public service centers and limit the extension of public services.

§ 39.4402 AREA AFFECTED.

MCC 39.4400 through 39.4445 shall apply to those lands designated RC on the Multnomah County Zoning Map.

§ 39.4405 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4410 through 39.4420 when found to comply with MCC 39.4425 through 39.4445 provided such uses occur on a Lot of Record.

§ 39.4410 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(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 39.4420. 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 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 39.8800.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone 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 u nit, 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 39.8860 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 39.2000 pursuant to the provisions of MCC 39.6900.

(I) Transportation facilities and improvements that serve local and farm to market travel needs or are part of the adopted Multnomah County Functional Classification of Trafficways map and plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

(J) Signs, as provided in this chapter.

(K) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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.

§ 39.4415 REVIEW USES.

(A) Temporary uses when approved pursuant to MCC 39.8700 and 39.8750.

(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 Planning Director may be appealed to the approval authority pursuant to MCC 39.1160.

(C) Off-street parking and loading;

(D) Property Line Adjustment pursuant to the provisions of MCC 39.4430.

(E) 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.

(F) Lots of Exception pursuant to the provisions of MCC 39.4430.

(G) Wireless communication facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765.

(H) Consolidation of Parcels and Lots pursuant to MCC 39.9200 and Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the "accessory structures" standard in MCC 39.4410 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 unit.

(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 39.8860 is required.

(J) A Type B home occupation when approved pursuant to MCC 39.8850.

§ 39.4420 CONDITIONAL USES.

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

(A) Community Service Uses pursuant to the provisions of MCC 39.7500 through 39.7810.

(B) The following Conditional Uses pursuant to the provisions of Part 7 of this Chapter:

(1) Limited rural service commercial uses such as local stores, shops, offices, repair shops, and similar uses;

(2) Tourist commercial uses such as restaurants, taverns, gas stations, motels, guest ranches, and similar uses;

(3) The following Light Manufacturing Uses conducted within an enclosed building which require the daily employment of twenty or fewer persons;

(a) The manufacture, compounding, processing, packaging, treatment, storage or wholesale distribution of such products as bakery goods, fruits, vegetables, sea foods, dairy products, candy, confections, beverages including brewing and bottling, miscellaneous food products, ice and cold storage plant, drugs, pharmaceuticals, perfumes, toilet soaps, toiletries, barber and

beauty supplies, and similar items, but not sauerkraut, vinegar or pickles manufacture;

(b) The manufacture, compounding, assembling, treatment, storage or wholesale distribution of articles or merchandise from previously prepared materials such as bone, cellophane, canvas, cloth, cork, feathers, felt, fur, glass, hair, foam, lacquer, leather (but not tanning), paper or paperboard, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, yarns and paints;

(c) The manufacture, assembly, packaging, repair, storage or wholesale distribution of articles such as electrical appliances, lighting and communication equipment, electronic, radio or television equipment, parts or accessories, professional, scientific, optical, photographic or controlling instruments, amusement devices, small parts assembly, jewelry, musical instruments, toys, sporting goods, novelties, rubber or metal stamps;

(d) The manufacture, finishing, refinishing, repair, storage or wholesale distribution of furniture, office or store fixtures, small boats, upholstery, cabinets, office, computing or accounting machines, electric and neon signs, billboards and other signs;

(e) Business, professional, executive, administrative, wholesale, contractor or similar office, clinic, service or studio, trade, business or commercial school, research, experimental or testing laboratory;

(f) Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting, or photo processing;

(g) Building, building maintenance, plumbing, electrical, heating, roofing, glass, landscaping, painting or similar contractor's office, shop, warehouse, equipment sales or maintenance;

(h) Retail or wholesale lumber, building materials, garden supplies sales and tools, or small equipment sales, rental, repair or servicing;

(i) Laundry for carpets, uniforms, linens, rags, rugs and similar items, dyeing plant, dry cleaning not using explosive or inflammable materials;

(j) Automobile, light truck, motorcycle and recreational vehicle repair or maintenance, body and fender work, painting, parts and glass replacement, upholstery, engine, radiator or battery rebuilding, tire recapping, commercial, industrial or fleet vehicle parking and auto detailing;

(k) Metal or sheet metal shop, ornamental iron works, welding, blacksmithing, electroplating, tool and hardware manufacture, machine shop not using a drop hammer or large capacity punch press;

(l) Warehouse, furniture and household goods storage, moving equipment rental, distribution plant, parcel delivery, wholesaling of durable and non-durable goods, light and heavy equipment sales, rental or repair, fuel and ice distribution;

(m) Manufacture of non-structural clay products, ornamental clay, concrete, plaster or plastics casting, stone and purchased-glass products cutting, polishing or installation; and

(n) Collection, recycling, sorting, baling or processing of previously used materials such as rags, paper, metals, glass or plastics;

(4) Commercial processing of agricultural or forestry products primarily grown in the vicinity.

(C) Planned Development pursuant to the provisions of MCC 39.5300 through 39.5350. 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.

(D) Existing light industrial uses permitted by MCC 39.4420(B) (3) may be expanded up to a daily total of 40 employees, based on findings that:

(1) The proposed expansion is a result of normal growth of the existing use and not required as a result of diversification of the business;

(2) The use provides a public benefit to the rural center by employing primarily persons who reside within the rural center or surrounding rural area, and this same employment pattern will continue with the proposed expansion;

(3) The proposed expansion satisfies applicable Comprehensive Plan Policies:.

(4) The proposed expansion satisfies the Design Review provisions of MCC 39.8000 through 39.8050.

(E) Type C home occupation as provided for in MCC 39.7400 through 39.7410.

(F) Large Fills as provided for in MCC 39.7200 through 39.7220.

§ 39.4425 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3100, 39.4430, 39.4435 and 39.5300 through 39.5350, the minimum lot size for new parcels or lots shall be one acre for those RC zoned lands inside the boundary of an "acknowledged unincorporated community". For RC zoned properties outside an "acknowledged unincorporated community" the minimum lot size is two acres except for those properties within one mile of the Urban Growth Boundary and then the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

(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) All exterior lighting shall comply with MCC 39.6850.

§ 39.4430 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 39.4425(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 39.9300, 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 39.4445 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.

§ 39.4435 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4420, except subsection (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 base zone.

§ 39.4440 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4445 ACCESS.

All lots and parcels in this base zone 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 39.3100(B).

4.C.2 – BURLINGTON RURAL CENTER (BRC)

§ 39.4450- PURPOSE.

The purposes of the Burlington Rural Center base zone 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.

§ 39.4452 AREA AFFECTED.

MCC 39.4450 through 39.4495 shall apply to those lands designated BRC on the Multnomah County Zoning Map.

§ 39.4455 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4460 through 39.4470 when found to comply with MCC 39.4475 through 39.4495 provided such uses occur on a Lot of Record.

§ 39.4460 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(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 39.4470. 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 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 39.8800.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone 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 39.8860 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 39.2000 pursuant to the provisions of MCC 39.6900.

(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 base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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.

§ 39.4465 REVIEW USES.

(A) Temporary uses when approved pursuant to MCC 39.8700 and 39.8750.

(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 Planning Director may be appealed to the approval authority pursuant to MCC 39.1160.

(C) Off-street parking and loading;

(D) Property Line Adjustment pursuant to the provisions of MCC 39.4480.

(E) 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.

(F) Lots of Exception pursuant to the provisions of MCC 39.4480.

(G) Wireless communication facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765.

(H) Consolidation of Parcels and Lots pursuant to MCC 39.9200 and Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the "accessory structures" standard in MCC 39.4460 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 unit.

(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 39.8860 is required.

(J) A Type B home occupation when approved pursuant to MCC 39.8850.

§ 39.4470 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter. Commercial and industrial uses shall be limited to small-scale low impact as defined in MCC 39.2000.

(A) Community Service Uses pursuant to the provisions of MCC 39.7500 through 39.7810.

(B) The following small-scale low impact Conditional Uses pursuant to the provisions of Part 7 of this Chapter.

(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) Hair salon,

(j) Electronic media rental (i.e. DVD),

(2) The following industrial uses conducted within an enclosed building 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) Commercial processing of agricultural or forestry products primarily grown in the vicinity.

(C) Existing legally established small-scale low impact industrial uses may be expanded up to a daily total of 40 employees, based on findings that:

(1) The proposed expansion is a result of normal growth of the existing use and not required as a result of diversification of the business;

(2) The use provides a public benefit to the rural center by employing primarily persons who reside within the rural center or surrounding rural area, and this same employment pattern will continue with the proposed expansion;

(3) The proposed expansion satisfies applicable Comprehensive Plan Policies:

(4) The proposed expansion satisfies the Design Review provisions of MCC 39.8000 through 39.8050.

(D) Type C home occupation as provided for in MCC 39.7400 through 39.7410.

§ 39.4475 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3110, 39.4480, 39.4485 and 39.5300 through 39.5350, the minimum lot size for new parcels or lots shall be two 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 contiguous ownership.

(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 that are greater than 500 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) New, replacement or expansion of existing industrial use buildings shall minimize stormwater drainage impacts by limiting the footprint of the building or buildings to 5,000 square feet of the maximum 10,000 square feet.

(H) All exterior lighting shall comply with MCC 39.6850.
(Ord. 1271, Amended, 03/14/2019)

§ 39.4480 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 39.4475(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 39.9300, 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 39.4495 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.

§ 39.4485 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4470, except subsection (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 base zone.

§ 39.4490 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600 except as identified below for Review Uses and Conditional Uses.

New, replacement or expansion of existing commercial, industrial, or community service developments shall minimize stormwater drainage impacts for off-street parking by:

(A) Surfacing:

(1) All areas used for parking, loading or maneuvering of vehicles, including the driveway, shall either be hard surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement or other material providing a durable and dustless surface, or shall be surfaced with a gravel mix, wherein the fine particles are removed at the production yard, that provides a durable and dustless surface, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable.

(2) Approaches to paved public rights-of-way shall be paved for a minimum distance of 21' from the fog line, or for a greater distance when required by the County Engineer.

(B) A stormwater drainage system shall be installed for parking lots, that is designed and certified by an Oregon Registered Professional Engineer to ensure that the rate of runoff at the property line for the 10 year 24 hour storm event is no greater than that which existed prior to development.

(C) Off-street parking for new, replacement or expansion of existing commercial or industrial developments shall provide a minimum of 10 foot landscaped front yard setback. All other minimum yard dimensions for parking shall be as required in MCC 39.6500 through 39.6600.

§ 39.4495 ACCESS.

All lots and parcels in this base zone 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 preexisting lot and parcel that constitutes a Lot of Record described in MCC 39.3110(B).

4.C.3 – PLEASANT HOME RURAL CENTER (PH-RC)

§ 39.4500- PURPOSE.

The purposes of the Pleasant Home Rural Center base zone 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.

§ 39.4502 AREA AFFECTED.

MCC 39.4500 through 39.4545 shall apply to those lands designated PH-RC on the Multnomah County Zoning Map.

§ 39.4505 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4510 through 39.4520 when found to comply with MCC 39.4525 through 39.4545 provided such uses occur on a Lot of Record.

§ 39.4510 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(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 39.4520. 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 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 39.8800.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone 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 39.8860 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 39.2000 pursuant to the provisions of MCC 39.6900.

(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 base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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.

§ 39.4515 REVIEW USES.

(A) Temporary uses when approved pursuant to MCC 39.8700 and 39.8750.

(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 Planning Director may be appealed to the approval authority pursuant to the provisions of MCC 39.1160.

(C) Off-street parking and loading;

(D) Property Line Adjustment pursuant to the provisions of MCC 39.4530.

(E) 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.

(F) Lots of Exception pursuant to the provisions of MCC 39.4530.

(G) Wireless communications facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765.

(H) Consolidation of Parcels and Lots pursuant to MCC 39.9200 and Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the "accessory structures" standard in MCC 39.4510 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 unit.

(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 39.8860 is required.

(J) A Type B home occupation when approved pursuant to MCC 39.8850

(K) Type C home occupation as provided for in MCC 39.7400 through 39.7410 and subject to Design Review.

§ 39.4520 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 39.2000.

(A) Community Service Uses pursuant to the provisions of MCC 39.7500 through 39.6800.

(B) The following small-scale low impact Conditional Uses pursuant to the provisions of Part 7 of this Chapter:

(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 base zone or any CFU base zone, 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 39.5300 through 39.5350.

§ 39.4525 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

All development proposed in this base zone shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 39.3120, 39.4530, 39.4535 and 39.5300 through 39.5350, 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) 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 they recognize and accept that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the general area.

(G) All exterior lighting shall comply with MCC 39.6850.
(Ord. 1271, Amended, 03/14/2019)

§ 39.4530 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 39.4525(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 39.9300, 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 39.4545 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.

§ 39.4535 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4520, except for Planned Developments in subsection (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 base zone.

§ 39.4540 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4545 ACCESS.

All lots and parcels in this base zone 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 39.3120(B).

4.C.4 – SPRINGDALE RURAL CENTER (SRC)

§ 39.4550- PURPOSE.

The purposes of the Springdale Rural Center base zone 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.

§ 39.4552 AREA AFFECTED.

MCC 39.4550 through 39.4595 shall apply to those lands designated SRC on the Multnomah County Zoning Map.

§ 39.4555 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4560 through 39.4570 when found to comply with MCC 39.4575 through 39.4595 provided such uses occur on a Lot of Record.

§ 39.4560 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(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 39.4570. 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 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 MCC 39.8800.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone 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 u nit, 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 39.8860 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 39.2000 pursuant to the provisions of MCC 39.6900.

(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 base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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.

§ 39.4565 REVIEW USES.

(A) Temporary uses when approved pursuant to MCC 39.8700 and 39.8750.

(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 Planning Director may be appealed to the approval authority pursuant to MCC 39.1160.

(C) Off-street parking and loading;

(D) Property Line Adjustment pursuant to the provisions of MCC 39.4580.

(E) 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.

(F) Lots of Exception pursuant to the provisions of MCC 39.4580.

(G) Wireless communication facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765.

(H) Consolidation of Parcels and Lots pursuant to MCC 39.9200 and Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the "accessory structures" standard in MCC 39.4560 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 unit.

(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 39.8860 is required.

(J) A Type B home occupation when approved pursuant to MCC 39.8850.

§ 39.4570 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter. Commercial and industrial uses shall be limited to small-scale low impact as defined in MCC 39.2000.

(A) Community Service Uses pursuant to the provisions of MCC 39.7500 through 39.7810.

(B) The following small-scale low impact Conditional Uses pursuant to the provisions of Part 7 of this Chapter:

(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 hair salon,

(j) Electronic media rental (i.e. DVD, electronic games),

(2) The following industrial uses conducted within an enclosed building that entails 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) Commercial or industrial uses allowable in the EFU base zone or any CFU base zone, 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.

(C) Existing legally established small-scale low impact industrial uses may be expanded up to a daily total of 40 employees, based on findings that:

(1) The proposed expansion is a result of normal growth of the existing use and not required as a result of diversification of the business;

(2) The use provides a public benefit to the rural center by employing primarily persons who reside within the rural center or surrounding rural area, and this same employment pattern will continue with the proposed expansion;

(3) The proposed expansion satisfies applicable Comprehensive Plan Policies:

(4) The proposed expansion satisfies the Design Review provisions of MCC 39.8000 through 39.8050.

(D) Type C home occupation as provided for in MCC 39.7400 through 39.7410.

§ 39.4575 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3110, 39.4580, 39.4585 and 39.5300 through 39.5350, the minimum lot size for new parcels or lots shall be one acre.

(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 contiguous ownership.

(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 that are greater than 500 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) 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 they recognize 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.

(H) New, replacement or expansion of existing industrial use buildings shall minimize stormwater drainage impacts by limiting the footprint of the building or buildings to 7,500 square feet of the maximum 15,000 square feet.

(I) All exterior lighting shall comply with MCC 39.6850.
(Ord. 1271, Amended, 03/14/2019)

§ 39.4580 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 39.4575(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 39.9300, 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 39.4595 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.

§ 39.4585 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4570, except subsection (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 base zone.

§ 39.4590 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600 except as identified below for Review Uses and Conditional Uses.

New, replacement or expansion of existing commercial, industrial, or community service developments shall minimize stormwater drainage impacts for off-street parking by:

(A) Surfacing

(1) All areas used for parking, loading or maneuvering of vehicles, including the driveway, shall either be hard surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement or other material providing a durable and dustless surface or shall be surfaced with a gravel mix, wherein the fine particles are removed at the production yard, that provides a durable and dustless surface, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable.

(2) Approaches to public rights-of-way shall be paved for a minimum distance of 21' from the fog line, or for a greater distance when required by the County Engineer.

(B) A stormwater drainage system, shall be installed for parking lots, that is designed and certified by an Oregon Registered Professional Engineer to ensure that the rate of runoff at the property line for the 10 year 24 hour storm event is no greater than that which existed prior to development.

(C) Off-street parking for new, replacement or expansion of existing commercial or industrial developments shall provide a minimum of 10 foot landscaped front yard setback. All other minimum yard dimensions for parking shall be as required in the Off-Street Parking and Loading Code Section.

§ 39.4595 ACCESS.

All lots and parcels in this base zone 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 39.3110(B).

4.C.5 – ORIENT RURAL CENTER RESIDENTIAL (OR)

§ 39.4600 PURPOSE.

The purposes of the Orient Rural Center Residential base 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.

§ 39.4602 AREA AFFECTED.

MCC 39.4600 through 39.4645 shall apply to those lands designated OR on the Multnomah County Zoning Map.

§ 39.4605 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4610 through 39.4620 when found to comply with MCC 39.4625 through 39.4645 provided such uses occur on a Lot of Record.

§ 39.4610 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(A) A single-family detached dwelling on a Lot of Record.

(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 39.4620. 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 39.8800.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone 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 u nit, 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 39.8860 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 39.2000 pursuant to the provisions of MCC 39.6900.

(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 base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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 the effective date of this 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.

§ 39.4615 REVIEW USES.

Uses listed in this section may be permitted after required review as Type II decisions pursuant to MCC 39.1100 through 39.1240.

(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 39.1160.

(B) Property Line Adjustment pursuant to the provisions of MCC 39.4630.

(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 39.8850.

(E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765.

(F) Temporary uses when approved pursuant to MCC 39.8700 and 39.8750.

(G) Lots of Exception pursuant to the provisions of MCC 39.4630.

(H) Consolidation of Parcels and Lots pursuant to MCC 39.9200 and Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the "accessory structures" standard in MCC 39.4610 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 unit.

(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 39.8860 is required.

(J) Type C home occupation pursuant to MCC 39.7400 through 39.7410 and subject to Design Review.

§ 39.4620 CONDITIONAL USES.

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

(A) Planned Developments pursuant to the provisions of MCC 39.5300 through 39.5350. 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 39.7500 through 39.7525:

(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 MCC 39.7515(A) through (H). Accessory facilities shall be of a size and scale that is consistent with the rural character of the area.

§ 39.4625 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

All development proposed in this base zone shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 39.3120, 39.4630, and 39.4635, and 39.5300 through 39.5350, 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) 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 they 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.

(G) All exterior lighting shall comply with MCC 39.6850.
(Ord. 1271, Amended, 03/14/2019)

§ 39.4630 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 39.4625 (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 39.9300, 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 39.4645 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.

§ 39.4635 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4620, except subsection (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 base zone.

§ 39.4640 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4645 ACCESS.

All lots and parcels in this base zone 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 39.3120(B).

4.C.6 – ORIENT COMMERCIAL-INDUSTRIAL (OCI)

§ 39.4650- PURPOSE.

The purpose of the Orient Commercial-Industrial base 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.

§ 39.4652 AREA AFFECTED.

MCC 39.4650 through 39.4695 shall apply to those lands designated OCI on the Multnomah County Zoning Map.

§ 39.4655 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4660

through 39.4675 when found to comply with MCC 39.4680 through 39.4695 provided such uses occur on a Lot of Record.

§ 39.4660 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(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 39.4665 and 39.4675. 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 39.8800.

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone 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 u nit, 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 39.8860 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 39.2000 pursuant to the provisions of MCC 39.6900.

(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 base zone, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all overlay 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 the effective date of this 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.

§ 39.4665 REVIEW USES.

The commercial and industrial uses listed in this section may be permitted when found to meet the approval criteria in MCC 39.4670 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 39.1100 through 39.1240.

(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 base zones or any CFU base zone, 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 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. This use shall not be subject to the Review Uses approval criteria in MCC 39.4670 or Design Review.

(E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765. This use shall not be subject to the Review Uses approval criteria in MCC 39.4670 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 39.8700 and 39.8750.

(H) Property Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 39.4682.

(I) Consolidation of Parcels and Lots pursuant to MCC 39.9200 and Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

(J) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the "accessory structures" standard in MCC 39.4660 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 unit.

(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 39.8860 is required.

§ 39.4670 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.

§ 39.4675 CONDITIONAL USES.

(A) The community service uses listed in MCC 39.7520, subject to the provisions of 39.7500 through 39.7525; 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 39.7515(A) through (H). Accessory facilities shall be of a size and scale that is consistent with the rural character of the area.

§ 39.4680 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

All development proposed in this base zone shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 39.3120, 39.4682, and 39.4685, 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) 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 they 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.

(G) All exterior lighting shall comply with MCC 39.6850.
(Ord. 1271, Amended, 03/14/2019)

§ 39.4682 PROPERTY LINE ADJUSTMENTS.

(A) Pursuant to the applicable provisions in MCC 39.9300, 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 39.4695 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.

§ 39.4685 LOT SIZES FOR CONDITIONAL AND REVIEW USES.

The minimum lot size for the uses listed in MCC 39.4665 and 39.4675 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 base zone.

§ 39.4690 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4695 ACCESS.

All lots and parcels in this base zone 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 39.3120(B).

4.D – URBAN BASE ZONES

4.D.1 – MULTIPLE USE FOREST (MUF)

§ 39.4700 PURPOSES.

The purposes of the Multiple Use Forest base zone are to conserve and encourage the use of suitable lands for the growing and harvesting of timber and small wood lot management; to provide for agricultural uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses and scenic values; to provide standards for residential and other uses, including local and tourist commercial services which are compatible with forest and agricultural uses; to assure public and private recreation opportunities and to minimize potential hazards from fire, pollution, erosion and urban development.

§ 39.4701 AREA AFFECTED.

MCC 39.4700 through MCC 39.4732 shall apply to those lands designated MUF-38 and MUF-19 on the Multnomah County Zoning Map.

§ 39.4702 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4705 through 39.4715 provided such uses occur on a Lot of Record.

§ 39.4705 PRIMARY USES.

(A) Forest practices associated with the production, management and harvesting of timber;

(B) Wood processing operations, such as:

(1) Pole and piling preparation;

(2) Portable sawmill for lumber cutting only;

(3) Wood chipping;

(4) Manufacture of fence posts; and

(5) Cutting firewood and similar miscellaneous products.

(C) Farm Use, as defined in ORS 215.203(2)(a) for the following purposes only:

(1) Raising and harvesting crops;

(2) Raising of livestock or honeybees; or

(3) Any other agricultural or horticultural purpose or animal husbandry purpose or combination thereof, except as provided in MCC 39.4710(B).

(D) Public and private conservation areas and structures other than dwellings for the protection of water, soil, open space, forest and wildlife resources; and

(E) Residential use consisting of a single-family dwelling including a mobile or modular home, on a lot of 38 acres or more, subject to the residential use development standards of MCC 39.4732.

(F) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

§ 39.4707 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

(A) Residential use, in conjunction with a primary use listed in MCC 39.4705 consisting of a single-family dwelling, including a mobile or modular home, subject to the following:

(1) The lot size shall meet the standards of MCC 39.4717(A) or MCC 39.3150(A) to (C), but shall not be less than ten acres.

(2) A resource management program for at least 75% of the productive land of the lot, as described in MCC 39.4710(C)(2)(a) consisting of:

(a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use;

(b) A farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice;

(c) A resource management plan for a primary use listed in MCC 39.4705, based upon income, investment or similar records of the management of that resource on the property as a separate management unit for at least two of the preceding three years;

(d) A fish, wildlife or other natural resource conservation management plan certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses;

(e) A small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS Chapter 321.257, a Reforestation deferral under ORS Chapter 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service; or

(f) A cooperative or lease agreement with a commercial timber company, or other person or group engaged in commercial timber operations, for the timber management of at least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.

(3) The dwelling will not require public services beyond those existing or programmed for the area;

(4) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices; and

(5) The residential use development standards of MCC 39.4732.

(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 Director may be appealed to the Hearings Officer pursuant to MCC 39.1160.

(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.

§ 39.4710 CONDITIONAL USES.

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

(A) Community Service Uses pursuant to the provisions of MCC 39.7500 through 39.7810.

(B) The following Conditional Uses pursuant to the provisions of Part 7 of this Chapter:

(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 forest products, primarily grown in the region, other than as specified in MCC 39.4705(B);

(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; and

(7) Commercial dog kennels.

(8) The following Conditional Uses may be permitted upon findings in addition to those required in Part 7 of this Chapter that:

(a) The capability of the land for resource production is maintained;

(b) The use will neither create nor be affected by any hazards; and

(c) Access for fire protection of timber is assured:

1. Cottage Industries;

2. Limited rural service commercial uses, such as local stores, shops, offices, repair services and similar use; and

3. Tourist commercial uses such as restaurants, gas stations, motels, guest ranches and similar uses.

(C) Residential use, not in conjunction with a primary use listed in MCC 39.4705, consisting of a single-family dwelling, including a mobile or modular home, subject to the following findings:

(1) The lot size shall meet the standards of MCC 39.4717(A), 39.4720(A) to (C), or 39.3150(A) to (C);

(2) The land is incapable of sustaining a farm or forest use, based upon one of the following:

(a) A Soil Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot area, and physical conditions insufficient to produce 50 cubic feet/acre/year of any commercial tree species for at least 75% of the lot area,

(b) Certification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar

agricultural and forestry expertise, that the land is inadequate for farm and forest uses and stating the basis for the conclusion, or

(c) The lot is a Lot of Record under MCC 39.3150(A) through (C), and is ten acres or less in size;

(3) A dwelling as proposed is compatible with the primary uses as listed in MCC 39.4705 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area;

(4) The dwelling will not require public services beyond those existing or programmed for the area;

(5) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices; and

(6) The residential use development standards of MCC 39.4732 will be met.

(D) Mortgage Lot: Residential use consisting of a single-family dwelling in conjunction with a primary use listed in MCC 39.4705, located on a mortgage lot created after August 14, 1980, subject to the following:

(1) The minimum lot size for the mortgage lot shall be two acres;

(2) Except as may otherwise be provided by law, a mortgage lot shall not be conveyed as a zoning lot separate from the tract out of which it was created or such portion of the tract as conforms with the dimensional requirements of the zoning ordinance then in effect. The purchaser of a mortgage lot shall record a statement referring to this limitation in the Deed Records pertaining to said lot.

(3) No permit shall be issued for improvement of a mortgage lot unless the contract seller of the tract out of which the mortgage lot is to be created and the mortgagee of said mortgage lot have agreed in writing to the creation of the mortgage lot.

§ 39.4712 ACCESSORY USES.

(A) Signs, pursuant to the provisions of MCC 39.6700 through 39.6820.

(B) Off-street parking and loading;

(C) Home occupations; and

(D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this base zone.

§ 39.4715 TEMPORARY USES.

Temporary uses may be permitted when approved pursuant to MCC 39.8700 and 39.8750.

§ 39.4717 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3150, 39.4720, 39.4722 and 39.5300 through 39.5350, the minimum lot size shall be according to the base zone designation on the Zoning Map, as follows:

MUF-38.....38 acres

MUF-19.....19 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.

(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 Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(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) All exterior lighting shall comply with MCC 39.6850.

§ 39.4720 LOTS OF EXCEPTION.

(A) The approval authority may grant an exception to permit the creation of a lot of less than the minimum specified in MCC 39.4717(A), after August 14, 1980, when in compliance with the dimensional requirements of MCC 39.4717(C) through (E). Any exception shall be based on findings that the proposal will:

(1) Substantially maintain or support the character and stability of the overall land use pattern of the area;

(2) Be situated upon land generally unsuitable for commercial forest use or the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation and the location or size of the tract;

(3) Be compatible with accepted farming or forestry practices on adjacent lands;

(4) Be consistent with the purposes described in MCC 39.4700;

(5) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and

(6) Not require public services beyond those existing or programmed for the area.

(B) Except as provided in MCC 39.4720(D), no Lot of Exception shall be approved unless:

(1) The Lot of Record to be divided exceeds the area requirements of MCC 39.4717(A), and

(2) The division will create no more than one lot which is less than the minimum area required in MCC 39.4717(A).

(C) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 39.4700.

(D) The Planning Director may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this base zone; provided that the decision of the Director may be appealed to the approval authority pursuant to MCC 39.1160.

§ 39.4722 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4710, except subsection (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 impacts on nearby properties; and

(C) Consideration of the purposes of this base zone.

§ 39.4725 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4727 ACCESS.

All lots and parcels in this base zone 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 39.3150.

§ 39.4730 RIGHT TO COMPLETE SINGLE-FAMILY DWELLING.

A single-family dwelling, uncompleted prior to August 14, 1980, but which meets the tests stated in this subsection, may be completed although not listed as a Primary Use in this base zone.

(A) Actual construction shall have commenced prior to August 14, 1980, under a sanitation, building or other development permit applicable to the lot. Actual construction means:

(1) Placement of construction materials in a permanent position;

(2) Site excavation or grading;

(3) Demolition or removal of an existing structure;

(4) The value of purchased building materials; or

(5) Installation of water, sanitation or power systems.

(B) Actual construction shall not include:

(1) The cost of plan preparation; or

(2) The value of the land.

(C) The value of actual construction commenced prior to August 14, 1980, shall be $1,000 or more for each $20,000 of the total estimated value of the proposed improvements as calculated under the Uniform Building Code.

§ 39.4732 RESIDENTIAL USE DEVELOPMENT STANDARDS.

A residential use located in the MUF base zone after August 14, 1980, shall comply with the following:

(A) The fire safety measure outlined in the Fire Safety Considerations for Development in Forested Areas, published by the Northwest Interagency Fire Prevention Group, including at least the following:

(1) Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area; and

(2) Maintenance of a water supply and of fire-fighting equipment sufficient to prevent fire from spreading from the dwelling to adjacent forested areas;

(B) An access drive at least 16 feet wide shall be maintained from the property access road to any perennial water source on the lot or an adjacent lot.

(C) The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC 39.4717(D).

(D) The physical limitations of the site which require a driveway in excess of 500 feet shall be stated in writing as part of the application for approval.

(E) The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subsection (C), above.

(F) Building setbacks of at least 200 feet shall be maintained from all property lines, wherever possible, except:

(1) A setback of 30 feet or more may be provided from a public road, or

(2) The location of dwelling(s) on adjacent lot(s) at a lesser distance will allow for the clustering of dwellings or the sharing of access.

(G) Construction shall comply with the standards of the building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes.

(H) The dwelling shall be attached to a foundation for which a building permit has been obtained.

(I) The dwelling shall have a minimum floor area of 600 square feet.

(J) The dwelling shall be located outside a big game habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable.

4.D.2 – RETAIL COMMERCIAL (C-3)

§ 39.4735 USES.

This base zone is defined as a Retail Commercial base zone.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the following uses, provided such uses occur on a Lot of Record:

(A) Any of the following uses to be conducted wholly within a completely enclosed building except off-street parking and loading areas:

(1) Antique shop

(2) Art gallery

(3) Bakery goods two employees or less

(4) Barber shop or beauty parlor

(5) Book or stationery store

(6) Clothes cleaning agency or pressing establishment

(7) Confectionery store

(8) Custom dressmaking or millinery shop

(9) Pharmacy

(10) Dry goods or notions store

(11) Florist or gift shop

(12) Grocery, fruit, or vegetable store

(13) Hardware or electric appliance store

(14) Jewelry store

(15) Laundry agent

(16) Meat market or delicatessen store

(17) Office, business or professional

(18) Photographer

(19) Off-street parking and loading areas when located and developed as required in MCC 39.6500 through 39.6600

(20) Radio and television sales and service

(21) Self-service laundry

(22) Shoe store or shoe repair shop

(23) Tailor, clothing or wearing apparel shop

(24) Accessory buildings when located on the same lot

(25) Retail store or business.

(26) Automobile service station (no repairs) with a sight-obscuring fence at least six feet and not more than seven feet in height, unless otherwise specified by the Hearings Officer.

(27) Bank.

(28) Bath, Turkish and the like.

(29) Bird store, pet shop, or taxidermist.

(30) Business college or private school operated as a commercial enterprise.

(31) Blueprinting or copy shop.

(32) Car wash, convenience, subject to the following requirements:

(a) Accessory to a service station:

1. operated by service station personnel,

2. floor area of the car wash shall not exceed 50 percent of the constructed floor area of the service station,

3. car wash mechanical apparatus shall not exceed 26 feet in length, excluding conveyor equipment, or 14 feet in width. The overall height shall not exceed 12 feet with a vehicle entry and exit not to exceed 7-feet, 8-inches. The recess opening height shall not exceed 8-feet.

(b) All equipment and operations, including drying and vacuuming shall be conducted within a completely enclosed structure, except for an approved entrance and an exit.

1. Entrance and exit shall provide flaps or other suitable means of containing water vapor generated by the car wash within the structure.

(c) Car wash structure shall be located not less than 150 feet from the boundary of an 'R' or 'A' Base zone.

(d) Hours of operation shall not be before 7:30 a.m. nor after 10:00 p.m.; hours shall be prominently posted on the premises.

(e) Noise levels generated by the car wash shall not exceed standards established by the Department of Environmental Quality or County Ordinance.

(f) Such uses are subject to design review by the staff.

(33) Catering establishment.

(34) Cleaning establishment, using non-explosive and non-inflammable cleaning fluid.

(35) Department or furniture store.

(36) Frozen food locker, excluding wholesale storage.

(37) Hospital or sanitarium (except animal hospital).

(40) Hotel.

(41) Ice storage house, not more than five tons capacity.

(42) Interior decorating store.

(43) Medical or dental clinic and laboratory.

(44) Motion picture theater.

(45) Music conservatory or music instruction.

(46) Newsstand.

(47) Nursery, flower or plant, provided that all incidental equipment and supplies are kept within a building or suitable lattice cover.

(48) Pawnshop.

(49) Restaurant, tea room, cafe or tavern.

(50) Second-hand store, if conducted wholly within a completely enclosed building.

(51) Studio - art, dance, etc.

(52) Trade or commercial school, if not objectionable due to noise, odor, vibration or other similar causes.

(53) Wholesale merchandise broker, excluding wholesale storage.

(54) Uses customarily incident to any of the above uses when located on the same lot, provided that such uses, operations or products are not objectionable due to odor, dust, smoke, noise, vibration or other similar causes.

(55) Accessory buildings when located on the same lot.

(B) Any other use held similar to the above uses, as approved by the Planning Commission.

(C) Adult bookstore or adult theater, when in compliance with MCC 39.4037.

(D) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

(E) 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.

§ 39.4737 RESTRICTIONS.

(A) Yard Requirements.

(1) Front Yard - None.

(2) Side Yard - None.

(3) Rear Yard - None. However, if a rear yard is provided, the minimum depth shall be 12 feet.

(B) Height Restrictions.

Maximum height of any structure shall be 45 feet.

(C) Off-Street Parking.

Off-street parking and loading shall be provided as required in MCC 39.6500 through 39.6600.

(D) All lots in this base zone shall abut a street, or shall have such other access held suitable by the Hearings Officer.

(E) Half Streets.

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(F) 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, yard, or setback requirements of this base zone.

(G) Signs, pursuant to the provisions of MCC 39.6700 through 39.6820.

(H) No new residence shall be permitted in this base zone except that related to the business or enterprise allowed in this base zone such as janitor or night watchperson.

§ 39.4739 DESIGN REVIEW.

Uses in this base zone shall be subject to Design Review approval pursuant to MCC 39.8000 through 39.8050.

4.D.3 – URBAN FUTURE BASE ZONES GENERAL PROVISIONS

§ 39.4740 PURPOSES.

The purposes of the Urban Future base zones are to implement the growth management policy of the Community Plans; to provide for appropriate interim uses which are consistent with the resource base, community identity and unique natural features pending the reclassification of specific areas for urban uses; to retain the land suitable for future urbanization in large parcels in consideration of the levels of public services available, the characteristics of current uses, the needs for larger sites for planned future uses and for maximum flexibility in the preparation of future development plans; and to provide for public review of other use proposals in order to assure compatibility with applicable County policies.

§ 39.4742 ACCESS.

All lots and parcels in this base zone 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 39.3160.

§ 39.4743 EXCEPTIONS TO DIMENSIONAL REQUIREMENTS.

(A) When a lot has been included in a Future Street Plan approved under MCC 39.9445 through 39.9465, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that Future Street Plan, or approved revision thereof, under MCC 39.9470.

(B) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification in the Multnomah County Transportation System Plan.

(C) Except as provided in the LF overlay, 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.

(D) The approval authority may grant a Lot of Exception to permit the creation of a lot smaller than the minimum required, after July 26, 1979, when in compliance with the other dimensional requirements of the base zone. Any exception shall be based on findings that the proposal will:

(1) Substantially maintain or support the character and stability of the overall land use pattern of the area;

(2) Be compatible with accepted farming or forestry practices on adjacent lands;

(3) Be consistent with the purposes described in MCC 39.4740;

(4) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and

(5) Not require public services beyond those existing in the area.

(E) Except as provided in subsection (G) below, no Lot of Exception shall be approved unless:

(1) The Lot of Record to be divided exceeds the area requirements of the base zone, and

(2) The division will create no more than one lot which is less than the minimum area required in the base zone.

(F) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 39.4740.

(G) The Planning Director may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in the base zone; provided that the decision of the Planning Director may be appealed according to the provisions of MCC 39.1160.

§ 39.4744 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4745 SIGNS.

Signs may be permitted if approved pursuant to the provisions of MCC 39.6700 through 39.6820.

§ 39.4746 LOT SIZES FOR CONDITIONAL USES.

Except as otherwise established by this Chapter, the lot size for a Conditional Use shall be determined by the approval authority at the time of approval of the use, 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 consideration of the purposes of this base zone.

4.D.3.a – URBAN FUTURE (UF-20)

§ 39.4748 UF-20 ZONE.

This base zone is defined as an Urban Future base zone with a minimum lot size of 20 acres. For purposes of this base zone, the Urban Future base zones General Provisions apply.

§ 39.4750 USES.

Except as otherwise provided in this Chapter, no building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4751 through 39.4753 provided such uses occur on a Lot of Record.

§ 39.4751 PRIMARY USES.

(A) Residential use consisting of a single-family detached dwelling on a lot;

(B) Any agricultural or horticultural use or animal husbandry use or combination thereof, except as provided in MCC 39.4753(B);

(C) The propagation or harvesting of forest products; and

(D) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

(E) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

(F) 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 the effective date of this 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.

§ 39.4752 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

The uses permitted subject to prescribed conditions for each use are:

(A) Residential use, consisting of a single-family dwelling for the housing of help required to carry out a primary use permitted by MCC 39.4751(B), when the dwelling occupies the same lot as a residence permitted by MCC 39.4751(A) or 39.4752(A).

(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 MCC 39.1160.

(C) Home occupations, as defined in MCC 39.2000;

(D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this base zone. The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet; and

(E) Temporary uses under the provisions of MCC 39.8700 and 39.8750.

(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.

§ 39.4753 CONDITIONAL USES.

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

(A) Community Service Uses pursuant to the provisions of MCC 39.7500 through 39.7810;

(B) The following Conditional Uses pursuant to the provisions of Part 7 of this Chapter:

(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; and

(7) Commercial dog kennels; and

(8) Storage and sorting of logs and the preparation of log rafts;

(9) Other Conditional Uses as listed in Part 7 of this Chapter.

§ 39.4754 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3160(B), 39.4743(A) and (B), 39.4746 and 39.7525(D), and subsection (D) of this section, 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.

(D) Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity shall be aggregated to comply as

nearly as possible with the area or front lot line minimums of this base zone. The word "contiguous" shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.

(E) Nothing in this section shall be deemed to alter or amend the other provisions of this Chapter.

(F) All exterior lighting shall comply with MCC 39.6850.

4.D.4 – URBAN LIGHT MANUFACTURING (LM)

§ 39.4758 AREA AFFECTED.

MCC 39.4758 through MCC 39.4775 shall apply to those lands designated LM, GM and HM on the Multnomah County Zoning Map.

§ 39.4760 PURPOSES.

The purposes of an Urban Manufacturing base zone are to provide for the designation of suitable lands for industrial use, economic growth and development; to assure the stability and functional aspects of existing and planned industrial areas and of employment opportunities by protecting potential industrial lands from encroachment by non-industrial or incompatible uses; to accommodate a diversified economy and a complementary blend of uses; to provide for industrial land use classification by types of uses in relation to similar and associated activities and off-site effects; to reinforce community identity; to establish standards and requirements necessary to the realization of the Comprehensive Plan policies while affording maximum opportunities for the location and development of industrial uses; to encourage the conservation of energy resources and to establish approval criteria and development standards for the location of supportive uses and services consistent with the Comprehensive Plan.

In addition to the above purposes, the purposes of the Urban Light Manufacturing base zone are to permit location of light industrial, manufacturing and storage uses in close proximity to residential and commercial areas where appropriate; to provide for local concentrations of employment opportunities near living areas; to accommodate the location of incubator industries having low off-site effects and to provide a transition between more intensive industrial activities and residential or commercial areas.

§ 39.4762 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the following uses, provided such uses occur on a Lot of Record.

§ 39.4763 PRIMARY USES.

The following uses, conducted within an enclosed building:

(A) The manufacture, compounding, processing, packaging, treatment, storage or wholesale distribution of such products as bakery goods, fruits, vegetables, sea foods, dairy products, candy, confections, beverages including brewing and bottling, miscellaneous food products, ice and cold storage plant, drugs, pharmaceuticals, perfumes, toilet soaps, toiletries, barber and beauty supplies, and similar items, but not sauerkraut, vinegar or pickles manufacture;

(B) The manufacture, compounding, assembling, treatment, storage or wholesale distribution of articles or merchandise from previously prepared materials such as bone, cellophane, canvas, cloth, cork, feathers, felt, fur, glass, hair, foam, lacquer, leather (but not tanning), paper or paperboard, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, yarns and paints;

(C) The manufacture, assembly, packaging, repair, storage or wholesale distribution of articles such as electrical appliances, lighting and communication equipment, electronic, radio or television equipment, parts or accessories, professional, scientific, optical, photographic or controlling instruments, amusement devices,

small parts assembly, jewelry, musical instruments, toys, sporting goods, novelties, rubber or metal stamps;

(D) The manufacture, finishing, refinishing, repair, storage or wholesale distribution of furniture, office or store fixtures, small boats, upholstery, cabinets, office, computing or accounting machines, electric and neon signs, billboards and other signs;

(E) Business, professional, executive, administrative, wholesale, contractor or similar office, clinic, service or studio, trade, business or commercial school, research, experimental or testing laboratory;

(F) Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting, or photo processing;

(G) Building, building maintenance, plumbing, electrical, heating, roofing, glass, landscaping, painting or similar contractor's office, shop, warehouse, equipment sales or maintenance;

(H) Retail or wholesale lumber, building materials, garden supplies sales and tools, or small equipment sales, rental, repair or servicing;

(I) Laundry for carpets, uniforms, linens, rags, rugs and similar items, dyeing plant, dry cleaning not using explosive or inflammable materials;

(J) Automobile, light truck, motorcycle and recreational vehicle repair or maintenance, body and fender work, painting, parts and glass replacement, upholstery, engine, radiator or battery rebuilding, tire recapping, commercial, industrial or fleet vehicle parking and auto detailing;

(K) Metal or sheet metal shop, ornamental iron works, welding, blacksmithing, electroplating, tool and hardware manufacture, machine shop not using a drop hammer or large capacity punch press;

(L) Warehouse, furniture and household goods storage, moving equipment rental, distribution plant, parcel delivery, wholesaling of durable and non-durable goods, light and heavy equipment sales, rental or repair, fuel and ice distribution;

(M) Manufacture of non-structural clay products, ornamental clay, concrete, plaster or plastics casting, stone and purchased-glass products cutting, polishing or installation;

(N) Collection, recycling, sorting, baling or processing of previously used materials such as rags, paper, metals, glass or plastics; and

(O) Any use not listed in MCC 39.4764 or 39.4765, determined by the Planning Commission to be consistent with the purposes listed in MCC 39.4760.

(P) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

§ 39.4764 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

The following uses, subject to approval by the Planning Director when found to satisfy the required conditions and approval criteria:

(A) The open display for sale or rental of merchandise or equipment as a part of a primary use on the same lot, when located not less than ten feet from a street property line;

(B) The outside storage of merchandise, supplies or equipment, including small boats, trailers or recreational vehicles, and storage as part of a primary use on the same lot, but not including outside manufacturing, processing or assembly activities, when located within a sight-obscuring fence at least six feet in height and with no materials or equipment stacked in a manner so as to be visible above the top of the fence;

(C) The retail sales, rental or customer servicing within a building of products manufactured, processed, stored or distributed at wholesale as a primary use on the same lot when occupying not more than 15 percent of the floor

area of the primary use and upon satisfaction of the approval criteria listed in subsection MCC 39.4772(E) through (F);

(D) Airport-related commercial or service uses, including a hotel or motel, restaurant, meeting or convention rooms, automobile rental or a travel or ticket office, upon satisfaction of the approval criteria of MCC 39.4772;

(E) Office, retail and service commercial uses generally serving the needs of industrial base zone customers or employees, including a snack bar, coffee or sandwich shop, restaurant, barber or beauty shop, bank, credit union office, automobile service station, racquet or health club or similar use and the drive-in, drive-up or drive-through services of any such use upon satisfaction of the approval criteria of MCC 39.4772(C) through (E) and (I) to (K);

(F) Uses and structures customarily accessory or incidental to a permitted or approved use, including living quarters for a caretaker or watchman and a railroad right-of-way, trackage and related equipment;

(G) Off-street parking and loading, developed as required under MCC 39.6500 through 39.6600;

(H) Temporary uses under the provisions of MCC 39.8750; and

(I) Ambulance service substations subject to approval by the Planning Director when found to satisfy the approval criteria of MCC 39.4955.

(J) 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.

§ 39.4765 CONDITIONAL USES.

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

(A) Community Service Uses, under the provisions of MCC .39.7500 through 39.7810;

(B) Conditional Uses, under the provisions of Part 7 of this Chapter;

(C) Contractor's heavy equipment storage and the incidental maintenance or repair of such equipment, under the procedural provisions of Part 7 of this Chapter, the applicable approval criteria of MCC 39.7015, and subject to additional findings by the approval authority that the proposal:

(1) Will have minimal adverse impact, taking into account location, size and operating characteristics on the value and appropriate development of abutting properties and the surrounding area; and

(2) Will provide for vehicular access to the proposed use without creating traffic congestion, nor hazardous conditions considering roadway capacity, proximity to street or driveway intersections, or freeway on-or off-ramps, speed limits, traffic signals other regulation devices, turning movements, pedestrian circulation and existing or projected traffic volumes. In determining such relationships, the approval authority shall consider the report and recommendation thereon of the County Engineer.

(D) The following uses when approved pursuant to the procedural provisions of Part 7 of this Chapter, and the approval criteria of MCC 39.4773 conducted within an enclosed building with not more than 4,000 square feet of retail or customer service floor area for each use:

(1) A retail grocery, meat, produce, bakery, delicatessen, confectionery or similar store, including the preparation of foodstuffs for sale primarily on the premises;

(2) A retail drug, variety, gift, dry goods, notions, music, florist, book, stationery or similar store;

(3) A barber, beauty, tailor, dressmaking or shoe repair shop, self-service laundry, dry-cleaning or laundry pick-up agency, photographer or similar personal service business;

(4) A coffee shop and/or a sandwich shop, but not a drive-in or fast-food service;

(5) An instruction studio for arts, crafts, music, dance or similar activity;

(6) A radio, television or small appliance repair shop;

(7) The following uses, including open display of merchandise, for sale or rental, provided that any manufacturing, servicing, processing or repair activities shall be within a sight-obscuring fence at least six feet in height:

(a) Automobile battery servicing or rebuilding and tire recapping or retreading;

(b) Small boat and recreational marine supplies and equipment sales, rental or repair;

(c) Custom cabinet shop, office or store fixture manufacturing or repair, plumbing, heating or electrical shop, sign painting and sign manufacture or repair;

(d) Furniture sales, rental, repair, refinishing and upholstering;

(e) Retail fuel and ice storage and distribution;

(f) Household moving supplies and equipment sales or rental and household goods storage;

(g) Janitorial or building maintenance service;

(h) Landscaping services and maintenance, including tree care, spraying and yard care;

(i) Lumber, building and home improvement materials sales;

(j) Mail-order house, door-to-door sales headquarters, motion picture distributor;

(k) Outdoor commercial amusements, including garden golf, go-karts, skateboards or trampolines;

(l) Small tools and equipment rental, sales, maintenance, repair, sharpening, and small engine repair and service;

(m) A recycling center and the sorting, bailing and shipping of collected materials.

(E) The following uses when approved pursuant to the procedural provisions of Part 7 of this Chapter, and the approval criteria of MCC 39.4773:

(1) The following office and other uses when found to satisfy the approval criteria of (3) below:

(a) Office of an accounting, administrative, architectural, business, data processing, design, drafting, editorial, educational, engineering, executive, financial, governmental, insurance, investment, landscape, legal, management, real estate, religious, research, scientific, statistical or similar service organization.

(b) Medical or dental office clinic.

(c) Duplicating, billing or mailing service.

(d) Instruction studio for arts, crafts, dance, music or photography.

(e) Business, professional, trade or commercial school.

(f) The following uses, when occupying not more than 20% of the floor area of associated with the uses listed in (a) through (e) above on the same parcel:

1. Sales of stationary and minor office supplies in association with an office use listed in (a) above.

2. Pharmacy or the sale or rental of health supplies or appliances in association with an office or clinic use listed in (b) above.

3. Sale, rental or maintenance service of office machines in association with an office, clinic or service listed in (a), (b), or (c) above.

4. Sale or rental of art, craft, dance or musical supplies, equipment or instruments in association with a related instruction studio use listed in (d) above.

(2) The following uses, subject to the approval criteria in (4) below and provided that any servicing, processing or repair activities shall be within a sight-obscuring fence at least six feet in height:

(a) Auction house or flea market;

(b) Automobile, small truck or motorcycle, new and used sales or rental, repair, rebuilding, parts and glass replacement, body and fender work, painting, upholstery, towing and full service or self-service car wash;

(c) Camper, mobile home, recreational vehicle, recreational or utility trailer sales, rental, servicing, repair or storage and moving van or trailer rental;

(d) Drive-in theater; and

(e) Farm and garden equipment sales, rental, repair or servicing.

(3) In approving a use listed in subsection (1) above, the approval authority shall find that the proposal will satisfy the following:

(a) The total gross floor area of the proposed use shall not exceed 15,000 square feet;

(b) Lighting associated with the proposed use shall comply with the dark sky standards of MCC 39.6850;

(c) Off-street parking shall be provided pursuant to MCC 39.6500 through MCC 39.6600, except that not more than 125% of the spaces required shall be provided;

(d) Signs associated with the proposed use shall be subject to the provisions of MCC 39.6700 through MCC 39.6820;

(e) Paved pedestrian walks shall connect to the public sidewalks(s) abutting the property. A sidewalk shall be constructed along any street lot line of the property, where none exists, as a committed part of the development. Pedestrian walks shall also be provided from building entrances to parking areas;

(f) All utilities shall be underground.

(4) In approving a use listed in (2) above, the approval authority shall find that the proposal:

(a) Will have access in accord with the following, which shall be in addition to the access provisions of MCC 39.4768:

1. Driveways shall measure 25 to 30 feet in width at the property line with a curb radius of between 10 and 20 feet. Traffic lanes shall be stripped;

2. Access drives shall be 50 feet or more from the nearest curb return of a public street adjoining a corner lot;

3. Access drives on the same street frontage which serve the same lot shall be 150 feet for more apart on an arterial street; access drives shall be located on non-arterial street frontage, if any, unless the result would be that traffic from the proposed use would have to pass single-family residential units or land designated for low density residential use;

4. A 10 foot wide landscape buffer is required along a lot line adjacent to a residential base zone lot line and should contain:

a. Deciduous trees spaced between 20 to 30 feet apart depending on species, and a hedge which has a minimum height of 3 feet at the time of planting.

b. No foliage or visual obstruction shall occur between 3 and 6 feet above grade within 10 feet of a street side property line located within 10 feet of a driveway.

5. In the event the applicant's lot has a street side lot line less than 50 feet in width, and there is an access drive on an adjoining non-residential lot improved according to the Multnomah County Design and Construction Manual, whose nearest point measured on the common right-of –way is not more than ten feet from the common property line. Then the applicant shall acquire an easement from the owner of the adjacent property for shared access or shall demonstrate that shared access is not possible. Shared access is not possible if the owner of the adjoining lot refuses, in writing, to grant a written request from the applicant for an easement for access purposes;

6. Where access is shared with an adjacent property along a common property line, an easement is required for the sharing of the driveway and the required landscaped buffer along that property line is eliminated.

(a) Paved pedestrian walks shall connect to the public sidewalks(s) abutting the property. A sidewalk shall be constructed along any street lot line of the property, where none exists, as a committed part of the development. Pedestrian walks shall also be provided from building entrances to parking areas;

(b) Lighting associated with the proposed use shall comply with the dark sky standards of MCC 39.6850;

(c) No outdoor sound amplification systems shall be operated on the property, however, ordering devices shall be permitted;

(d) Off-street parking shall be provided pursuant to MCC 39.6500 through MCC 39.6600;

(e) Signs associated with the proposed use shall be subject to the provisions of MCC 39.6700 through MCC 39.6820.

§ 39.4766 DIMENSIONAL REQUIREMENTS.

(A) The lot size for a use permitted or authorized in this base zone shall be adequate to fulfill the applicable minimum yard setback, lot coverage, design review and other requirements of the base zone.

(B) Maximum height of any structure shall be 50 feet.

§ 39.4767 LANDSCAPED BUFFER AREA.

(A) A landscaped buffer area shall be established and maintained according to the applicable standards of MCC 39.8045. The buffer area shall have a minimum width:

(1) Of 50 feet along any property line which is adjacent to or across any street, slough, drainageway, railroad or other right-of-way from any land designated as residential by the Comprehensive Plan;

(2) Of 25 feet along the right-of-way or from the high water line of any lake, slough, stream, drainageway or other waterway; and

(3) Of 20 feet along a lot line adjacent to a street;

(4) Equal to the building height, between a building in this base zone and a residential base zone lot line;

(5) Of 10 feet between a parking, loading or vehicle maneuvering area and a residential base zone lot line; and

(6) Of 25 feet between an outside storage or open display area and a residential base zone lot line.

(B) Exception - In acting on a final design review plan, the Planning Director may waive or modify a requirement of subsections MCC 39.4767(A)(l) through (6) upon a finding that:

(1) An established building line renders the requirement inappropriate, or

(2) The factors listed in MCC 39.8050(C)(l)(a) through (d) are satisfied.

§ 39.4768 ACCESS.

All lots and parcels in this base zone 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 39.3130.

§ 39.4769 EXCEPTIONS TO DIMENSIONAL REQUIREMENTS.

(A) When a lot has been included in a future street plan approved under MCC 39.9445 through 39.9465, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan, or approved revision thereof, under MCC 39.9470.

(B) Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or project into a required yard not more than 30 inches.

(C) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet, and such porches may extend into a required front yard not more than 30 inches.

(D) Buildings, structures, required parking, loading or landscaping shall be set back to provide for street widening in the event the lot abuts a street having a width less than that specified for the functional classification in the Multnomah County Transportation System Plan.

(E) A fence, lattice work, screen, plantings, wall or similar feature with a maximum height of six feet may be located in any required yard, except that for a corner lot there shall be no sight obstruction between three feet and ten feet in height above street grade within a triangular area having two sides 20 feet in length along the property lines measured from the corner.

(F) Except as provided in the LF base zone, chimneys, antennae, mechanical equipment, storage towers or similar structures may exceed height maximums established by ordinance if located at least 20 feet from any property line.

§ 39.4770 LOT SIZES FOR CONDITIONAL USES.

Except as otherwise established by this Chapter, the lot size for a Conditional Use shall be determined by the approval authority at the time of approval of the use, based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to its impacts on or from nearby properties or uses; and

(C) Consideration of the purposes of the base zone.

§ 39.4771 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4772 AIRPORT-RELATED AND OTHER COMMERCIAL USE APPROVAL CRITERIA.

In approving an airport-related commercial use under prescribed conditions, the approval authority shall find that the proposal will:

(A) Be located within two miles of a public airport;

(B) Be located within a five minute drive of the airport terminal assuming a trip can be made at an average of 75% of the posted speed limits applicable;

(C) Comply with applicable sign regulations;

(D) Include a commitment to make improvements required by The Transportation System Plan and rules adopted thereunder;

(E) Provide access in the manner described in MCC 39.4768;

(F) Provide parking as specified in MCC 39.6500 through 39.6600, except that not more than 125% of the required number of spaces shall be provided;

(G) Be within one-quarter mile of a public transit stop or other passenger pickup and delivery service to and from the airport;

(H) Comply with the dimensional standards of MCC 39.4767(A); an exception as described in MCC 39.4767(B) shall not be required;

(I) Provide that any outside storage of vehicles shall include:

(1) 25 square feet of landscaping within storage areas for every 20 vehicle spaces, or

(2) A sight-obscuring screen, not to be less than a solid hedge capable of growth to six feet in height and three feet in width within two growing seasons, or a solid fence at least six feet high;

(J) Provide that outside storage of any other tangibles shall include a sight-obscuring screen as described in subsection (I)(2) above;

(K) Not incorporate blue colored lights or rows of lights resembling aircraft guidance lighting; and

(L) Provide that any noise-sensitive uses, such as a hotel, motel or office, shall be designed for an interior noise level not to exceed 45 Ldn.

§ 39.4773 INDUSTRIAL AREA RETAIL AND GENERAL COMMERCIAL USE APPROVAL CRITERIA.

In approving a retail or general commercial use as a Conditional Use, the approval authority shall find that the proposal:

(A) Will satisfy the applicable elements of Comprehensive Plan policies;

(B) Will satisfy a public need for the use which cannot be met on property in the vicinity which is classified or designated in the Comprehensive Plan to permit the use;

(C) Will satisfy the approval criteria and development standards for the use as specified in the urban commercial base zone in which the use is permitted; and

(D) Will satisfy the approval criteria of MCC 39.4772(C) through (G).

§ 39.4775 DESIGN REVIEW.

Uses in these base zones shall be subject to Design Review approval under MCC 39.8000 through 39.8050.

4.D.5 – URBAN LOW DENSITY RESIDENTIAL BASE ZONES GENERAL PROVISIONS (LR-5, LR-7, LR-10)

§ 39.4778 AREA AFFECTED.

These general provisions apply to lands desiganed-LR-l0, LR-7 and LR-5 on the Multnomah County Zoning Map.

§ 39.4780 PURPOSES.

The purposes of the Urban Low Density Residential base zones are to provide for a choice of lower density housing locations and types, together with related and accessory uses; to assure adequate and safe access to residential uses; to assure lotting patterns and building areas which take maximum advantage of climatic conditions and means for efficient use of energy; to create and maintain long-term community stability; to assure that housing developments are consistent with the Comprehensive Plan.

§ 39.4781 ACCESS.

All lots and parcels in an Urban Low Density Residential base zone 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 39.3140.

§ 39.4782 EXCEPTIONS TO DIMENSIONAL REQUIREMENTS.

(A) When a lot has been included in a future street plan approved under MCC 39.9445 through 39.9465, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan, or approved revisions thereof, under MCC 39.9470.

(B) In acting to approve a land division under the Land Division Chapter, the approval authority may grant an Exception not to exceed ten percent of the lot area or 25 percent of any other dimensional requirements upon findings that such Exception will result in any of the following:

(1) More efficient use of the site;

(2) A greater degree of privacy, safety or freedom from noise, fumes or glare;

(3) An improved solar and climatic orientation;

(4) The preservation of natural features, where appropriate; or

(5) The provision of pedestrian circulation facilities where needed.

(C) Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or project into a required yard not more than 30 inches. Fireplace chimneys may project into a required front, side or rear yard not more than two feet, provided the width of such side yard is not reduced to less than three feet.

(D) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet and such porches may extend into a required front yard not more than 30 inches.

(E) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification in the Multnomah County Transportation System Plan.

(F) A fence, lattice work, screen, wall or similar feature with a maximum height of six feet may be located in any required yard provided, however, that the maximum height shall be four feet if the feature is within 15 feet of a front property line or five feet of a street side property line.

(G) Except as provided in the LF Base zone, chimneys, antennae, or similar structures may exceed height maximums established by Ordinance if located at least 20 feet from any property line.

(H) A two-unit dwelling may be located with one unit on each of two adjoining lots. In such event, the minimum lot size and yard requirements shall apply to each unit, except that no yard shall be required between the units.

§ 39.4783 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4784 SIGNS.

Signs may be permitted if approved pursuant to the provisions of MCC 39.6700 through 39.6820.

§ 39.4785 LOT SIZES FOR CONDITIONAL USES.

Except as otherwise established by this Chapter, the lot size for a conditional use shall be determined by the approval authority at the time of approval if the use, based upon:

(A) The site size needs of the proposed use;

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

(C) Consideration of the purposes of the base zone.

§ 39.4786 RESIDENTIAL DEVELOPMENT IN UNSEWERED URBAN AREAS.

(A) In the event the maximum number of lots or dwelling units allowable under the Comprehensive Plan, MCC 39.9000 through 39.9700 and the dimensional or other requirements of this base zone is not possible due to Department of Environmental Quality subsurface sewage disposal limitations, the site development plan shall designate the manner in which the additional allowable units may be located on the property when public sewer service is available.

(B) Review and action on a site development plan required by this subsection shall be taken under the applicable procedures of MCC 39.9000 through 39.9700 or the design review or other zoning approval provisions of this Chapter.

(C) Approval of a site development plan required by this subsection shall be supported by findings that:

(1) Septic tanks or cesspools are permitted by the County Sanitarian and the Department of Environmental

Quality for three or more lots per net acre or for Lots of Record; or

(2) A plan for the future redivision of lots; or

(3) The reservation and interim use of portions of the site, pending the future location of additional dwelling units; or

(4) The installation of dry sewers at the time of initial development.

(D) A decision by the Planning Director on an application under this subsection may be appealed by the applicant to the Hearings Officer in the manner provided in MCC 39.1160.

4.D.5.a – SOLAR ACCESS PROVISIONS FOR NEW DEVELOPMENT IN THE URBAN LOW DENSITY RESIDENTIAL BASE ZONES

§ 39.4789 PURPOSE.

The purposes of the solar access provisions for new development in the Urban Low Density Residential base zones are to ensure that land in the urban portions of Multnomah County is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

§ 39.4790 APPLICABILITY.

The solar design standard in Section .6815 shall apply to applications for a development to create lots in LR-10, LR-7, and LR-5 zones and for single family detached dwellings, except to the extent the approval authority finds that the applicant has shown one or more of the conditions listed in MCC 39.4792 and MCC 39.4793 exist, and exemptions or adjustments provided for therein are warranted.

§ 39.4791 DESIGN STANDARD.

At least 80 percent of the lots in a development subject to MCC 39.4700 through 39.4813 shall comply with one or more of the options in this Section.

(A) Basic Requirement (see MCC 39.4813 Figure 9). A lot complies with this Section if it:

(1) Has a north-south dimension of 90 feet or more; and

(2) Has a front lot line that is oriented within 30 degrees of a true east-west axis.

(B) Protected Solar Building Line Option (see MCC 39.4813 Figure 10). In the alternative, a lot complies with this Section if a solar building line is used to protect solar access as follows:

(1) A protected solar building line for the lot to the north is designated on the plat, or documents recorded with the plat;

(2) The protected solar building line for the lot to the north is oriented within 30 degrees of the true east-west axis;

(3) There is at least 70 feet between the protected solar building line on the lot to the north and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line;

(4) There is at least 45 feet between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80 percent of their south-facing wall will not be shaded by structures or non-exempt vegetation.

(C) Performance Option. In the alternative, a lot complies with this Section if:

(1) Habitable structures built on that lot will have their long axis oriented within 30 degrees of a true east-west axis and at least 80 percent of their ground floor south wall protected from shade by structures and non-exempt trees; or

(2) Habitable structures built on that lot will have at least 32 percent of their glazing and 500 square feet of their roof area which faces within 30 degrees of south and is protected from shade by structures and non-exempt trees.

§ 39.4792 EXEMPTIONS FROM DESIGN STANDARD.

A development is exempt from MCC 39.4791 if the Planning Director finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from MCC 39.4791 to the extent the Planning Director finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with MCC 39.4791.

(A) Slopes - The site, or a portion of the site for which the exemption is sought, is sloped 20 percent or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor.

(B) Off-Site Shade - The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as but not limited to structures, topography, or non-exempt vegetation, which will remain after development occurs on the site from which the shade is originating.

(1) Shade from an existing or approved off-site dwelling in a single family residential zone and from topographic features is assumed to remain after development of the site.

(2) Shade from an off-site structure in a zone other than a single family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.

(3) Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; or they are part of a developed area, public park, or legally reserved open space; or they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.

(4) Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is file

(C) On-Site Shade - The site, or a portion of the site for which the exemption is requested, is:

(1) Within the shadow pattern of on-site features such as, but not limited to structures and topography which will remain after the development occurs; or

(2) Contains non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground which have a crown cover over at least 80 percent of the site or relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50 percent of the trees that cause the shade that warrants the exemption. The applicant shall file a note on the plat or other document in the office of the County Recorder binding the applicant to comply with this requirement.

The county shall be made a party of any covenant or restriction created to enforce any provision of MCC 39.4790 through 39.4813. The covenant or restriction shall not be amended without written county approval.

§ 39.4793 ADJUSTMENTS TO DESIGN STANDARD.

The Planning Director shall reduce the percentage of lots that must comply with MCC 39.4791 to the minimum extent necessary if it finds the applicant has shown one or more of the following site characteristics apply.

(A) Density and Cost - If the design standard in MCC 39.4791 is applied, either the resulting density is less than that proposed, or on-site site development costs (e.g. grading, water, storm drainage and sanitary systems, and roads) and solar related off-site site development costs are at least 5 percent more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with MCC 39.4791 would reduce density or increase per lot costs in this manner. The applicant shall show which if any of these or other similar site characteristics apply in an application for a development.

(1) The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 percent or more and is oriented greater than 45 degrees east or west of true south based on a topographic survey of the site by a professional land surveyor.

(2) There is a significant natural feature on the site, identified as such in the comprehensive plan or zoning code that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.

(3) Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.

(4) An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

(B) Development Amenities - If the design standard in MCC 39.4791 applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with MCC 39.4791 is relevant to whether a significant development amenity is lost or impaired. Development amenities which may merit design adjustments include, but are not limited to the following:

(1) Views of volcanic peaks in the Cascade Range;

(2) Substantial open space, recreation or aesthetic features added by the applicant;

(3) Existing Goal 5 Features identified in the Comprehensive Plan.

(C) Existing Shade ¬ Non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground have a crown cover over at least 80 per cent of the lot and at least 50 percent of the crown cover will remain after development of the lot. The applicant can show such crown cover exists using a scaled survey of non-exempt trees on the site or using an aerial photograph.

(1) Shade from non-exempt trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.

(2) Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files

in the office of the County Recorder a covenant binding the applicant to retain the trees causing the shade on the affected lots.

§ 39.4794 PROTECTION FROM FUTURE SHADE.

Structures and non-exempt vegetation must comply with the Solar Balance Point sections for existing lots (reference MCC 39.4799 through 39.4806) if located on a lot that is subject to the solar design standard in MCC 39.4791, or if located on a lot south of and adjoining a lot that complies with MCC 39.4791.

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in MCC 39.4794. The county shall be made a party of any covenant or restriction created to enforce any provision of MCC 39.4790 through 39.4813. The covenant or restriction shall not be amended without written county approval.

§ 39.4795 APPLICATION.

An application for approval of a development subject to MCC 39.4790 through 39.4813 shall include:

(A) Maps and text sufficient to show the development complies with the solar design standard of MCC 39.4791, except for lots for which an exemption or adjustment from MCC 39.4791 is requested, including at least:

(1) The north-south lot dimension and front lot line orientation of each proposed lot.

(2) Protected solar building lines and relevant building site restrictions, if applicable.

(3) For the purpose of identifying trees exempt from MCC 39.4794, a map showing existing trees at least 30 feet tall and over 6 inches in diameter at a point 4 feet above grade, indicating their height, diameter and species, and stating that they are to be retained and are exempt.

(4) Copies of all private restrictions relating to solar access.

(B) If an exemption or adjustment to MCC 39.4791 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in MCC 39.4792, or 39.4793 respectively.

§ 39.4796 PROCEDURE.

Development requests subject to Solar Access Provisions in the preceding sections (MCC 39.4790 through 39.4795) shall be decided as prescribed by MCC 39.9000 through 39.9700.

§ 39.4798 SOLAR BALANCE POINT PROVISIONS.

The purposes of these provisions are to promote the use of solar energy, to minimize shading of structures by structures and accessory structures, and, where applicable, to minimize shading of structures by trees. Decisions related to these provisions are intended to be ministerial.

§ 39.4799 APPLICABILITY.

MCC 39.4790 through 39.4813 applies to an application for a building permit for all structures in LR-10, , LR-7, LR-5, zones, and all single family detached structures in any urban zone, except to the extent the approval authority finds the applicant has shown that one or more of the conditions listed in MCC 39.4802 or 39.4803 exists, and exemptions or adjustments provided therein are warranted. In addition, non-exempt vegetation planted on lots subject to the provisions of MCC 39.4794 of the Solar Access Provisions for New Development shall comply with the shade point height standards as provided in MCC 39.4801 and 39.4802.

§ 39.4800 SOLAR SITE PLAN REQUIRED.

An applicant for a building permit for a structure subject to MCC 39.4790 through 39.4813 shall submit a site plan that shows the maximum shade point height allowed under MCC 39.4801 and the allowed shade on the proposed structure's solar features as provided in 39.4804. If applicable, the site plan shall also show the solar balance point for the structure as provided in MCC 39.4805.

§ 39.4801 MAXIMUM SHADE POINT HEIGHT STANDARD.

The height of the shade point shall comply with either subsection A or B below.

(A) Basic Requirement. The height of the shade point shall be less than or equal to the height specified in Table A or computed using the following formula. If necessary, interpolate between the 5 foot dimensions listed in Table A.

H=[(2xSRL)-N+150]/5

Table A. Maximum Permitted Shade Point (In Feet)													
Distance to Shade Reduction Line from Northern Lot Line (In Feet)	**North-South Lot Dimension (In Feet)**												
	100+	95	90	85	80	75	70	65	60	55	50	45	40
70	40	40	40	41	42	43	44						
65	38	38	38	39	40	41	42	43					
60	36	36	36	37	38	39	40	41	42				
55	34	34	34	35	36	37	38	39	40	41			
50	32	32	32	33	34	35	36	37	38	39	40	41	42
45	30	30	30	31	32	33	34	35	36	37	38	39	40
40	28	28	28	29	30	31	32	33	34	35	36	37	38
35	26	26	26	27	28	29	30	31	32	33	34	35	36
30	24	24	24	25	26	27	28	29	30	31	32	33	34
25	22	22	22	23	24	25	26	27	28	29	30	31	32
20	20	20	20	21	22	23	24	25	26	27	28	29	30
15	18	18	18	19	20	21	22	23	24	25	26	27	28
10	16	16	16	17	18	19	20	21	22	23	24	25	26
5	14	14	14	15	16	17	18	19	20	21	22	23	24

Where: H = the maximum allowed height of the shade point (see Figures 4 and 5);

SRL = shade reduction line [the distance between the shade point and the northern lot line (see Figure 6)]; and

N = the north-south lot dimension, provided that a north-south lot dimension more than 90 feet shall use a value of 90 feet for this section.

Provided, the maximum allowed height of the shade point may be increased one foot above the amount calculated using the formula or Table A for each foot that the average grade at the rear property line exceeds the average grade at the front property line.

(B) Performance Option - The proposed structure, or applicable nonexempt vegetation, will shade not more than 20 percent of the south-facing glazing of existing habitable structure(s), or, where applicable, the proposed structure or non-exempt vegetation comply with MCC 39.4791(B) or (C) the Solar Access Provisions for New Development. If MCC 39.4791 (B), Protected Solar Building Line Option, is used, non-exempt trees and the shade point of structures shall be set back from the protected solar building line 2.5 feet for every 1 foot of height of the structure or of the mature height of non-exempt vegetation over 2 feet.

§ 39.4802 EXEMPTION FROM THE MAXIMUM SHADE POINT HEIGHT STANDARD.

The Planning Director shall exempt a proposed structure or nonexempt vegetation from MCC 39.4800 and 39.4801 if the applicant shows that one or more of the conditions in this Section exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

(A) Exempt Lot - When created the lot was subject to the Solar Access Provisions for New Development and was not subject to the provisions of MCC 39.4794.

(B) Pre-Existing Shade - The structure or applicable non-exempt vegetation will shade an area that is shaded by one or more of the following:

(1) An existing or approved building or structure;

(2) A topographic feature;

(3) A non-exempt tree that will remain after development of the site. It is assumed a tree will remain after development if it: is situated in a building setback required by local law; is part of a developed area or landscaping required by local law; is within a public park, or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

(C) Slope - The site has an average slope that exceeds 20 percent in a direction greater than 45 degrees east or west of true south based on a topographic survey by a licensed professional land surveyor.

(D) Insignificant Benefit - The proposed structure or nonexempt vegetation shades one or more of the following:

(1) An undevelopable area;

(2) The wall of an unheated space, such as a typical garage;

(3) Less than 20 square feet of south-facing glazing.

(E) Public Improvement - The proposed structure is a publicly owned improvement.

§ 39.4803 ADJUSTMENTS TO THE MAXIMUM SHADE POINT HEIGHT STANDARD.

The Planning Director shall increase the maximum permitted height of the shade point determined using MCC 39.4801 to the extent it finds the applicant has shown one or more of the following conditions exist, based on plot plans or plats, corner elevations or both topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

(A) Physical Conditions - Physical conditions preclude development of the site in a manner that complies with MCC 39.4801, due to such things as a lot size less than 3000 square feet, unstable or wet soils, or a drainage way, public or private easement, or right-of-way.

(B) Conflict between the Maximum Shade Point Height and Allowed Shade on the Solar Feature Standards - A proposed structure may be sited to meet the solar balance point standard described in MCC 39.4805 or be sited as near to the solar balance point as allowed by MCC 39.4805, if:

(1) When the proposed structure is sited to meet the maximum shade point height standard determined using MCC 39.4801, its solar feature will potentially be shaded as determined using MCC 39.4804; and

(2) The application includes a form provided by the county that:

(a) Releases the applicant from complying with MCC 39.4801 and agrees that the proposed structure may shade an area otherwise protected by MCC 39.4801;

(b) Releases the county from liability for damages resulting from the adjustment;

(c) Is signed by the owner(s) of the properties that would be shaded by the proposed structure more than allowed by the provisions of MCC 39.4801.

(3) Before the county issues a permit for a proposed structure for which an adjustment has been granted pursuant to MCC 39.4803(B), the applicant shall file the form provided for in Subsection (B)2 above in the office of the County Recorder with the deeds to the affected properties.

§ 39.4804 ANALYSIS OF ALLOWED SHADE ON SOLAR FEATURE.

(A) The applicant is exempt from MCC 39.4804 if the lot(s) south of and adjoining the applicant's property is exempt from MCC 39.4801.

(B) Applicants shall be encouraged to design and site a proposed habitable structure so that the lowest height of the solar feature(s) will not be shaded by buildings or nonexempt trees on lot(s) to the south. The applicant shall complete the following calculation procedure to determine if the solar feature(s) of the proposed structure will be shaded. To start, the applicant shall choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:

(1) Existing structure(s) or non-exempt trees; or

(2) The maximum shade that can be cast from future buildings or non-exempt trees, based on Table C. If the lot(s) to the south can be further divided, then the north-south dimension shall be assumed to be the minimum lot width required for a new lot in that zone.

(C) The height of the lowest point of any solar feature of the proposed structure shall be calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.

(D) The applicant shall determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in Subsection (B) by using the following formula or Table B.

SFSH = SH (SGL/2.5)

Where:

SFSH = the allowed shadow height on the solar feature (see MCC 39.4813 Figure 8).

SH = the height of the shade at the northern lot line of lot(s) to the south as determined in Section Table C.

SGL = the solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south, see MCC 39.4813 Figure 7).

Table B. Maximum Permitted Height of Shadow at Solar Feature (In Feet)												
Distance from Solar Gain Line to Lot Line (In Feet)	**Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (In Feet)**											
	22	21	20	19	18	17	16	15	14	13	12	
50	2	1										
45	4	3	2	1								
40	6	5	4	3	2	1						
35	8	7	6	5	4	3	2	1				
30	10	9	8	7	6	5	4	3	2	1		
25	12	11	10	9	8	7	6	5	4	3	2	
20	14	13	12	11	10	9	8	7	6	5	4	
15	16	15	14	13	12	11	10	9	8	7	6	
10	18	17	16	15	14	13	12	11	10	9	8	
5	20	19	18	17	16	15	14	13	12	11	10	

Table C may be used to determine (SH) in the above formula.

Table C													
North-South Lot Dimension of Adjacent Lot(s) to the South	100	95	90	85	80	75	70	65	60	55	50	45	40
Allowed Shade Height at the North Property Line of Adjacent Lot(s) to the South	12	12	12	13	14	15	16	17	18	19	20	21	22

(E) If the allowed shade height on the solar feature calculated in Subsection (D) is higher than the lowest height of the solar feature calculated in Subsection (C) the applicant shall be encouraged to consider any changes to the house design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

§ 39.4805 SOLAR BALANCE POINT.

If a structure does not comply with the maximum shade point height standard in MCC 39.4801 and the allowed shade on a solar feature standard in MCC 39.4804, then the solar balance point of the lot shall be calculated (see MCC 39.4813 Figure 8). The solar balance point is the point on the lot where a structure would most nearly comply with both of these standards, (i.e. the variation from both standards is minimized.).

§ 39.4806 YARD SETBACK ADJUSTMENT.

The County shall grant an adjustment to the side, and/or rear yard setback requirement(s) by up to 50 percent and up to 25 percent to a front yard setback, if necessary to build a proposed structure so it complies with either the shade point height standard in MCC 39.4801, the allowed shade on a solar feature standard in MCC 39.4804, or the solar balance point standard in MCC 39.4805 as provided herein (see MCC 39.4813 Figure 8). This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of MCC 39.4790 through 39.4813. (The following list illustrates yard adjustments permitted under this section:)

(A) LR-5 Zone(s):

(1) A front yard setback may be reduced to not less than (15) feet.

(2) A rear yard setback may be reduced to not less than (7.5) feet.

(3) A side yard setback may be reduced to not less than (3) feet.

(B) LR-7 Zone(s):

(1) A front yard setback may be reduced to not less than (15) feet.

(2) A rear yard setback may be reduced to not less than (7.5) feet.

(3) A side yard setback may be reduced to not less than (3) feet.

§ 39.4807 REVIEW PROCESS.

A Planning Director determination on a Building Permit request subject to the preceding Solar Balance Point Provisions (MCC 39.4798 through 39.4806) may be appealed as provided by MCC 39.1160.

§ 39.4808 SOLAR ACCESS PERMIT PROVISIONS.

The purpose of MCC 39.4809 through 39.4812 is to protect solar access features on lots designated or used for a single family detached dwelling under some circumstances. It authorizes owners of such lots to apply for a permit that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee’s site.

§ 39.4809 APPLICABILITY.

An owner or contract purchaser of property may apply for and/or be subject to a solar access permit for a solar feature if that property is in a LR-10, LR-7, LR-5, zone, or is or will be developed with a single family dwelling in any urban zone. The county's decision whether or not to grant a solar access permit is intended to be ministerial.

§ 39.4810 APPROVAL STANDARDS FOR A SOLAR ACCESS PERMIT.

The Planning Director shall approve an application for a solar access permit if the applicant shows:

(A) The application is complete;

(B) The Information it contains is accurate; and

(C) Non-exempt vegetation on the applicant's property does not shade the solar feature.

§ 39.4811 DUTIES CREATED BY SOLAR ACCESS PERMIT.

(A) A party to whom the county grants a solar access permit shall:

(1) Record the permit, legal descriptions of the properties affected by the permit, the solar access height limit, and the site plan required in MCC 39.4812(C) with such modifications as required by the County Recorder, with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and pay the fees for such filing;

(2) Install the solar feature in a timely manner; and

(3) Maintain non-exempt vegetation on the site so it does not shade the solar feature.

(B) An owner of property burdened by a solar access permit shall be responsible and pay all costs for keeping nonexempt vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the site plan required in MCC 39.4812(C) (e.g., vegetation an owner shows was in the ground on the date an application for a solar access permit is filed, and solar friendly vegetation) are exempt from the solar access permit.

§ 39.4812 APPLICATION CONTENTS.

An application for a solar access permit shall contain the following information:

(A) A legal description of the applicant's lot and a legal description, owners' names, and owners' addresses for lots all or a portion of which are within 150 feet of the applicant's lot and 54 degrees east and west of true south measured from the east and west corners of the applicant's south lot line. The records of the County Tax Assessor shall be used to determine who owns property for purposes of an application. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may be affected.

(B) A scaled plan of the applicant's property showing:

(1) Vegetation in the ground as of the date of the application if, when mature, that vegetation could shade the solar feature.

(2) The approximate height above grade of the solar feature, its location, and its orientation relative to true south.

(C) A scaled plan of the properties on the list required in Subsection (A) above showing:

(1) Their approximate dimensions; and

(2) The approximate location of all existing vegetation on each property that could shade the solar feature(s) on the applicant's property.

(D) For each affected lot, the requested solar access height limit. The solar access height limit is a series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit (see MCC 39.4813 Figure 11). The contour lines begin at the bottom edge of a solar feature for which a permit is requested and rise in five foot increments at an angle to the south not less than 21.3 degrees from the horizon and extend not more than 54 degrees east and west of true south. Notwithstanding the preceding, the solar access height limit at the northern lot line of any lot burdened by a solar access permit shall allow non-exempt vegetation on that lot whose height causes not more shade on the benefitted property than could be caused by a structure that complies with the Solar Balance Point Provisions for existing lots.

(E) The appropriate fee.

(F) If available, a statement signed by the owner(s) of some or all of the property(ies) to which the permit will apply if granted verifying that the vegetation shown on the plan submitted pursuant to subsection(C) above accurately represents vegetation in the ground on the date of the application. The county shall provide a form for that purpose. The signed statements provided for herein are permitted but not required for a complete application.

§ 39.4813 DEFINITIONS.

As used in MCC 39.4790 through MCC 39.4812, the following terms and their derivations shall have the following meanings:

Crown Cover - The area within the drip line or perimeter of the foliage of a tree.

Development - Any short plat, partition, subdivision or planned unit development that is created under the county's land division or zoning regulations.

Exempt Tree or Vegetation - The full height and breadth of vegetation that the Planning Director has identified as solar friendly and listed in the Solar Friendly Tree Report, 1987; and any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.

Front Lot Line - For purposes of the solar access regulations, a lot line abutting a street. For corner lots the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the lot line that is most parallel to and closest to the street, excluding the pole portion of the flag lot (see Figure 1).

Non-Exempt Tree or Vegetation.- Vegetation that is not exempt.

Northern Lot Line - The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of the undevelopable area. If two lot lines have an identical angle relative to a line drawn east-west, then the northern lot line shall be a line 10 feet in length within the lot parallel with and at a maximum distance from the front lot line (see Figure 2).

North-South Dimension - The length of a line beginning at the mid-point of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 3).

Protected Solar Building Line - A line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or non-exempt trees (see Figure 10).

Shade - A shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.

Shade Point - The part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of 3 feet or less, a chimney, utility pole or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If the shade point is located at the north end of a ridgeline of a structure oriented within 45 degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet. If a structure has a roof oriented within 45 degrees of a true east-west line with a pitch that is flatter than 5 feet (vertical) in 12 feet (horizontal) the shade point height will be the eave of the roof. If such a roof has a pitch that is 5 feet in 12 feet or steeper, the shade point will be the peak of the roof (see Figures 4 and 5).

Shade Reduction Line - A line drawn parallel to the northern lot line that intersects the shade point (see Figure 6).

Shadow Pattern - A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see Figure 12).

Solar Access Height Limit - A series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit (see Figure 11).

Solar Access Permit - A document issued by the county that describes the maximum height that non-exempt vegetation is allowed to grow on lots to which a solar access permit applies.

Solar Feature - A device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window that contains at least 20 square feet of glazing oriented within 45 degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use or collect solar energy is not a solar feature for purposes of MCC 39.4790 through 39.4812.

Solar Gain Line - A line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot including lots separated only by a street, that intersects the solar feature on that lot (see Figure 7).

South or South Facing - True south, or 20 degrees east of magnetic south.

Sun Chart - One or more photographs that plot the position of the sun between 10:30 a.m. and 1:30 p.m. on January 21, prepared pursuant to guidelines issued by the Planning Director. The sunchart shall show the southern skyline through a transparent grid on which is imposed solar altitude for a 45-degree and 30 minute northern latitude in 10-degree increments and solar azimuth from true south in 15-degree increments.

Undeveloped Area - An area that cannot be used practicably for a habitable structure because of natural conditions, such as slopes exceeding 20 percent in a direction greater than 45 degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or human-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

Figure 1. Front Lot Line

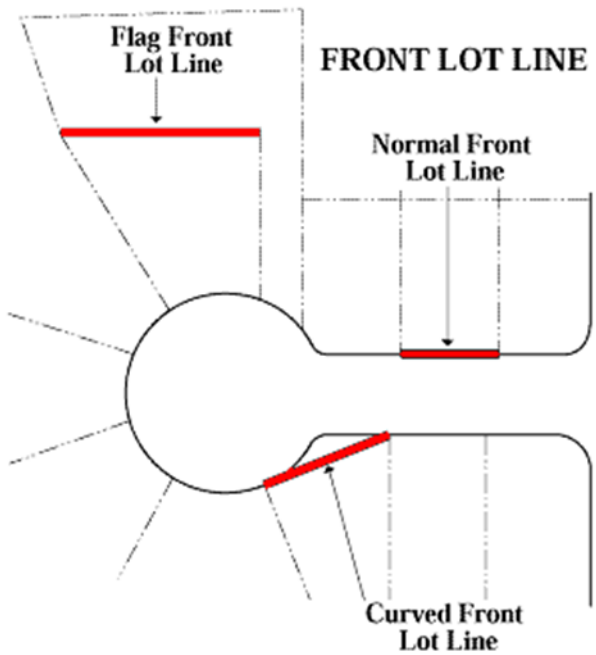


Figure 2. Northern Lot Line

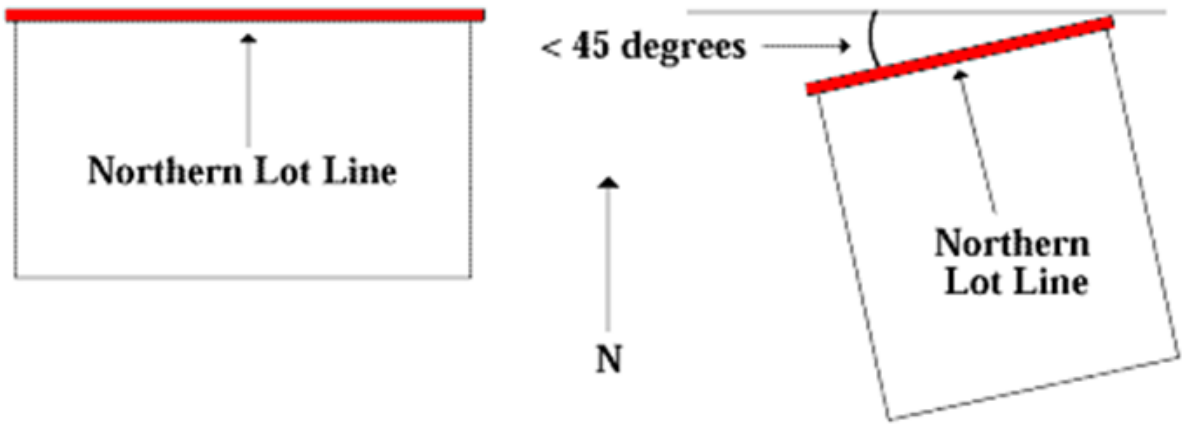


Figure 3. North-South Dimension of the Lot

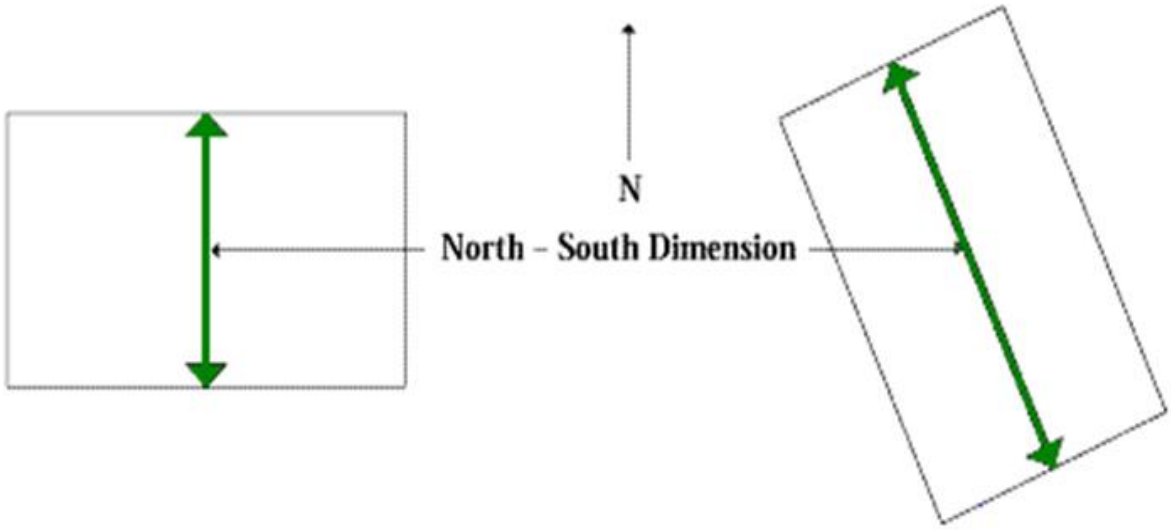


Figure 4. Height of the Shade Point of the Structure

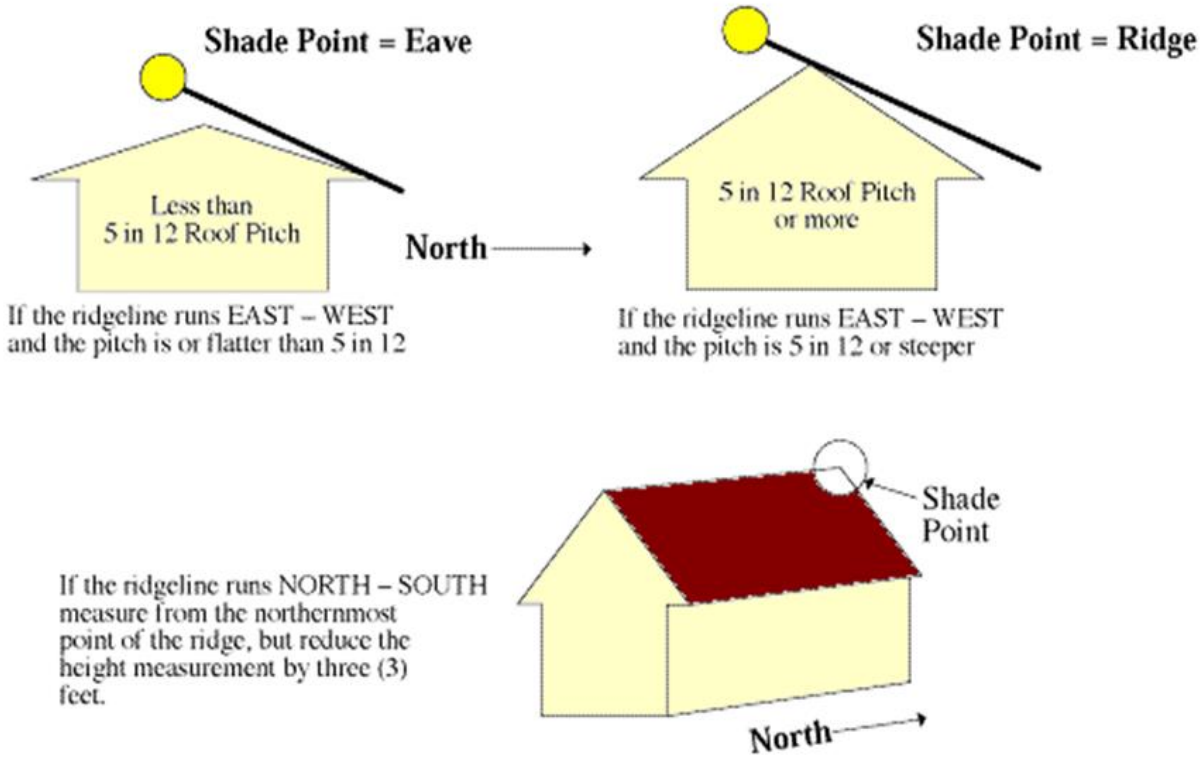


Figure 5. Shade Point Height

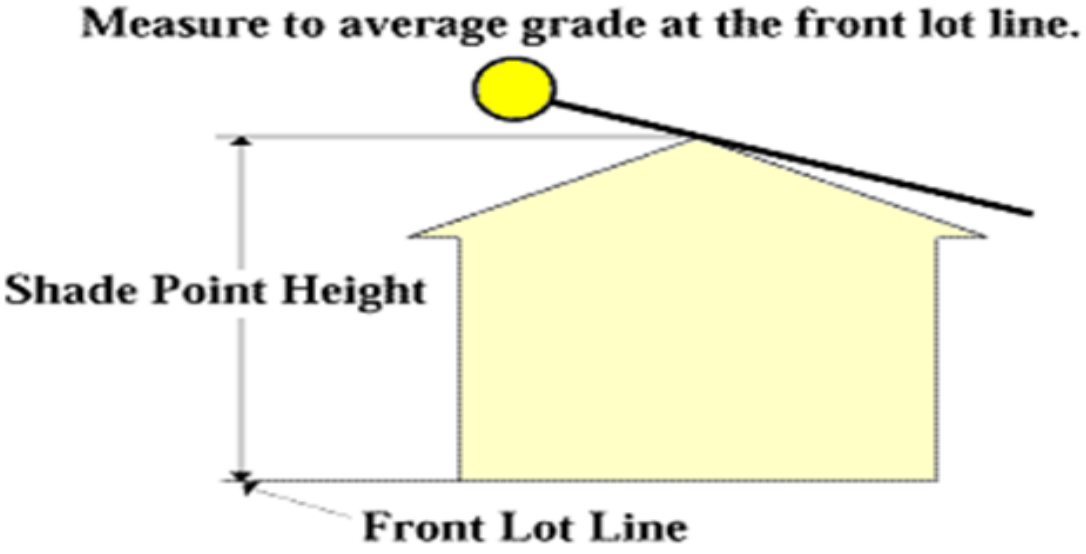


Figure 7. Solar Gain Line

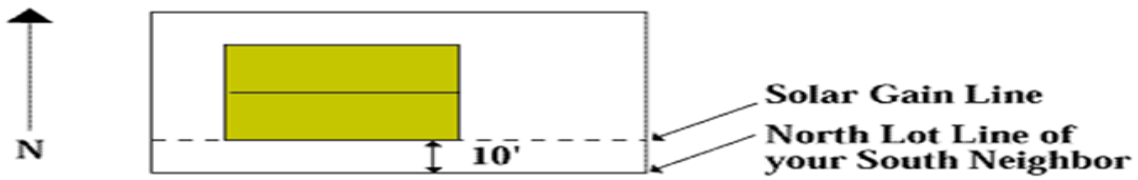


Figure 8. Solar Balance Point Standard

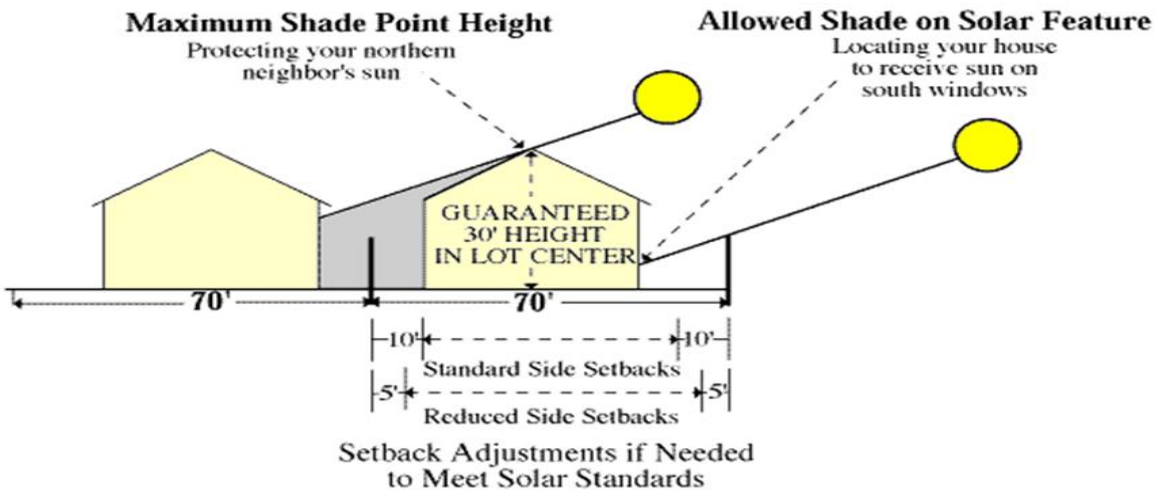


Figure 9. Solar Lot Option 1-Basic Requirements

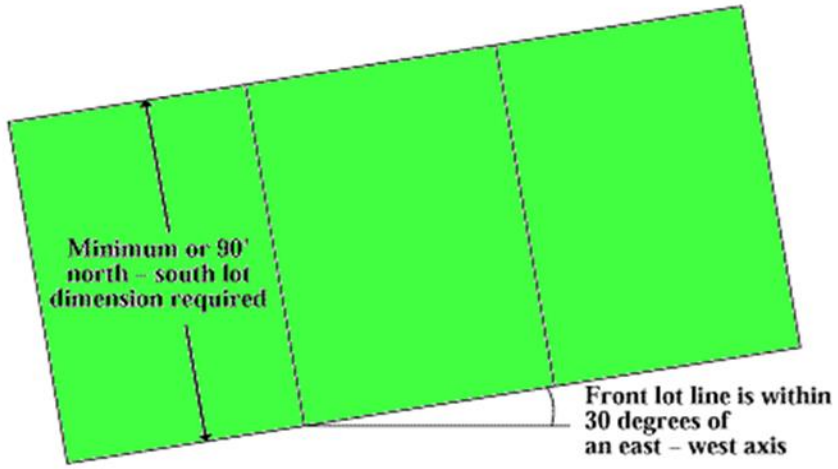


Figure 10. Solar Lot Option 2-Protected Solar Building Line

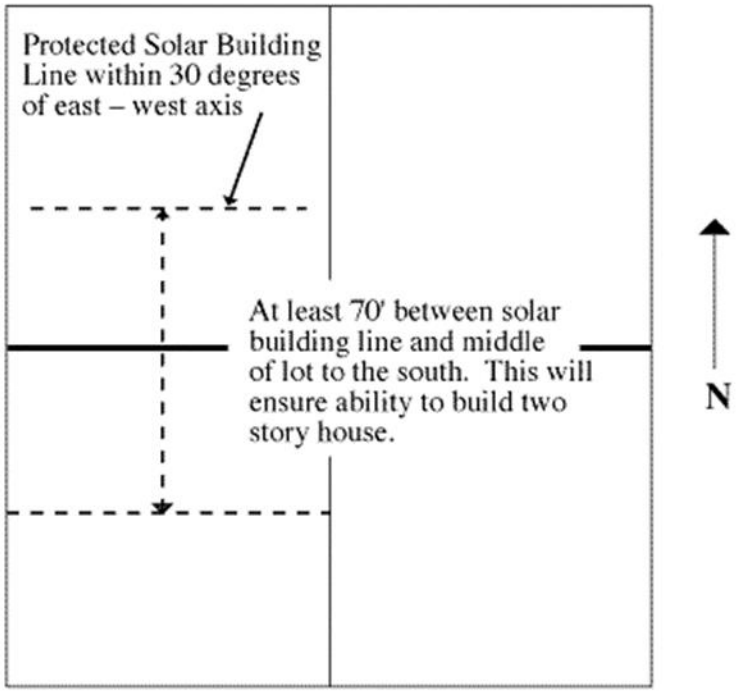


Figure 11. Solar Access Height Limit

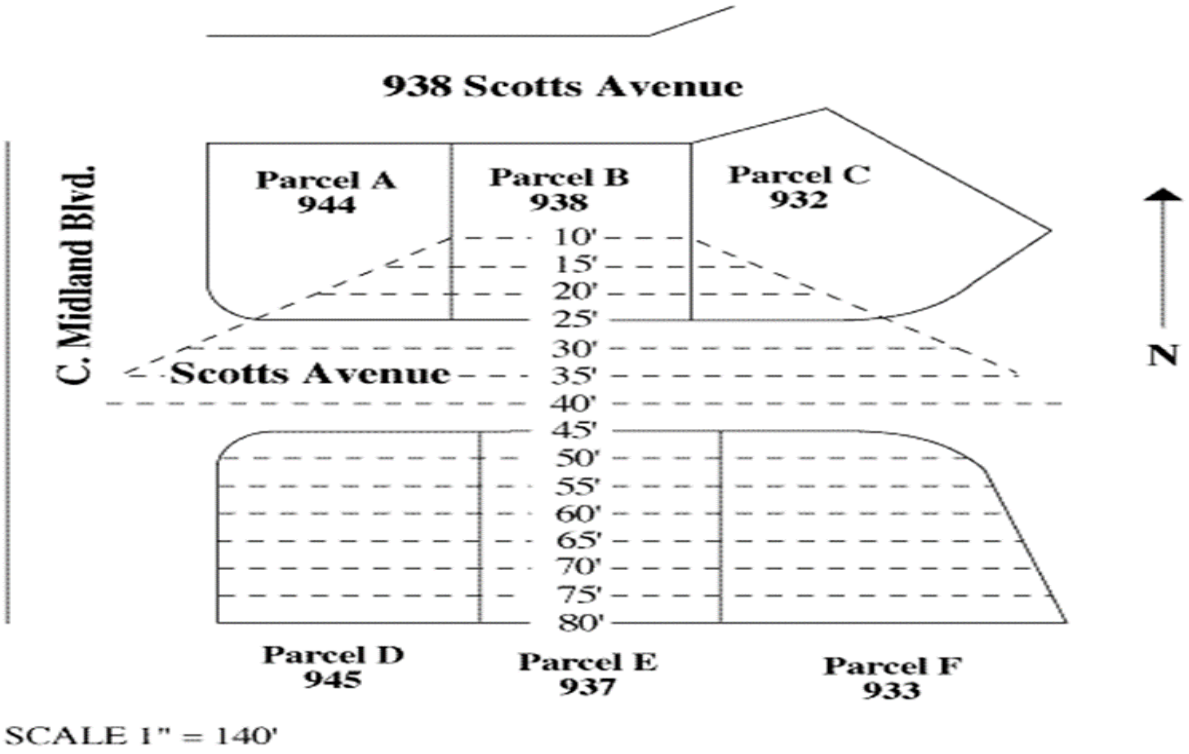
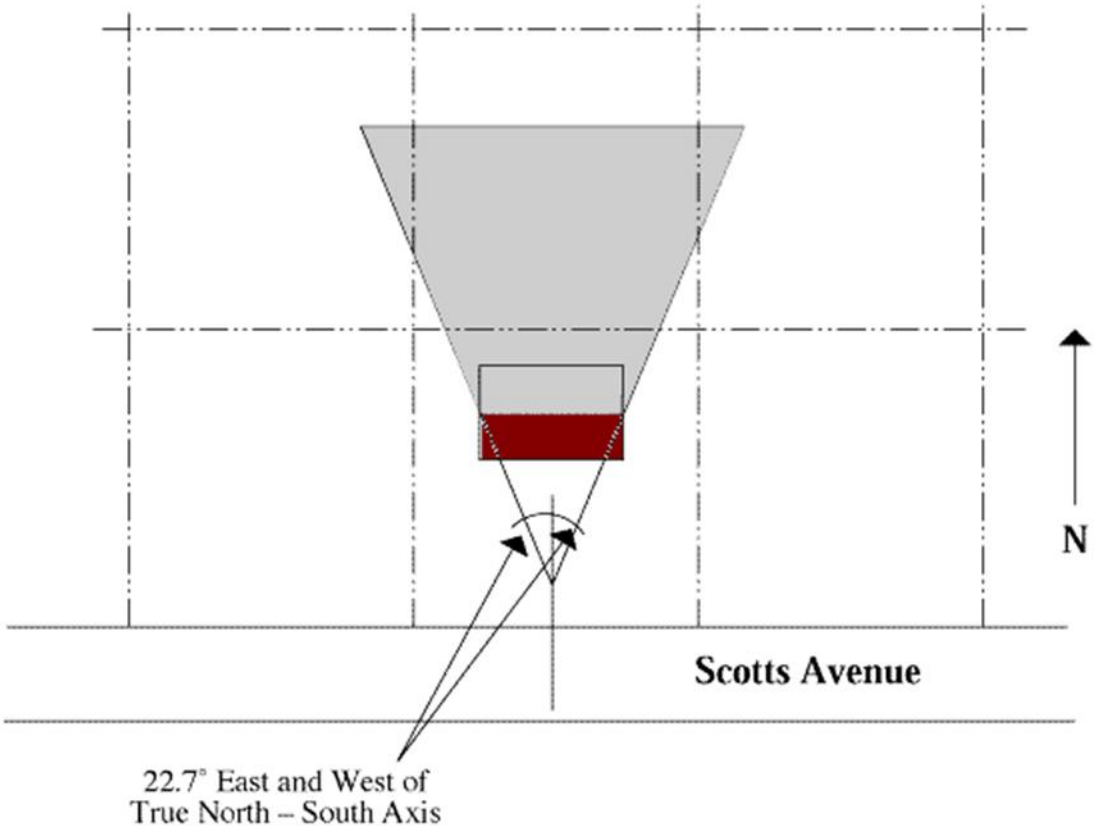


Figure 12. Shadow Pattern



4.D.5.b – URBAN LOW DENSITY RESIDENTIAL – 5 BASE ZONE (LR-5)

§ 39.4818 PURPOSE.

This base zone is defined as Urban Low Density Residential base zone with a minimum lot size of 5,000 square feet for one dwelling. For purposes of this base zone, the Urban Low Density Residential base zones General Provisions (MCC 39.4778 through 39.4786) apply.

§ 39.4819 AREA AFFECTED.

MCC 39.4819 through 39.4830 applies to those lands designated LR-5 on the Multnomah County Zoning Map.

§ 39.4820 USES.

Except as otherwise provided in this Chapter, no building, structure or land shall be used and no building or structure shall be hereafter no building, structure or land shall be used and no building or structure shall occur or be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4822 through 39.4826 provided such uses occur on a Lot of Record.

§ 39.4822 PRIMARY USES.

(A) Single family detached dwelling.

For the purposes of this Section, more than one single family detached dwelling may be located on a lot provided that all of the applicable dimensional requirements of this base zone are met for each such dwelling and its accessory uses.

(B) Public and private conservation areas and structures for the protection of water, soil, open-space, forest and wildlife resources.

(C) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

(D) 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 the effective date of this 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.

§ 39.4824 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

The uses permitted subject to prescribed conditions for each use are:

(A) Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached, provided:

(1) The height or total ground floor area of accessory buildings shall not exceed the height or ground floor area of the main building on the same lot.

(2) If attached to the main building, an accessory building shall comply with the yard requirements of this base zone.

(3) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, a one-story accessory building may be located adjacent to or on a rear and/or side lot line not abutting on a street.

(4) A detached accessory building shall occupy no more than 25 percent of a required yard.

(5) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet.

(B) Where the side of a lot abuts a commercial or industrial base zone, the following transitional uses are permitted, provided they extend not more than 100 feet into the LR-5 base zone and otherwise conform to all requirements of this Chapter which apply:

(1) A two-unit dwelling;

(2) A multiplex dwelling structure;

(3) A business or professional office or clinic;

(4) Parking, developed as required in MCC 39.6500 through 39.6600; and

(5) Other uses of a transitional nature as determined by the Planning Commission.

(C) Farming, truck gardening, orchards and nurseries, provided that no retail or wholesale business sales office shall be maintained on the premises, and no poultry or livestock, other than normal household pets, shall be kept within 100 feet of any residence other than the dwelling on the same lot. This subsection does not permit the raising of fowl or fur-bearing animals for sale, the keeping of swine, or a feed lot;

(D) Except as otherwise authorized under Subsection (B) above or Part 7 of this Chapter, the parking or storage of not more than five motor vehicles per dwelling unit. Non-operating vehicles shall not be kept so as to be visible from a street;

(E) A two-unit dwelling, in compliance with the lot size requirement of MCC 39.4830(B), and the other applicable dimensional requirements of this base zone, provided the location is:

(1) A corner lot or a corner lot and adjoining lot under MCC 39.4782(H);

(2) A flag lot;

(3) A lot having sole access from an accessway approved under MCC 39.9000 through 39.9700; or

(4) A lot having access from a public street created under MCC 39.9000 through 39.9700, when not more than four such structures having access from the same public street are located within 200 feet of each other.

(F) A mobile home on an individual lot subject to the development standards of MCC 39.8600.

(G) Home occupations, as defined in MCC 39.2000.

(H) Temporary uses under the provisions of MCC 39.8700 and 39.8750.

(I) 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.

(J) Consolidation of Parcels and Lots pursuant to MCC 39.9200.

(K) Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

§ 39.4826 CONDITIONAL USES.

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

(A) Community Service Uses under the provisions of MCC 39.7500 through 39.7810;

(B) Conditional Uses under the provisions of Part 7 of this Chapter;

(C) A multiplex dwelling structure under the provisions of Part 7 of this Chapter, subject to the following findings and conditions:

(1) The proposal satisfies the applicable Comprehensive Plan Policies

(2) Development will not increase the volume of traffic beyond the capacity of the public street serving the lot, as determined by the County Engineer; and

(3) Development will be in accordance with the locational requirements of MCC 39.4828.

(D) A mobile home park under the provisions of MCC 39.5300 through 39.5350; and

(E) Wholesale or retail sales of farm, horticultural or forest products raised or grown on the premises.

§ 39.4828 MULTIPLEX LOCATIONAL REQUIREMENTS.

(A) A multiplex dwelling structure approved under MCC 39.4826(C) may be located only on one of the following:

(1) A corner lot;

(2) A flag lot;

(3) A lot having sole access from an accessway approved under MCC 39.9000 through 39.9700; or

(4) A lot having access from a public street created under MCC 39.9000 through 39.9700, when not more than 12 multiplex dwelling units having access from the same public street are located within 250 feet of each other.

(B) Not more than six dwelling units shall be located in a multiplex dwelling structure approved under MCC 39.4826(C).

§ 39.4830 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3140(B) and 39.4782(A) and (B), the minimum lot size of a single family detached dwelling shall be 5,000 square feet.

(B) The minimum lot size for a two-unit dwelling shall be 9,000 square feet.

(C) The minimum lot size for a multiplex dwelling structure shall be 4,500 square feet for each dwelling unit.

(D) The minimum lot size for a mobile home under MCC 39.4824(F) shall be 5,000 square feet.

(E) The minimum front lot line length shall be 20 feet.

(F) The minimum lot width at the building line shall be 45 feet for an interior lot, and 50 feet for a corner lot.

(G) The maximum coverage shall be 50 percent.

(H) Minimum Yard Dimensions – Feet

Front	**Side**	**Street Side**	**Rear**
20	5	10	15

Maximum Structure Height ¬ 35 feet.

(1) In the event a front yard less than the minimum has been legally established on one or both of the adjacent lots, the minimum front yard for an interior lot may be reduced to the average of the established or required adjoining front yards.

(2) The side yard adjacent to an accessway created under MCC 39.9000 through 39.9700 may be reduced to five feet for a pre-existing structure, under the provisions of MCC 39.4782(B).

(3) The rear yard of a corner lot may be reduced to five feet, provided that the front yard is not less than 20 feet, the street side yard is not less than 10 feet, and the interior side yard is not less than 15 feet.

(4) The maximum height for a single family, duplex or multiplex dwelling on a flag lot or a lot having sole access from an accessway, private drive or easement shall be 25 feet, except that the maximum height may be 35 feet, provided:

(a) The proposed dwelling otherwise complies with the applicable dimensional requirements,

(b) A residential structure on any abutting lot either is located 50 feet or more from the nearest point of the subject dwelling, or exceeds 25 feet in height, and

(c) Windows 15 feet or more above grade shall not face dwelling unit windows or patios on any abutting lot unless the proposal includes a commitment to plant trees capable of mitigating direct views without loss of useful solar access to any dwelling unit, or that such trees exist and will be preserved.

(I) All exterior lighting shall comply with MCC 39.6850.

4.D.5.c – URBAN LOW DENSITY RESIDENTIAL – BASE ZONE (LR-7)

§ 39.4848 PURPOSE.

This base zone is defined as Urban Low Density Residential Base zone with a minimum lot size of 7,000 square feet for one dwelling. For purposes of this base zone, the Urban Low Density Residential base zones General Provisions (MCC 39.4778 through 39.4786) apply.

§ 39.4849 AREA AFFECTED.

MCC 39.4848.2602 through MCC 39.4862 applies to those lands designated LR-7 on the Multnomah County Zoning Map.

§ 39.4850 USES.

Except as otherwise provided in this Chapter, no building, structure or land shall be used and no building or structure shall be hereafter no building, structure or land shall be used and no building or structure shall occur or be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4852 through 39.4856 provided such uses occur on a Lot of Record.

§ 39.4852 PRIMARY USES.

(A) Single family detached dwelling.

For the purposes of this Section, more than one single family detached dwelling may be located on a lot provided that all of the applicable dimensional requirements of this base zone are met for each such dwelling and its accessory uses.

(B) Public and private conservation areas and structures for the protection of water, soil, open-space, forest and wildlife resources.

(C) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

(D) 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 the effective date of this 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.

§ 39.4854 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

The uses permitted subject to prescribed conditions for each use are:

(A) Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached, provided:

(1) The height or total ground floor area of accessory buildings shall not exceed the height or ground floor area of the main building on the same lot.

(2) If attached to the main building, an accessory building shall comply with the yard requirements of this base zone.

(3) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, a one-story accessory building may be located adjacent to or on a rear and/or side lot line not abutting on a street.

(4) A detached accessory building shall occupy no more than 25 percent of a required yard.

(5) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet.

(B) Where the side of a lot abuts a commercial or industrial base zone, the following transitional uses are permitted, provided they extend not more than 100 feet into the LR-7 base zone and otherwise conform to all requirements of this Chapter which apply:

(1) A two-unit dwelling;

(2) A multiplex dwelling structure, when located in other than a "Developed Neighborhood", as designated in the Community Plan;

(3) A business or professional office or clinic;

(4) Parking, developed as required in MCC 39.6500 through 39.6600; and

(5) Other uses of a transitional nature as determined by the Planning Commission.

(C) Farming, truck gardening, orchards and nurseries, provided that no retail or wholesale business sales office shall be maintained on the premises, and no poultry or livestock, other than

normal household pets, shall be kept within 100 feet of any residence other than the dwelling on the same lot. This subsection does not permit the raising of fowl or fur-bearing animals for sale, the keeping of swine, or a feed lot.

(D) Except as otherwise authorized under Subsection (B) above or Part 7 of this Chapter, the parking or storage of not more than five motor vehicles per dwelling unit. Non-operating vehicles shall not be kept so as to be visible from a street;

(E) A two-unit dwelling, provided all of the following conditions are satisfied:

(1) Located outside a "Developed Neighborhood" as designated in the Community Plan;

(2) The site is a corner lot or on a corner lot and an adjoining lot, under MCC 39.4782(H);

(3) Development is in compliance with the minimum lot size requirement of MCC 39.4862(B) and the other applicable dimensional requirements of this base zone; and

(4) Front entryways facing separate streets are provided.

(F) A two-unit dwelling, provided all of the following conditions are satisfied:

(1) Location is outside a "Developed Neighborhood" as designated in the Community Plan;

(2) The site is a flag lot or a lot having sole access from an accessway approved under MCC 39.9000 through 39.9700;

(3) Development will not increase the volume of traffic beyond the capacity of the public street serving the lot. The number of trips generated by the development shall be determined based on the average trip generation rate for the kind of development proposed as described in "Trip Generation" by the Institute of Traffic Engineers. The capacity of the street shall be determined based on the capacity described in the County Functional Classification System and Community Plan Policies No. 34 and No. 36;

(4) Development will meet the following design standards for privacy:

(a) Lights from vehicles on the site and from outdoor fixtures shall not be directed or reflected onto adjacent properties. This may be accomplished by the layout of the development or by the use of sight obscuring landscaping or fences;

(b) Windows of the dwelling units shall face away from windows in existing adjacent dwelling structures;

(c) Balconies or outdoor private spaces shall be located so there are no direct views from them to windows or private spaces of dwellings on adjacent properties;

(d) Active recreational use structures, such as permanent basketball or volleyball standards shall be located outside of required side yards;

(5) The applicant shall file a plan showing existing trees of six-inch diameter measured five feet from the base of the tree and existing shrubs and hedges exceeding a height of five feet. The proposed development shall preserve these features unless they are:

(a) Located in the buildable portion of the lot;

(b) Located so as to eliminate useful solar access;

(c) Located in the only route by which access can be had to the site using driveways ten feet wide with a minimum of five feet of buffer on either side;

(d) Diseased, damaged beyond restoration, or otherwise a danger to the public, or

(e) Replaced by an equal amount of landscaping, under a bond posted to ensure replacement;

(6) Development will be in compliance with the lot size requirement of MCC 39.4862(B) and the other applicable dimensional requirements of this base zone.

(G) A mobile home on an individual lot subject to the development standards of MCC 39.8600.

(H) Home occupations, as defined in MCC 39.2000.

(I) Temporary uses under the provisions of MCC 39.8700 and 39.8750.

(J) 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.

(K) Consolidation of Parcels and Lots pursuant to MCC 39.9200.

(L) Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

§ 39.4856 CONDITIONAL USES.

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

(A) Community Service Uses under the provisions of MCC 39.7500 through 39.7810;

(B) Conditional Uses under the provisions of Part 7 of this Chapter;

(C) A multiplex or two-unit dwelling structure, under the provisions of Part 7 of this Chapter, subject to the following findings and conditions:

(1) The site is outside a "Developed Neighborhood" as designated in the Community Plan;

(2) The proposal satisfies the applicable elements of Comprehensive Plan Policies;

(3) Development will not increase the volume of traffic beyond the capacity of the public street serving the lot, as determined by the County Engineer; and

(4) Development will be in accordance with the locational requirements of MCC 39.4858 or 39.4860, as appropriate.

(D) A mobile home park, under the provisions of MCC 39.5300 through 39.5350; and

(E) Wholesale or retail sales of farm, horticultural or forest products raised or grown on the premises.

§ 39.4858 MULTIPLEX LOCATIONAL REQUIREMENTS.

A multiplex dwelling structure approved under MCC 39.4856(C) may be located only on one of the following:

(A) A corner lot;

(B) A flag lot;

(C) A lot having sole access from an accessway approved under MCC 39.9000 through 39.9700; or

(D) A lot having access from a public street created under MCC 39.9000 through 39.9700, when not more than 12 multiplex dwelling units having access from the same public street are located within 250 feet of each other.

(E) Not more than six dwelling units shall be located in a multiplex dwelling structure approved under MCC 39.4856(C).

§ 39.4860 TWO-UNIT DWELLING LOCATIONAL REQUIREMENTS.

A two-unit dwelling structure, approved under MCC 39.4856(C) may be located only on a lot having access from a public street created under MCC 39.9000 through 39.9700, when not more than four such structures having access from the same public street are located within 200 feet of each other.

§ 39.4862 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3140(B) and 39.4782(A) and (B), the minimum lot size of a single family detached dwelling shall be 7,000 square feet.

(B) The minimum lot size for a two-unit dwelling shall be 10,000 square feet.

(C) The minimum lot size for a multiplex dwelling structure shall be 5,000 square feet for each dwelling unit.

(D) The minimum lot size for a mobile home under MCC 39.4854(G) shall be 7,000 square feet.

(E) The minimum front lot line length shall be 30 feet.

(F) The minimum lot width at the building line shall be 60 feet.

(G) The maximum coverage shall be 40 percent.

(H) Minimum Yard Dimensions – Feet

Front	**Side**	**Street Side**	**Rear**
20	5	10	15

Maximum Structure Height ¬ 35 feet.

(1) In the event a front yard less than the minimum has been legally established on one or both of the adjacent lots, the minimum front yard for an interior lot may be reduced to the average of the established or required adjoining front yards.

(2) The side yard adjacent to an accessway created under MCC 39.9000 through 39.9700 may be reduced to five feet for a pre-existing structure, under the provisions of MCC 39.4782(B).

(3) The rear yard of a corner lot may be reduced to five feet, provided that the front and side yards are not less than 20 feet.

(4) The maximum height for a single family, duplex or multiplex dwelling on a flag lot or a lot having sole access from an accessway, private drive or easement shall be 25 feet, except that the maximum height may be 35 feet, provided:

(a) The proposed dwelling otherwise complies with the applicable dimensional requirements;

(b) A residential structure on any abutting lot either is located 50 feet or more from the nearest point of the subject dwelling, or 25 feet in height, and

(c) Windows 15 feet or more above grade shall not face dwelling unit windows or patios on any abutting lot unless the proposal includes a commitment to plant trees capable of mitigating direct views without

loss of useful solar access to any dwelling unit, or that such trees exist and will be preserved.

(I) All exterior lighting shall comply with MCC 39.6850.

4.D.5.d – URBAN LOW DENSITY RESIDENTIAL – 10 BASE ZONE (LR-10)

§ 39.4868 PURPOSE.

This base zone is defined as an Urban Low Density Residential Base zone with a minimum lot size of 10,000 square feet for one dwelling. For purposes of this base zone, the Urban Low Density Residential Base zones General Provisions (MCC 39.4778 through 39.4786) apply.

§ 39.4869 AREA AFFECTED.

MCC 39.4868 through MCC 39.4878 applies to those lands designated LR-10 on the Multnomah County Zoning Map.

§ 39.4870 USES.

Except as otherwise provided in this Chapter, no building, structure or land shall be used and no building or structure shall be hereafter no building, structure or land shall be used and no building or structure shall occur or be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4872 through 39.4876 provided such uses occur on a Lot of Record.

§ 39.4872 PRIMARY USES.

(A) Single family detached dwelling.

For the purposes of this Section, more than one single family detached dwelling may be located on a lot provided that all of the applicable dimensional requirements of this base zone are met for each such dwelling and its accessory uses.

(B) Public and private conservation areas and structures for the protection of water, soil, open-space, forest and wildlife resources.

(C) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

(D) 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 the effective date of this 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.

§ 39.4874 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

The uses permitted subject to prescribed conditions for each use are:

(A) Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached, provided:

(1) The height or total ground floor area of accessory buildings shall not exceed the height or ground floor area of the main building on the same lot.

(2) If attached to the main building, an accessory building shall comply with the yard requirements of this base zone.

(3) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, a one-story accessory building may be located adjacent to or on a rear and/or side lot line not abutting on a street.

(4) A detached accessory building shall occupy no more than 25 percent of a required yard.

(5) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet.

(B) Where the side of a lot abuts a commercial or industrial base zone, the following transitional uses are permitted, provided they extend not more than 100 feet into the LR-10 base zone and otherwise conform to all requirements of this Chapter which apply:

(1) A two-unit dwelling;

(2) A business or professional office or clinic;

(3) Parking, developed as required in MCC 39.6500 through 39.6600;

(4) Other uses of a transitional nature as determined by the Planning Commission.

(C) Farming, truck gardening, orchards and nurseries, provided that no retail or wholesale business sales office shall be maintained on the premises, and no poultry or livestock, other than normal household pets, shall be kept within 100 feet of any residence other than the dwelling on the same lot. This subsection does not permit the raising of fowl or fur-bearing animals for sale, the keeping of swine, or a feed lot;

(D) Except as otherwise authorized under Subsection (B) above or Part 7 of this Chapter, the parking or storage of not more than five motor vehicles per dwelling unit. Non-operating vehicles shall not be kept so as to be visible from a street;

(E) A two-unit dwelling under the following circumstances:

(1) Located outside a "Developed Neighborhood" as designated in the Community Plan;

(2) On a corner lot or on a corner lot and an adjoining lot under MCC 39.4782(H);

(3) In compliance with the minimum lot size requirement of MCC 39.4878(B) and the other applicable dimensional requirements of this base zone; and

(4) With front entryways facing separate streets.

(F) Home occupations, as defined in MCC 39.2000.

(G) Temporary uses under the provisions of MCC 39.8700 and 39.8750.

(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) Consolidation of Parcels and Lots pursuant to MCC 39.9200.

(J) Replatting of Partition and Subdivision Plats pursuant to MCC 39.9650.

§ 39.4876 CONDITIONAL USES.

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

(A) Community Service Uses under the provisions of MCC 39.7500 through 39.7810;

(B) Conditional Uses under the provisions of Part 7 of this Chapter;

(C) Wholesale or retail sales of farm, horticultural or forest products raised or grown on the premises.

§ 39.4878 DIMENSIONAL REQUIREMENTS.

(A) Except as provided in MCC 39.3140(B) and 39.4782(A) and (B), the minimum lot size of a single family detached dwelling shall be 10,000 square feet.

(B) The minimum lot size for a two-unit dwelling shall be 12,000 square feet.

(C) The minimum front lot line length shall be 30 feet.

(D) The minimum lot width at the building line shall be 70 feet.

(E) The maximum coverage shall be 35 percent.

(F) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	10	20

Maximum Structure Height ¬ 35 feet.

(1) In the event a front yard less than the minimum has been legally established on one or both of the adjacent lots, the minimum front yard for an interior lot may be reduced to the average of the established or required adjoining front yards.

(2) The rear yard of a corner lot may be reduced to ten feet, provided that the front yard is not less than 30 feet and the side yards are not less than 20 feet.

(G) All exterior lighting shall comply with MCC 39.6850.

4.D.6 – URBAN MEDIUM DENSITY RESIDENTIAL BASE ZONES GENERAL PROVISIONS

§ 39.4900 AREA AFFECTED.

MCC 39.4900 through MCC 39.4965 shall apply to those lands designated MR-4 on the Multnomah County Zoning Map.

§ 39.4901 PURPOSES.

The purposes of the medium density residential base zone is to stabilize and improve existing residential neighborhoods; to encourage infill of available lands; to provide a choice of housing types and locations suitable for a greater range of lifestyles and economic levels of present and anticipated populations; to accommodate housing types which will relate well with existing neighborhood character and scale; to promote balanced and convenient residential areas having appropriate public improvements and services, and compatible non-residential activities which satisfy residents' needs, and contribute to area livability; to promote transit use; to promote land use patterns and building areas which take advantage of climatic conditions and means for energy efficiency; and to establish residential development standards which are consistent with the Comprehensive Plan.

§ 39.4905 ACCESS.

All lots and parcels in this base zone 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 39.3140(C).

§ 39.4910 EXCEPTIONS TO DIMENSIONAL REQUIREMENTS.

(A) When a lot has been included in a future street plan approved under MCC 39.9445 through 39.9465, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan or approved revision thereof, under MCC 39.9470.

(B) In acting to approve a land division under MCC 39.9000 through 39.9700, the approval authority may grant an exception not to exceed ten percent of the lot area or 25 percent of any other dimensional requirement upon findings of the manner in which such exception will result in any of the following:

(1) More efficient use of the site;

(2) A greater degree of privacy, safety or freedom from noise, fumes or glare;

(3) An improved solar and climatic orientation;

(4) The preservation of natural features, where appropriate; or

(5) The provision of pedestrian circulation facilities, where needed.

(C) The side yard adjacent to an accessway created under MCC 39.9000 through 39.9700 may be reduced to five feet for a pre-existing structure, under the provisions of subsection (B) above.

(D) Cornices, eaves, belt courses, sills, canopies or similar architectural features may extend or project into a required yard not more than 30 inches. Fireplace chimneys may project into a required front, side or rear yard not more than two feet, provided the width of such side yard is not reduced to less than three feet.

(E) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet, and such porches may extend into a required front yard not more than 30 inches.

(F) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification in the Multnomah County Transportation System Plan.

(G) A fence, lattice work, screen, wall or similar feature with a maximum height of six feet may be located in any required yard; provided, however, that the maximum height shall be four feet if the feature is within 16 feet of a front property line or five feet of a street side property line.

(H) Except as provided in the LF base zone, chimneys, antennae or similar structures may exceed height maximums established by ordinance, if located at least 20 feet from any property line.

(I) A two-unit or an apartment dwelling may be located with attached units or adjoining lots. In such event, the minimum lot size and yard requirements shall apply to the units on each lot, except that no yard shall be required adjacent to the common property line.

(J) The land area dedicated without compensation for the widening or the extension of a public street may be included in calculating the number of dwelling units permitted on a lot in an Urban Medium Residential Base zone.

§ 39.4915 OFF-STREET PARKING AND LOADING.

Off street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4920 SIGNS.

Signs may be permitted if approved pursuant to the provisions of MCC 39.6700 through 39.6820.

§ 39.4925 LOT SIZES FOR CONDITIONAL USES.

Except as otherwise established by this chapter, the lot site for a conditional use shall be determined at the time of approval of the use, based upon:

(A) The site size needs of the proposed use;

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

(C) Consideration of the purposes of the base zone.

§ 39.4930 SINGLE FAMILY DWELLING APPROVAL CRITERIA.

(A) In approving a single family dwelling, the Planning Director shall find that:

(1) The area of contiguous undeveloped land in one ownership is insufficient to satisfy the lot area requirements of the base zone for more than one dwelling unit; and

(2) Topographic conditions, the absence of needed public services or other factors preclude the location of a greater number of dwelling units on the property.

(B) The decision of the Planning Director may be appealed to the Hearings Officer in the manner provided in MCC 39.1160.

(C) A single family dwelling existing or for which a permit was issued prior to July 26, 1979, shall be deemed conforming and not subject to the other provisions of this subsection or of MCC 39.8310.

§ 39.4935 BUSINESS OR PROFESSIONAL OFFICE OR CLINIC APPROVAL CRITERIA.

In approving a business or professional office as a conditional use the approval authority shall find that the proposal:

(A) Will satisfy applicable Comprehensive Plan Policies;

(B) Will satisfy the development standards listed in MCC 39.4940;

(C) Will have minimal adverse impact, taking into account location, size, design and operating characteristics on the:

(1) Livability,

(2) Value, and

(3) Development of abutting properties and the surrounding area; and

(D) Will satisfy the applicable dimensional and other requirements of the base zone.

§ 39.4940 BUSINESS OR PROFESSIONAL OFFICE OR CLINIC DEVELOPMENT STANDARDS.

A business or professional office or clinic located as a transitional use or as a conditional use under the provisions of this Chapter shall comply with the other applicable requirements of this Chapter and the following:

(A) The use shall be located in a structure occupied by other permitted or authorized uses, or in a detached structure which is compatible with the character and scale of structures in the vicinity occupied by permitted uses; and

(B) Vehicular access, circulation, parking and loading shall be provided without conflict with similar facilities required for other uses on the same property.

§ 39.4955 AMBULANCE SERVICE SUBSTATION AS A USE UNDER PRESCRIBED CONDITIONS.

An ambulance service substation may be approved by the Planning Director as a Use Under Prescribed Conditions when authorized by the base zone and found to comply with the following approval criteria:

(A) The ambulance substation shall be a single family detached residence which is occupied only by those associated with a work shift of the ambulance substation, or shall be another non-residential structure;

(B) The site of the ambulance substation shall have direct vehicular access to a major collector or arterial street, as designated by the County Functional Classification of Trafficways, or shall have direct vehicular access to another improved county street from which direct access can be had to a major collector or arterial without requiring ambulance vehicles to cross in front of properties zoned for or developed with single family residences other than the residence use by the substation;

(C) The use is limited to emergency call response vehicles and attendants, and attendants' on-duty living quarters only. The use shall not include customer billing or related administrative or office functions, personnel training, nor off-duty residential use;

(D) The occupancy of the substation structure shall be limited to not more than three employees or attendants per work shift, per emergency vehicle;

(E) The use is subject to the Design Review requirements of MCC 39.8000 through 39.8050. The Preliminary Design Review Plan shall incorporate the following features:

(1) Not more than two emergency vehicles shall be parked on the site and none shall be parked on abutting streets or properties. Parking spaces for emergency vehicles and staff vehicles shall be indicated on the Preliminary Design Review Plan and marked on the site, when improved;

(2) A sight-obscuring fence at least six feet in height or vegetation of equivalent or greater effect shall screen the emergency vehicle parking area from abutting properties which are developed with or designated for residential use;

(3) Not more than one sign shall be permitted. Any such sign shall be non-illuminated, shall have a surface area on one side of not more than two square feet, and shall be located in accordance with required setbacks but in no case closer than ten feet to any property line;

(4) The landscape requirements of MCC 39.8045(C);

(5) No outdoor sound amplification systems shall be installed on the site;

(6) Exterior lighting shall not be cast or reflected onto adjoining properties developed with or designated for residential use;

(7) The access drive to the site from the abutting public street shall be located and improved in accordance with the Multnomah County Road Rules and Design and Construction Manual promulgated under Ordinance No. 162;

(8) Emergency vehicles may use sirens only when traveling on a major collector or arterial street; and

(9) Dedications for widening of and improvements to public rights-of-way abutting the site of the substation shall be made by the applicant in accordance with the Multnomah County Road Rules and the **Multnomah County Design And Construction Manual**.

§ 39.4960 DESIGN REVIEW.

Uses permitted in the Urban Medium Density Residential Base zone, except single-family or two-unit dwellings, mobile homes on individual lots and accessory buildings thereto, shall be subject to design review approval under MCC 39.8000 through 39.8050.

§ 39.4965 RESIDENTIAL DEVELOPMENT IN UNSEWERED URBAN AREAS.

(A) In the event the maximum number of lots or dwelling units allowable under the Comprehensive Plan, MCC 39.9000 through 39.9700 and the dimensional or other requirements of the base zone is not possible due to Department of Environmental Quality subsurface sewage disposal limitations, the site development plan shall designate the manner in which the additional allowable units may be located on the property when public sewer service is available.

(B) Review and action on a site development plan required by this subsection shall be taken under the applicable procedures of MCC 39.9000 through 39.9700 or the Design Review or other zoning approval provisions of this Chapter.

(C) Approval of a site development plan required by this subsection shall be supported by findings that:

(1) Septic tanks or cesspools are permitted by the County Sanitarian and the Department of Environmental Quality for three or more lots per net acre or for lots of record; and

(2) The Comprehensive Plan identifies the land as having unique topographic or other natural features which make public sewer service impractical, but which is practical for large-lot home sites.

(D) Conditions of approval under this subsection shall include connection of all units except single family residences on lots of record, to a public sewer within 80 days of availability and may include the following among other things:

(1) The clustering of lots as interim building sites; or

(2) A plan for the future re-division of lots; or

(3) The reservation and interim use of portions of the site, pending the future location of additional dwelling units; or

(4) The installation of dry sewers at the time of initial development.

(E) A decision by the Planning Director on an application under this subsection may be appealed by the applicant to the Hearings Officer in the manner provided in MCC 39.1160.

4.D.6.a – URBAN MEDIUM DENSITY RESIDENTIAL – 4 BASE ZONE (MR-4)

§ 39.4968 PURPOSE.

This base zone is defined as Urban Medium Density Residential Base zone with a density range from 7.2 to 10.9 dwelling units per acre.

For purposes of this base zone, the Urban Medium and High Density Residential Base zones General Provisions apply.

§ 39.4969 AREA AFFECTED.

MCC 39.4969 through MCC 39.4990 applies to those lands designated MR-4 on the Multnomah County Zoning Map.

§ 39.4970 USES.

Except as otherwise provided in this Chapter, no building, structure or land shall be used and no building or structure shall be hereafter no building, structure or land shall be used and no building or structure shall occur or be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4975 through 39.4985 provided such uses occur on a Lot of Record.

§ 39.4975 PRIMARY USES.

(A) A two-unit dwelling;

(B) A multiplex dwelling structure;

(C) A boarding, lodging or rooming house; and

(D) Public and private conservation areas and structures for the protection of water, soil, open-space, forest and wildlife resources.

(E) More than one dwelling structure or dwelling type may be located on a lot, provided that all of the dimensional and other requirements of this base zone are met for each such dwelling structure and type, as applicable.

(F) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

§ 39.4980 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

The uses permitted subject to prescribed conditions for each use are:

(A) Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling structure in design, whether attached or detached, provided:

(1) The height or total ground floor area of accessory buildings shall not exceed the height or total ground floor area of the main building(s) on the same lot;

(2) If attached to any main building, an accessory building shall comply with the yard requirements of this base zone;

(3) If detached and located behind the rear line of the rearmost main building, or a minimum of 50 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not abutting on a street when in compliance with the Building Code; and

(4) A detached accessory building shall occupy no more than 25 percent of the required yard area in which it is located.

(B) Where the side of a lot abuts a commercial or industrial base zone other than LC, the following transitional uses are permitted, provided they extend not more than 100 feet into the MR-4 base zone and otherwise conform to all requirements of this Chapter which apply:

(1) A business or professional office or clinic, developed as provided under MCC 39.4940;

(2) Parking, developed as required in MCC 39.6500 through 39.6600; and

(3) Other uses of a transitional nature as determined by the Planning Commission.

(C) Farming, truck gardening, orchards and nurseries, provided that no retail or wholesale business sales office shall be maintained on the premises, and no poultry or livestock, other than normal household pets, shall be kept on the lot.

(D) Except as otherwise authorized under Part 7 of this Chapter the parking or storage of not more than five motor vehicles per dwelling unit. Non-operating vehicles shall not be kept so as to be visible from a street.

(E) A single family detached dwelling, subject to the provisions of MCC 39.4930.

(F) A mobile home on an individual lot subject to the development standards of MCC 39.8600;

(G) Home occupations, as defined in MCC 39.2000.

(H) Temporary uses under the provisions of MCC 39.8700 and 39.8750.

(I) Ambulance service substations, subject to approval by the Planning Director when found to satisfy the approval criteria of MCC 39.4955.

(J) 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.

§ 39.4985 CONDITIONAL USES.

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

(A) Community Service Uses under the provisions of MCC 39.7500 through 39.7810;

(B) Conditional Uses under the provisions of Part 7 of this Chapter;

(C) A mobile home park subject to the approval criteria of MCC 39.8605 and the development standards of MCC 39.8610;

(D) A business or professional office or clinic under the procedural provisions of Part 7 of this Chapter, the approval criteria of MCC 39.4935, and the development standards of MCC 39.4940; and

(E) Wholesale or retail sales of farm, horticultural or forest products, raised or grown on the premises.

§ 39.4990 DIMENSIONAL REQUIREMENTS.

(A) Except as provided in MCC 39.3140(B) and 39.4910(A) and (B), the minimum lot size for a single family detached dwelling shall be 4,500 square feet.

(B) The minimum lot size for a two-unit dwelling shall be 8,000 square feet.

(C) The minimum lot size for a multiplex dwelling structure shall be 4,000 square feet for each dwelling unit.

(D) The minimum lot size for a boarding, lodging or rooming house shall be 9,000 square feet.

(E) The minimum lot size for a mobile home on an individual lot shall be 4,500 square feet.

(F) The minimum lot size for a mobile home park shall be 4,000 square feet for each mobile home space.

(G) The minimum front lot line length shall be 20 feet.

(H) The minimum lot width at the building line shall be 45 feet for an interior lot and 50 feet for a corner lot.

(I) The maximum lot coverage shall be 40 percent.

(J) Minimum Yard Dimensions – Feet

	Front	**Side**	**Street Side**	**Rear**
Interior Lot	20	5	N/A	15
Corner Lot	20	5	10	15

Maximum Structure Height - 35 feet.

(1) The minimum yard and other setbacks for a mobile home park shall be as required under MCC 39.9610.

(2) In the event a front yard less than the minimum has been legally established on one or both of the adjacent lots, the minimum front yard for a single family detached or two-unit dwelling on an interior lot may be reduced to the average of the established or required adjoining front yards.

(3) The rear yard of a corner lot may be reduced to five feet, provided that the front yard is not less than 20 feet, the street side yard is not less than 10 feet and the interior side yard is not less than 15 feet.

(K) In the case of an apartment structure in this base zone, a yard equal to the structure height shall be provided between the structure in this base zone and any adjacent LR base zone lot line. In acting on a final design review plan under MCC 39.8030, the Planning Director may modify or waive this requirement upon a finding that the factors listed in MCC 39.8050(C)(1) are satisfied.

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PART 5: OVERLAYS

5.A – FLOOD HAZARD OVERLAY (FH)

§ 39.5000- PURPOSES.

The purposes of the Flood Hazard Overlay, MCC 39.5000 through MCC 39.5055 (FH), are to promote the public health, safety and general welfare, to minimize public and private losses due to flood conditions in specific areas, to allow property owners within unincorporated Multnomah County to participate in the National Flood Insurance Program, and to comply with Metro Title 3 Requirements.
(Ord. 1268, Amended, 12/20/18)

§ 39.5005 DEFINITIONS.

For purposes of MCC 39.5000 through MCC 39.5055, the following terms and their derivations shall have the meanings provided below:

Alteration – To modify, change or make different.

Areas of Special Flood Hazard –The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year, and the area of inundation for the February, 1996 flood when located outside of the flood areas identified on the Flood Insurance Rate Maps within the Metro Jurisdictional Boundary. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

The Areas of Special Flood Hazard identified by the Federal Insurance Administration in the scientific and engineering report entitled "Flood Insurance Study Multnomah County Oregon and Incorporated Areas", dated February 1, 2019 with accompanying Flood Insurance Rate Maps (FIRM) identified in Table 1 below, are hereby adopted by reference for the unincorporated portions of Multnomah County. Maps produced by the Metro Data Regional Center that identify the area of inundation for the February 1996 flood are also adopted by reference. The Flood Insurance Study is on file at the Multnomah County Planning Office. The best available information for flood hazard area identification as outlined in MCC 39.5040 shall be the basis for regulation until a new FIRM is issued.

These maps may be periodically revised or modified by FEMA in accordance with prescribed procedures pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (P.L. 92-234). In order to employ the best available information and maintain compliance with Federal Flood Insurance Program regulations, Multnomah County shall adopt any such revisions or modifications. Watercourses and areas of Special Flood Hazard located within the Columbia River Gorge National Scenic Area are subject to the standards in this subpart.

TABLE 1
Flood Insurance Rate Maps
Multnomah County, Oregon

FIRM Map Panel	Effective Date of Latest Map Revision
41051C1ND0A (map index)	December 18, 2009
41051C0030H (panel 30 of 550)	December 18, 2009
41051C0035H (panel 35 of 550)	December 18, 2009
41051C0040H (panel 40 of 550)	December 18, 2009
41051C0045H (panel 45 of 550)	December 18, 2009
41051C0065H (panel 65 of 550)	December 18, 2009

41051C0100H (panel 100 of 550)	December 18, 2009
41051C0130H (panel 130 of 550)	December 18, 2009
41051C0135H (panel 135 of 550)	December 18, 2009
41051C0155H (panel 155 of 550)	December 18, 2009
41051C0180H (panel 180 of 550)	December 18, 2009
41051C0185H (panel 185 of 550)	December 18, 2009
41051C0205H (panel 205 of 550)	December 18, 2009
41051C0210J (panel 210 of 550)	February 1, 2019
41051C0211H (panel 211 of 550)	December 18, 2009
41051C0212H (panel 212 of 550)	December 18, 2009
41051C0214J (panel 214 of 550)	February 1, 2019
41051C0216J (panel 216 of 550)	February 1, 2019
41051C0217J (panel 217 of 550)	February 1, 2019
41051C0218J (panel 218 of 550)	February 1, 2019
41051C0219J (panel 219 of 550)	February 1, 2019
41051C0228J (panel 228 of 550)	February 1, 2019
41051C0238J (panel 238 of 550)	February 1, 2019

41051C0240J (panel 240 of 550)	February 1, 2019
41051C0245J (panel 245 of 550)	February 1, 2019
41051C0275H (panel 275 of 550)	December 18, 2009
41051C0300H (panel 300 of 550)	December 18, 2009
41051C0325H (panel 325 of 550)	December 18, 2009
41051C0360H (panel 360 of 550)	December 18, 2009
41051C0367H (panel 367 of 550)	December 18, 2009
41051C0401J (panel 401 of 550)	February 1, 2019
41051C0402J (panel 402 of 550)	February 1, 2019
41051C0403J (panel 403 of 550)	February 1, 2019
41051C0404J (panel 404 of 550)	February 1, 2019
41051C0406J (panel 406 of 550)	February 1, 2019
41051C0407J (panel 407 of 550)	February 1, 2019
41051C0408J (panel 408 of 550)	February 1, 2019
41051C0409J (panel 409 of 550)	February 1, 2019
41051C0426J (panel 426 of 550)	February 1, 2019

41051C0427J (panel 427 of 550)	February 1, 2019
41051C0428J (panel 428 of 550)	February 1, 2019
41051C0429H (panel 429 of 550)	December 18, 2009
41051C0435J (panel 435 of 550)	February 1, 2019

Base Flood – The flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation – The computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles.

The BFE is the regulatory requirement for the elevation or floodproofing of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium.

Basement – Any area of the building having its floor sub grade (below ground level) on all sides.

Below-Grade Crawlspace – An enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

Community – Any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Critical Facility – A facility for which even a slight chance of flooding is too great a threat. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

Design Flood Elevation – The elevation of the base flood elevation, or in areas without maps, the elevation of the 25-year storm, or the edge of mapped flood prone soils or similar methodologies.

Development – Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Digital Flood Insurance Rate Map (DFIRM) – See FIRM.

Elevated Building – For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Elevation Certificate – The document used to certify the FIRM Zone and base flood elevation of the development area of a property, and to determine the required elevation or floodproofing requirements of new and substantially improved structures.

Encroachment – To fill, construct, improve, or develop beyond the original bank line of the watercourse. Bank stabilization or restoration of a watercourse which does not protrude beyond the original banks line and does not protrude above the topography at the time the Flood Insurance Rate Map was developed is not considered an encroachment.

Flood or Flooding –

(A) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(B) The collapse or subsidence of land along the shore of a lake or other body of water as a result of **erosion** or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash **flood** or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood Hazard Boundary Map (FHBM) – An official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion area having special hazards have been designated as Zones A, M and/or E.

Flood Insurance Rate Map (FIRM) – An official map of a community, on which the Federal Insurance Administrator has delineated both the areas of the special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study – An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Floodproofing Certificate – Documentation of certification by an Oregon registered professional engineer or architect that the design and methods of construction of a non-residential building are in accordance with accepted practices for meeting the floodproofing requirements of this subpart.

Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Lowest Floor – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Flood Hazard provisions.

Manufactured Home – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle." A "manufactured home" may also be referred to as a "manufactured dwelling" per State of Oregon Manufactured Dwelling Installation Specialty Code.

New Construction – Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational Vehicle – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living

quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area – See Areas of Special Flood Hazard.

Start of Construction – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include the land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement to an existing structure, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. May also be referred to as a manufactured dwelling.

State Building Code – The combined Oregon specialty codes.

Structure – A walled and/or roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured dwelling. A building with only one wall and no roof or a building with no walls and a roof, for example, is considered a structure.

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Watercourse – A channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial. Watercourse includes a river, stream, creek, slough, ditch, canal, or drainageway.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5010 AREAS AFFECTED.

The provisions of MCC 39.5000 through 39.5055 shall apply to all areas of special flood hazard, as defined by MCC 39.5005. The provisions of MCC 39.5045 shall also apply to any relocation, encroachment or alteration of a watercourse.

Multnomah County shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards including where there appears to be a conflict between a mapped boundary and actual field conditions.

A person contesting the location of the boundary of the area of special flood hazard may apply for a Type II Administrative Decision by the Planning Director under MCC 39.1225, which can be appealed to a Hearings Officer.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5015 PERMITS.

(A) No structure, dwelling or manufactured dwelling shall be erected, located, altered, improved, repaired or enlarged and no other new development including but not limited to grading, mining, excavation and filling (see "Development" under MCC 39.5005) shall occur in areas of special flood hazard unless a Floodplain Development Permit specifically authorizing the proposal has been obtained from Multnomah County. Variances to the Flood Hazard regulations are not allowed.

(1) Improvements to a structure, dwelling or manufactured dwelling or other development, which do not meet the definition of "Development" under MCC 39.5005, are exempted from obtaining a Floodplain Development Permit.

(B) Alterations, modifications or relocations to any watercourse as defined in MCC 39.5005 are subject to a Floodplain Development permit and the Watercourse Relocation and Alteration standards of MCC 39.5045.

(C) Transportation maintenance activities may be evaluated in an annual floodplain development permit. This permit will confirm that the typical Best Management Practices used to accomplish routine transportation maintenance projects meet applicable Flood Hazard regulations. Eligible activities include routine cleaning and maintenance of ditches and culverts, replacement culverts, unanticipated emergency response activities and the permitting of new driveway culverts crossing a county maintained ditch. After the fact notification of the location and scope of all transportation maintenance activities is required.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5020 EXEMPTION FROM DEVELOPMENT STANDARDS.

The following are exempt:

(A) Land may be exempted from the requirements of MCC 39.5030 upon review and approval by the Director of an acceptable elevation certificate or survey, certified by a State of Oregon registered land surveyor, which demonstrates that the entire subject parcel is at least one foot above the base flood elevation and only after a Letter of Map Amendment (LOMA) is issued by FEMA. This exemption is only possible when flood elevation data is available. If a critical facility is proposed, the entire parcel must be at least three feet above the base flood elevation (or above the 500-year flood elevation, whichever is higher) in order to be considered exempt from the requirements of MCC 39.5030 and only after a Letter of Map Amendment (LOMA) is issued by FEMA.

(B) The reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Historic Sites Inventory may be permitted without regard to the requirements of MCC 39.5030(B) through (D).

(C) Forest practices approved under the Forest Practices Act are not regulated by this subpart. Forest practice buildings exempt from state building code per ORS Chapter 215 are subject to Flood Hazard Regulations of this subchapter in the same manner as agricultural buildings.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5025 APPLICATION INFORMATION REQUIRED.

An application for development subject to a Floodplain Development Permit shall include the following:

(A) A map showing the property line locations, the surveyed boundaries of the Areas of Special Flood Hazard on the parcel, roads, and driveways, existing structures, watercourses and the location of the proposed development(s), topographic elevations for the proposed

development and areas of grading or filling required for the project. The FIRM map and panel number shall also be provided on the map.

(B) Detailed construction drawings showing compliance with the development standards specified in MCC 39.5030. A State of Oregon registered professional engineer or architect shall stamp the plans and include a statement that the plans meet the applicable requirements of MCC 39.5030.

(C) An elevation certificate based on construction drawings which have been signed by a State of Oregon registered professional land surveyor, or a floodproofing certificate signed by a State of Oregon registered professional engineer or architect, depending on the type of development proposed. The certificate shall be accompanied by a plan of the property which shows the location and elevation of a benchmark on the property.

(D) A written narrative specifying building materials and methods that will be utilized to comply with the requirements of the floodplain development permit and this subpart.

(E) Evidence that the applicant has obtained, when necessary, prior approval from those Federal, State and/or local governmental agencies with jurisdiction over the proposed development.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5030 DEVELOPMENT STANDARDS.

The following development standards shall apply within all portions of unincorporated Multnomah County to all new construction, substantial improvement or other development in areas of special flood hazard, as defined in MCC 39.5005:

(A) This section applies to all development within areas of special flood hazard in unincorporated Multnomah County as defined in MCC 39.5005.

(1) Development, excavation and fill shall be performed in a manner that maintains or increases flood storage and conveyance capacity and does not increase the design flood elevation.

(2) All fill placed at or below the design flood elevation in areas of special flood hazard shall be balanced with at least an equal amount of soil material removal.

(3) Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.

(4) Temporary fills permitted during construction shall be removed and not be allowed in the floodway during the wet weather season.

(5) Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality shall be prohibited in areas of special flood hazard.

(B) This section applies to all structures within areas of special flood hazard in unincorporated Multnomah County as defined in MCC 39.5005.

(1) All new construction and substantial improvement shall:

(a) Comply with Oregon State Building Codes.

(b) Have the electrical, heating, ventilation, duct systems, plumbing, and air conditioning equipment and other service facilities located a minimum of one foot above the base flood elevation to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Use materials and utility equipment resistant to flood damage.

(d) Use methods and practices that minimize flood damage.

(e) For areas that are fully enclosed below the lowest floor and that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. (This requirement is not applicable for floodproofed nonresidential structures).

1. Designs for meeting this requirement must be certified by a State of Oregon registered professional engineer or architect and must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above the lowest adjacent exterior grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters and the covering device does not reduce the minimum required total net area of the opening.

(2) Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures. Positive drainage away from a structure's foundation shall also be provided to avoid ponding of water adjacent to the foundation after floodwaters recede.

(3) Below-grade crawlspace construction (see figure 2 below).

In addition to meeting the previous development standards for all structures, all below-grade crawlspaces shall meet the following standards. Below-grade crawlspace construction in accordance with the requirements listed below will not be considered a basement.

Figures 1 and 2.

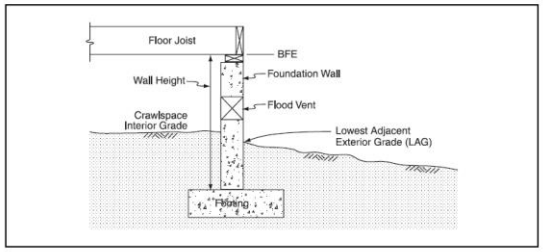


Figure 1 Preferred crawlspace construction.

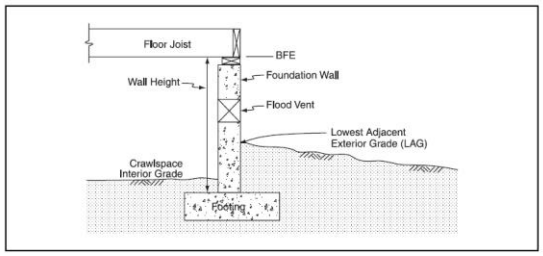


Figure 2 Below-grade crawlspace construction.

(a) The interior grade of a crawlspace below the base flood elevation shall not be more than two-feet below the lowest adjacent exterior grade.

(b) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point.

(c) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. Drainage examples include natural drainage through porous well drained soils, perforated pipes, drainage tiles, or

gravel/crushed stone drainage by gravity or mechanical means.

(d) The velocity of floodwaters shall not exceed five-feet per second for any proposed below grade crawlspace location. The Multnomah County Flood Insurance Study contains Floodway Data Tables presenting information on mean floodway velocities at each cross section along the river or stream. Other types of foundations, such as open pile or column foundations, that allow floodwaters to flow freely beneath the building, are recommended for areas exceeding five-feet per second flood velocities.

(e) The below-grade crawlspace area should be designed so that it is easily accessible for physical post-flood clean-up and ventilation. The land owner must record a notice acknowledging below-grade crawlspace construction is not recommended by the Federal Emergency Management Agency and that this type of construction can increase flood insurance premiums for homeowners.

(4) When applicable, the horizontal line of the base flood elevation shall be surveyed and clearly marked and labeled, by a State of Oregon registered professional land surveyor, on an inside wall of any structure or inside foundation wall when a crawlspace is proposed to provide a visual reference for the building inspector. This reference line is not intended to be permanent and can be removed, covered or painted over at the conclusion of all building inspections. This marking is not applicable when the entire structure, including above grade foundation walls, will be elevated above the base flood elevation.

(C) Residential Structures.

New construction and substantial improvement of any residential structure, including manufactured dwellings not considered a critical facility, shall:

(1) Have the lowest floor, including basement, elevated to at least one foot above the base flood elevation. All manufactured dwellings to be placed or substantially improved shall be elevated on a permanent foundation such that the finished floor of the manufactured dwelling is elevated to a minimum of 18 inches above the base flood elevation. The bottom of the lowest chassis frame beam for all manufactured dwellings subject to this provision shall be at least 12 inches above the base flood elevation. Floating dwellings do not need to be elevated but must be able to rise with flood waters to the design flood elevation required by this subsection. This will require consideration of the piling heights. The lowest floor, including basement, shall be elevated to at least two feet above the highest adjacent grade where flood elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative federal, state or other source. Where flood elevation data is not available, a State of Oregon registered professional engineer or architect shall also verify that the proposed construction will be reasonably safe from flooding.

(2) A garage attached to a residential structure can be constructed with the garage floor slab below the base flood elevation but must be designed to allow for the automatic entry of flood waters. Openings must meet the requirements of MCC 39.5030(B) and are required in two different exterior walls of the garage (two different walls or one wall and one garage door).

(a) In addition to allowing the automatic entry of flood waters, the areas of the garage below the base flood elevation must be constructed with flood resistant materials. Garage doors without openings specifically designed to allow for the free flow of floodwaters do not meet these opening requirements. Gaps that may be present between the door segments and between the garage door and the garage door jam do not guarantee the automatic entry and exist of floodwaters. The human intervention necessary to open garage doors is not an acceptable means of meeting the opening requirements.

(3) Be placed on a permanent foundation and shall be anchored to prevent flotation, collapse and lateral movement by providing tie downs (anchor bolts, seismic tie-downs) and anchoring as specified in OAR 814-23-005 through 080 and State of Oregon 1 and 2 Family Dwelling Specialty Code, as appropriate to the construction type.

(4) Have structural components capable of withstanding hydrostatic and hydrodynamic loads, effects of buoyancy, flood depths, pressures, velocities and other factors associated with the base flood.

(5) Conduct a finished construction elevation survey of the lowest floor. This survey shall be completed by a State of Oregon registered land surveyor and must certify that the structure's lowest floor was elevated to at least one foot above the base flood elevation. The lowest floor, including basement, shall be elevated to at least two feet above the highest adjacent grade where flood elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative federal, state or other source. Where flood elevation data is not available, a State of Oregon registered professional engineer or architect shall also verify that the proposed construction will be reasonably safe from flooding.

(a) The finished construction elevation certificate and stamped documentation certifying that the structure has been built in compliance with the applicable provisions of MCC 39.5030 shall be submitted to Multnomah County Land Use Planning prior to occupancy of the structure.

(b) Prior to issuance of a building permit or start of development, a performance bond or cash deposit of $1000.00 shall be required to assure that the finished construction elevation certificate is submitted. The deposit/bond may be used to obtain the elevation certificate, without notice, if it is not completed and submitted prior to occupancy of the dwelling. The performance bond or cash deposit shall be released upon submittal of the finished construction elevation certificate, unless utilized to obtain compliance.

(D) Nonresidential Structures.

New construction and substantial improvement of any commercial, industrial or other non-residential structure, including a detached garage, shall meet (1) or (2) and (3):

(1) Have the lowest floor including basement, elevated at least one foot above the base flood elevation and be anchored to prevent flotation, collapse, or lateral movement of the structure. Floating nonresidential structures do not need to be elevated but must be able to rise with flood waters to the design flood elevation required by this subsection. This will require consideration of the piling heights. The lowest floor, including basement, shall be elevated to at least two feet above the

highest adjacent grade where flood elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative federal, state or other source. Where flood elevation data is not available, a State of Oregon registered professional engineer or architect shall also verify that the proposed construction will be reasonably safe from flooding;

or, together with attendant utility and sanitary facilities, shall:

(2) Be floodproofed such that the structure, including the attendant utility and sanitary facilities, shall be substantially impermeable to the passage of water to an elevation at least one foot above the base flood elevation; and

(a) Have structural components capable of withstanding hydrostatic and hydrodynamic loads, effects of buoyancy, flood depths, pressures, velocities and other factors associated with the base flood; and

(b) Be certified by a State of Oregon registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans.

(3) The applicant shall provide either a finished construction elevation certificate prepared by a State of Oregon land surveyor for an elevated non-residential structure or a floodproofing certificate prepared by a State of Oregon registered professional engineer or architect for a non-elevated, non-residential structure.

(a) The finished construction elevation certificate/floodproofing certificate and stamped documentation certifying the structure has been built in compliance with the applicable provisions of MCC 39.5030 shall be submitted to Multnomah County Land Use Planning prior to occupancy of the structure.

(b) Prior to issuance of a building permit or start of development, a performance bond or cash deposit of $1000.00 shall be required to assure that the finished construction elevation certificate and stamped documentation is submitted. The bond/deposit may be used to obtain the elevation certificate or documentation, without notice, if it is not completed and submitted prior to occupancy or use of the structure or development. The performance bond or cash deposit shall be released upon submittal of the finished construction elevation certificate or stamped documentation, unless utilized to obtain compliance.

(E) On Site Waste Disposal Systems, Wells, Water Systems and Sewer Systems.

All new and replacement water and sewer systems, including wells and on-site waste disposal systems, shall be designed to:

(1) Minimize infiltration of floodwaters into the system;

(2) Minimize discharge from systems into floodwaters;

(3) Avoid impairment or contamination during flooding.

(F) Recreational Vehicles

Recreational vehicles utilized on a site within Zones A1-A30, AH and AE on the community's FIRM shall either:

(1) Be on the site for fewer than 180 consecutive days, and

(2) Be fully licensed and ready for highway uses, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) Meet the requirements of MCC 39.5030(B) and (C).

(G) Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the areas of special flood hazard. Construction of new critical facilities shall be permissible within the special flood hazard area if:

(1) No feasible alternative is available,

(2) The lowest floor is elevated three feet above the base flood elevation, or to the elevation of the 500-year flood, whichever is higher,

(3) At least one access route to the critical facility shall be either located or elevated at or above the flood elevation referenced above to assure the route will remain passable during flood events.

(4) Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced or released into floodwaters,

(5) The construction meets the requirements of MCC 39.5030(D) except the lowest floor elevation shall meet (G)(2) above.

(H) Land Division Proposals

County review of proposed land divisions is subject to separate criteria in the Multnomah County Land Division Ordinance which are designed to minimize flood damage.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5035 FLOODWAY REQUIREMENTS.

In areas identified as a floodway on a Flood Insurance Rate Map (FIRM), the following restrictions, in addition to the requirements of MCC 39.5030, shall apply:

(A) No development shall be permitted that would result in any measurable increase in base flood levels.

(1) Encroachment into the floodway, including fill, new construction, substantial improvements and other development, is prohibited, unless a detailed step backwater analysis and conveyance compensation calculations, certified by a State of Oregon registered professional engineer, are provided which demonstrates that the proposed encroachment will cause no measurable increase in flood levels (water surface elevations) during a base flood discharge.

(2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with MCC 39.5030.

(B) In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM, unless:

(1) It is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community as identified in the Flood Insurance Study (Multnomah County, Oregon and Incorporated Areas), and

(2) The applicable requirements of MCC 39.5030 are met.

(C) New manufactured dwellings are prohibited in the floodway. An existing, lawfully established manufactured dwelling located in the floodway may be replaced with either a manufactured dwelling, or a dwelling of traditional construction.

(D) A proposed accessory structure in the floodway shall have the finished floor elevated a minimum of 18-inches above the base flood elevation.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5040 PROCEDURE WHEN BASE FLOOD ELEVATION DATA IS NOT AVAILABLE.

(A) For the purposes of administering MCC 39.5030 in areas where detailed base flood elevation data has not been provided by FEMA, the Land Use Planning Division shall obtain, review and utilize any base flood elevation and floodway data available from federal, state or local sources to assure that the proposed construction will be reasonably safe from flooding and may exercise local judgment based on historical data. The property owner shall be responsible for determining the base flood elevation and floodway data as relevant, in the case where such information is not available from any listed sources.

(B) In areas where detailed base flood elevation data has not been provided by FEMA, all proposals for subdivisions or other new developments greater than 50 lots or five acres, whichever is less, shall provide detailed base flood elevation data and floodway data.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5045 WATERCOURSE RELOCATION AND ALTERATION.

(A) No relocation, encroachment or alteration of a watercourse shall be permitted unless a detailed hydraulic analysis, certified by a State of Oregon Registered Professional Engineer, is provided which demonstrates that:

(1) The flood carrying capacity for the altered or relocated portion of the watercourse will be maintained;

(2) The area subject to inundation by the base flood discharge will not be increased;

(3) The alteration or relocation will cause no measurable increase in base flood levels.

(B) Prior to approving any relocation, encroachment or alteration of a watercourse, the Land Use Planning Division shall provide mailed notice of the proposal to adjoining communities and to the Department of Land Conservation and Development Floodplain Coordinator. Copies of such notice shall also be provided to the Federal Insurance Administration.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5050 COUNTY RECORDS.

(A) Multnomah County or its designee shall obtain and maintain on file the final construction elevation (in relation to the National Geodetic Vertical Datum (NGVD) 1929 or NAVD 1988) of the lowest floor, including basement, of all new or substantially improved structures in areas subject to the provisions of this Section.

(B) For all new or substantially improved floodproofed structures in areas subject to the provisions of this Section, Multnomah County shall obtain and maintain on file the actual elevation (in relation to NGVD 1929 or NAVD 1988) to which the structure was floodproofed and shall also maintain the floodproofing certifications required pursuant to MCC 39.5030.

(C) Multnomah County shall notify FEMA within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when, development altered a watercourse, modified floodplain boundaries, or modified base flood elevations. This notification shall be provided as a Letter of Map Revision (LOMR).

(D) The property owner shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.

(E) Multnomah County shall be under no obligation to sign the Community Acknowledgement Form, which is part of the

CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.
(Ord. 1268, Amended, 12/20/2018)

§ 39.5055 REVIEW AND APPROVAL FEE.

A fee for a floodplain review is imposed and the amount will be set by Board resolution.
(Ord. 1268, Amended, 12/20/2018)

5.B – GEOLOGIC HAZARDS (GH)

§ 39.5070- PURPOSES.

The purpose of this Subpart 5.B is to regulate ground disturbing activity within the Geologic Hazards Overlay in order to promote public health, safety and general welfare and to minimize the following risks potentially arising from ground disturbing activity or the establishment or replacement of impervious surfaces: public and private costs, expenses and losses; environmental harm; and human-caused erosion, sedimentation or landslides.
(Ord. 1271, Amended, 03/14/2019)

§ 39.5073 DEFINITIONS.

As used in this Subpart 5.B, unless the context requires otherwise, the following terms and their derivations shall have the meanings provided below:

Best Management Practices - Methods that have been determined to be the most effective, practical means of preventing or reducing erosion, sedimentation or landslides including but not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover and jute netting.

Development – In addition to the definition of development in MCC 39.2000, for purposes of this overlay, "development" also means, any human-made change defined as buildings or other structures, mining, paving, or ground disturbing activities in amounts greater than ten (10) cubic yards on any lot and any 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.

Geologic Hazards Overlay Map – A series of maps adopted by the Multnomah County Board of Commissioners.

Geotechnical Report – Any information required in addition to GHP 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.

GHP Form– 1 – The form required for specified developments subject to the Geologic Hazards Overlay. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a certified engineering geologist or geotechnical engineer.

Ordinary High Watermark – 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 watermark shall be measured to include the entire stream feature.

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

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 water bodies 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.

Stream Protection – Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

Topographic Information – Surveyed elevation information which details slopes, contour intervals and water bodies. Topographic information shall be prepared by a registered Land Surveyor or a registered Professional Engineer qualified to provide such information and represented on maps with a contour interval not to exceed 10 feet.

Vegetation – All plant growth, especially trees, shrubs, grasses and mosses.

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.

(Ord. 1271, Amended, 03/14/2019)

§ 39.5075 PERMIT REQUIRED.

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur: (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

(Ord. 1271, Amended, 03/14/2019)

§ 39.5080 EXEMPTIONS.

Ground disturbing activity occurring in association with the following uses is exempt from GH permit requirements:

(A) 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 depth greater than four feet.

(B) Cemetery graves, but not cemetery soil disposal sites.

(C) Excavations for wells, except that sites in the Tualatin River drainage basin shall comply with OAR 340-041-0345(4) for spoils or exposed areas.

(D) Mineral extraction activities as regulated by MCC 39.7300 through 39.7330, except that sites in the Tualatin River drainage basin shall comply with OAR 340-041-0345(4) for spoils or exposed areas.

(E) Exploratory excavations under the direction of a Certified Engineering Geologist or Geotechnical Engineer.

(F) Farming practices other than filling or the placement of structures.

(G) Residential gardening disturbing less than 5,000 square feet of ground surface area and landscape maintenance disturbing less than 10,000 square feet of ground surface area when either activity is at least 100 feet from the top of the bank of any watercourse located at a lower elevation to and in the

surface drainage path of the ground disturbing activity. Landscape maintenance includes normal planting, transplanting, and replacement of trees and vegetation. Landscape maintenance does not include preparatory ground disturbing activity for a development project.

(H) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.

(I) Forest practices.

(J) Ground disturbing activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act.

(K) Decommissioning or replacing an underground storage tank(s), such as a septic, oil, or other similar tank(s), but not including a sanitary drainfield, provided that:

(1) Any contaminated excavated material is handled in accordance with law, whether through treatment, being transported to and deposited at an off-site facility certified and willing to accept the material, or other direction from the Oregon Department of Environmental Quality, and

(2) Any replacement tank(s) is placed in the same location as the tank(s) being replaced.

(L) Placement and replacement of mailbox posts, fence posts, sign posts, utility posts or poles, and similar support structures, but not including any post or pole that provides structural support to a building requiring a structural building permit.

(M) Boring for utilities in a public road right-of-way, provided such activity does not occur within 100-feet of a water body and is completed within 48-hours of commencement. Completion includes final compaction of earthen materials within any trench and removal and lawful disposal or deposit of any excess excavation or fill material from the site of the activity.

(N) Uses not identified in subsections (A) through (M) that meet all of the following requirements:

(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 50 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; and,

(7) The use will occur outside the Tualatin River and Balch Creek drainage basins.

(O) Placement of gravel or asphalt for the maintenance of existing driveways, roads and other travel surfaces.
(Ord. 1271, Amended, 03/14/2019)

§ 39.5085 GEOLOGIC HAZARDS PERMIT APPLICATION INFORMATION REQUIRED.

An application for a Geologic Hazards Permit shall include two copies of each of the following:

(A) A scaled site plan showing the following both existing and proposed:

(1) Property lines;

(2) Building structures, driveways, roads and right of way boundaries;

(3) Location of wells, utility lines, site drainage measures, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(4) Trees and vegetation proposed for removal and planting and an outline of wooded areas;

(5) Water bodies;

(6) Boundaries of ground disturbing activities;

(7) Location and height of unsupported finished slopes;

(8) Location for wash out and cleanup of concrete equipment;

(9) Storage location and proposed handling and disposal methods for potential sources of non-erosion pollution including pesticides, fertilizers, petrochemicals, solid waste, construction chemicals, and wastewaters;

(10) Soil types;

(11) Ground topography contours (contour intervals no greater than 10-feet); and

(12) Erosion and sediment control measures.

(B) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut (cubic yards) and fill (cubic yards), total volume of fill that has been deposited on the site over the 20-year period preceding the date of application, and existing and proposed slopes in areas to be disturbed (percent slope). For purposes of this subsection, the term "site" shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

(C) Written findings, together with any supplemental plans, maps, reports or other information necessary to demonstrate compliance of the proposal with all applicable provisions of the Geologic Hazards standards in MCC 39.5090. Necessary reports, certifications, or plans may pertain to: engineering, soil characteristics, stormwater drainage control, stream protection, erosion and sediment control, and replanting. The written findings and supplemental information shall include:

(1) With respect to fill:

(a) Description of fill materials, compaction methods, and density specifications (with calculations). The planning director may require additional studies or information or work regarding fill materials and compaction.

(b) Statement of the total daily number of fill haul truck trips, travel timing, loaded haul truck weight, and haul truck travel route(s) to be used from any fill source(s) to the fill deposit site.

(2) A description of the use that the ground disturbing activity will support or help facilitate.

(3) One of the following:

(a) Additional topographic information showing the proposed development to be on land with average slopes less than 25 percent,

and located more than 200 feet from a 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

(b) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,

(c) A GHP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with their stamp and signature affixed indicating that the site is suitable for the proposed development.

(i) If the GHP Form– 1 indicates a need for further investigation, or if the director requires further study based upon information contained in the GHP Form– 1, a geotechnical report as specified by the director shall be prepared and submitted.

[a] A geotechnical investigation in preparation of a geotechnical report 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 landslide hazards.

[b] 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.

[c] 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.

[d] The director, at the applicant's expense, may require an evaluation of GHP Form– 1 or the geotechnical report by another Certified Engineering Geologist or Geotechnical Engineer.

(4) Documentation of approval by each governing agency having authority over the matter of any new stormwater discharges into public right-of-way.

(5) Documentation of approval by the City of Portland Sanitarian and any other agency having authority over the matter of any new stormwater surcharges to sanitary drainfields.

(Ord. 1271, Amended, 03/14/2019)

§ 39.5090 GEOLOGIC HAZARDS PERMIT STANDARDS.

A Geologic Hazards (GH) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(A) The total cumulative deposit of fill on the site for the 20-year period preceding the date of the application for the GH permit, and including the fill proposed in the GH permit application, shall not exceed 5,000 cubic yards. For purposes of this provision, the term "site"

shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

(B) Fill shall be composed of earth materials only.

(C) Cut and fill slopes shall not exceed 33 percent grade (3 Horizontal: 1 Vertical) unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that a grade in excess of 33 percent is safe (including, but not limited to, not endangering or disturbing adjoining property) and suitable for the proposed development.

(D) Unsupported finished cuts and fills greater than 1 foot in height and less than or equal to 4 feet in height at any point shall meet a setback from any property line of a distance at least twice the height of the cut or fill, unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that the cuts or fills will not endanger or disturb adjoining property. All unsupported finished cuts and fills greater than 4 feet in height at any point shall require a Certified Engineering Geologist or Geotechnical Engineer to certify in writing that the cuts or fills will not endanger or disturb adjoining property.

(E) Fills shall not encroach on any water body unless an Oregon licensed Professional Engineer certifies in writing that the altered portion of the waterbody will continue to provide equal or greater flood carrying capacity for a storm of 10-year design frequency.

(F) Fill generated by dredging may be deposited on Sauvie Island only to assist in flood control or to improve a farm's soils or productivity, except that it may not be deposited in any SEC overlay, WRG overlay, or designated wetland.

(G) On sites within the Tualatin River drainage basin, erosion, sediment and stormwater drainage control measures shall satisfy the requirements of OAR 340-041-0345(4) and shall be designed to perform as prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. Ground-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340-041-0345(4) is approved for alterations within the buffer area.

(H) Stripping of vegetation, ground disturbing activities, 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.

(I) 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.

(J) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

(K) 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 subsection (K)(1) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment, and stormwater control measures designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River drainage basin in OAR 340-041-0345(4).

(L) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical.

(M) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary.

(N) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized.

(O) 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.

(P) All drainage measures shall be designed to prevent erosion and adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural water bodies, drainage swales, or an approved drywell system.

(Q) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion.

(R) Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system. Control 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.

(S) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into water bodies by applying mulch or other protective covering; or by location at a sufficient distance from water bodies; or by other sediment reduction measures;

(T) 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.

(U) On sites within the Balch Creek drainage basin, erosion, sediment, and stormwater control measures shall be designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. All ground disturbing activity within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.

(V) Ground disturbing activities within a water body shall use instream best management practices designed to perform as prescribed in the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual.

(W)The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes, unless mitigated as approved by the County Transportation Division.

(X) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way.

(Y) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.
(Ord. 1271, Amended, 03/14/2019)

5.C – HERITAGE AND HISTORIC PRESERVATION

5.C.1 – HISTORIC PRESERVATION (HP)

§ 39.5100- PURPOSES.

The purposes of the Heritage Preservation Overlay, MCC 39.5100 through MCC 39.5170 (HP), 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.

§ 39.5105 AREA AFFECTED.

The HP applies to land designated HP (HP-l, HP-2, HP-3, etc.)on the Multnomah County Zoning Map.

§ 39.5110 STANDARDS TO ESTABLISH AN HP OVERLAY.

(A) An amendment establishing an HP overlay shall include the following:

(l) The designation of the overlay as HP-l, HP-2, HP-3, etc., in the text and on the appropriate Sectional Zoning Map;

(2) A statement of the purposes of the overlay;

(3) Definitions of terms, as appropriate;

(4) A statement of the findings and policies on which the overlay is based, including reference to the related Community Plan or Comprehensive Plan provision which the overlay is designed to implement, or to the special problems or circumstances which the overlay is designed to address;

(5) A description of the relationships between the provisions of the HP overlay and those of the base zone;

(6) A listing of the HP overlay 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 overlay provisions;

(8) Any development standards, dimensional requirements, or special provisions for authorized uses in the overlay;

(9) A description of the nature of and approval procedures for any exceptions from overlay requirements;

(10) A statement of the methods of appeal from a decision made under the provisions of the overlay; and

(11) Any other provision deemed appropriate to the purposes of the HP overlay.

(B) The approval authority shall consider the report and recommendation thereon prepared by the Multnomah County Historical Sites Advisory Committee or the Oregon State Historic Preservation Office if no County Committee is active.

(l) The Planning Director shall notify the Chair and the Secretary of the Historic Sites Advisory Committee or, if no County Committee is active, the Oregon State Historic Preservation Office by First Class Mail of a proposal for establishment or designation of an HP overlay 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 overlay or designation shall be deemed to be recommended for approval.

5.C.2 – HISTORIC PRESERVATION DISTRICT (HP-1)

§ 39.5150- PURPOSES.

In addition to the purposes set forth in MCC 39.5100, the purposes of the HP-l Overlay, MCC 39.5105, MCC 39.510, and MCC 39.5150 through MCC 39.5170 (HP-1), are to provide for the preservation and protection of buildings which satisfy the Historical Site Criteria in the Comprehensive Plan and to permit authorization of adaptive uses not otherwise permitted where found to be beneficial to the purposes of heritage preservation.

§ 39.5160 USES.

(A) The following uses are permitted uses in the HP-l:

(l) A use existing or for which a valid building or land use permit was in effect on the effective date of the HP-l classification; and

(2) Any use listed as an Allowed Use in the base zone.

(B) A use listed as Review Use in the base zone may be permitted when found to satisfy the approval criteria given in such zone and those given in MCC 39.5165.

(C) In the EFU and CFU Zones, a use listed as a Conditional Use in such zone may be permitted in such zone when found to satisfy the applicable approval criteria given in such zone and those listed in MCC 39.5165.

(D) In the MUA-20, RR, and RC Base Zones and notwithstanding the use provisions of those zones, a use listed as a Conditional Use in such zone may be permitted in such zone when found to satisfy the applicable approval criteria given in MCC 39.7000 through 39.7410 and those listed in MCC 39.5165.

§ 39.5165 HP-1 REVIEW USE AND CONDITIONAL USE APPROVAL CRITERIA.

In acting to approve a Review Use or Conditional Use under MCC 39.5160(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-l classification;

(B) Will satisfy the dimensional requirements of the base zone 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.

§ 39.5170 PERMITS.

The provisions of MCC 39.8450, "Permits for Historical Structures and Sites", shall apply to any building, structure, or premises classified HP-l.

5.D – AIRPORT LANDING FIELD

§ 39.5180 PURPOSE.

The purposes of the Airport Landing Field regulations are to provide for review, approval, and development standards for airports, air fields, landing pads, and related uses associated with aircraft operations in any base zone; 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.

§ 39.5182 USES.

An Airport Landing Field overlay shall be established through the Type IV Legislative Process subject to the Administrative Procedures in Part 1 of this Zoning Code. The Conditional Uses permitted within the Airport Landing Field overlay are as provided in 39.5186.

§ 39.5184 ALLOWED USES.

Any use permitted in the base zone, except as provided in MCC 39.5190 (B), subject to the height limitations of MCC 39.5190 (A).

§ 39.5186 CONDITIONAL USES.

The following uses may be permitted under the procedural provisions of MCC 39.7000 through 39.7035, when found by the approval authority to satisfy the approval criteria of MCC 39.5188:

(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.

§ 39.5188 APPROVAL CRITERIA FOR AN AIRPORT LANDING FIELD CONDITIONAL USE.

In approving a Conditional Use listed in MCC 39.5186, the approval authority shall find that the proposal:

(A) Will satisfy the applicable elements of Comprehensive Plan Policies.

(B) Will have minimal adverse impact, taking into account location, size, design, and operating characteristics on the:

(l) 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 39.5190.

§ 39.5190 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 pursuant to OAR 660-013-0010 through OAR 660-013-0160.

(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 base zone shall:

(l) 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.

5.E – NOISE IMPACT OVERLAY (NI)

§ 39.5200- PURPOSES.

The purposes of this Overlay, MCC 39.5200 through MCC 39.5235 (NI), are to put the owners of proposed new structures on notice that specific levels of aircraft noise can be expected over their property; reduce noise impact within noise-sensitive structures through the provision of sound insulation; and promote sound land use planning for noise impact areas through the consideration of Federal and State guidelines, Comprehensive Plan policies, and past County actions affecting land use near the airport.

(A) This Overlay applies to those lands designated NI on the Multnomah County Zoning Map. The initial boundaries of the NI zoning Overlay shall coincide with the 1983 PIA Noise Abatement Plan and may be updated pursuant to MCC 39.5235.

(B) For those lots or parcels partially within the NI, the exact building site shall be determined using the large scale maps. If the building site is outside the NI, the provisions of this Overlay do not apply.

§ 39.5210 USES.

(A) All uses allowed in the base zone are allowed in the NI when found to satisfy the applicable approval criteria given in such zone and those listed in MCC 39.5210 through 39.5235, except that:

(1) No new residential zoning shall be allowed in excess of that existing as of the date of adoption of the NI; and

(2) Structures used in manufacturing or industrial processing and structures that are accessory to a primary use (garages, storage buildings, etc.) are exempt from the NI.

§ 39.5215 PERFORMANCE STANDARD.

(A) On land within the 65 Ldn noise contour, All new or replacement structures, additions (when the addition is a minimum of 105 of the size of the original structure), and reconstructed structures (when the cost of reconstruction exceeds 75% of the value of the original structure) shall be constructed with sound insulation or other means to achieve a day/night average interior noise level of 45 dBA.

(B) An Oregon registered engineer knowledgeable in acoustical engineering shall certify that the building plans comply with the standard set forth in Subsection (A) of this Section.

(1) The engineer must take into account the construction materials, type of foundation, soil type and other physical factors of the site in their evaluation.

(2) The engineer must use the ANSI, ISO, ASTM or other nationally accepted standard for the transmission coefficients of various materials. Assume all openings (doors and windows) are closed for calculation purposes.

(3) Certification may also be accomplished by a study of existing structures located within the same Ldn Noise Contour and vicinity (block, subdivision, park or moorage) to determine the expected noise level of a proposed structure(s).

§ 39.5220 NOISE EASEMENT REQUIRED.

As a condition of a building, or land use permit, the applicant shall sign and record a noise easement to the Port of Portland. Such easement shall authorize noise at levels established by the undated Ldn noise contour over the grantors property. Any increase of the Ldn noise level above that stated on the easement will not void nor be protected by such easement.

§ 39.5225 DISCLOSURE STATEMENT REQUIRED.

As a condition of a building or land use permit for land within the 65 Ldn noise contour, the applicant shall sign and record a disclosure statement. Such statement shall provide notice to all prospective purchasers or tenants of the property that the premises may be impacted by noise from the Portland International Airport. A signed and recorded copy of such statement must be presented to the County prior to permit issuance.

§ 39.5230 APPEALS.

Any property owner or owners affected by the 65 Ldn noise contour line may appeal the validity or location of that line as it applies to their property, to the County Building Code Board of Appeals. The burden is on the appellant to prove that the 65 Ldn noise contour is misplaced or invalid as it applies to their property. In meeting this burden, the property owner shall provide a study prepared by a certified acoustical engineer which establishes the estimated Ldn for such property. This study need not be based on long term monitoring of noise levels, and can be based on either existing noise data or brief periods of on-site monitoring or both, so long as the report is prepared in accordance with the standards and normal procedures of the acoustical engineering profession.

§ 39.5235 REVIEW AND MODIFICATION.

(A) The Planning Commission may reconsider the NI should the 65 Ldn noise contour expand beyond its 1983 boundary. It is recognized that minor fluctuations within the 65 Ldn noise contour are projected during the next 20 years.

(B) Irrespective of Subsection (A), the Planning Commission shall review the NI every five (5) years. The purpose of the review will be to evaluate, and, if necessary, update the NI.

5.F – PLANNED DEVELOPMENT (PD)

§ 39.5300- PURPOSES.

The purposes of the Planned Development Overlay, MCC 39.5300 through MCC 39.5350 (PD), 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.

§ 39.5305 AREAS AFFECTED.

The PD may be applied only in the BRC, MUA-20, OR, PH-RC, RC, RR, and SRC zones.

§ 39.5310 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 39.8025 (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.

§ 39.5315 CRITERIA FOR APPROVAL.

(A) Action on the Preliminary Development Plan and Program shall be based on findings that the following are satisfied:

(1) The applicable provisions of the comprehensive plan;

(2) The applicable provisions of MCC 39.9000 et seq., the Land Division Ordinance;

(3) 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 39.5300;

(4) 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 39.5330;

(6) The proposed development can be substantially completed within four years of the approval or according to the development stages proposed under MCC 39.5345;

(7) The Development Standards of MCC 39.5325, 39.5335 and 39.5340;

(8) The purposes stated in MCC 39.5300;

(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 MCC39.5320;

(3) The criteria of MCC 39.8040 and the standards of MCC 39.8045.

§ 39.5320 DEVELOPMENT STANDARDS.

The Development Standards stated in MCC 39.5325 through 39.5340 shall apply to an approved Planned Development. In the case of a conflict between a standard of the base zone and that of the PD, the standard of the PD shall apply.

§ 39.5325 MINIMUM SITE SIZE.

A Planned Development overlay 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 39.5300.

§ 39.5330 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.

§ 39.5335 OPEN SPACE.

Open space in a Planned Development overlay 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.

§ 39.5340 DENSITY COMPUTATION FOR RESIDENTIAL DEVELOPMENTS.

(A) In order to preserve the integrity of the Comprehensive Plan and relate 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.

(B) Optional Density Standards within the Urban Plan Area. The following standards for the calculation of residential density may be used singularly or in combination, when approved by the Planning Commission:

(1) The permitted number of dwelling units determined under subsection (A) above may be increased up to 25 percent upon a finding by the Planning Commission that such increased density will contribute to:

(a) Satisfaction of the need for additional urban area housing of the type proposed;

(b) The location of housing which is convenient to commercial, employment and community services and opportunities;

(c) The creation of a land use pattern which is complementary to the community and its identity, and to the community design process;

(d) The conservation of energy;

(e) The efficient use of transportation facilities; and

(f) The effective use of land and of available utilities and facilities.

(2) The permitted number of dwelling units may be increased above those computed under subsection (A) or (B) of this section, upon a finding by the Planning Commission that:

(a) The total number of persons occupying the site will not exceed the total otherwise permitted or authorized in the district, based upon the difference between the average family size occupying permitted units in the vicinity and the family size limited by the proposed number of bedrooms, the proposed number of kitchens, the age composition of prospective residents, or other similar occupancy limitations; and

(b) The proposal will satisfy the provisions of subsection (B) (1) of this section.

§ 39.5345 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 the PD.

(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.

§ 39.5350 PERMITTED USES.

In a residential zone, the following uses may be permitted in a Planned Development overlay:

(A) Housing types may include only duplexes and single family detached or attached dwellings.

(B) In the LR-7 and the LR-5 districts, outside a Developed Neighborhood as designated in the Community Plan, the housing type may include mobile homes in a mobile home park, subject to the development standards of MCC 39.8610.

(C) A related commercial use which is designated to serve the development of which it is a part, upon approval by the Planning Commission.

(D) A Community Service use listed in MCC 39.7500 through 39.7525 and 39.8400 when designated to serve the development or the adjacent area of which it is a part, upon approval by the approval authority.

(1) A Community Service use, when approved under the provisions of MCC 39.7500 through 39.7525 and 39.8400 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.

(E) A use or structure customarily accessory or incidental to a permitted or approved use.

(F) For an underlying commercial district within the Urban Plan Area, the following uses may be permitted in a Planned Development overlay:

(1) Uses permitted in the underlying district.

(2) Community Service Uses when approved by the Planning Commission under the provisions of MCC 39.8005 through 39.8020.

(3) Any other use as approved by the Planning Commission when found to be consistent with the Development Plan and Program and the purposes of the PD.

5.G – PROTECTED AGGREGATE AND MINERAL SITES (PAM)

§ 39.5400- PURPOSES.

The purposes of the Protected Aggregate and Mineral Resources Overlay, MCC 39.5400 through MCC 39.5445 (PAM) 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.

§ 39.5405 AREA AFFECTED.

This Overlay 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.

§ 39.5410 EXEMPTIONS.

(A) The following activities are exempt from the PAM and from MCC 39.7300 through MCC 39.7330. 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 39.8300 through 39.8315.

(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 39.5400 through 39.5445 and 39.7300 through 39.7330, but shall require the approval of a Geologic Hazard Permit and any other permits as may be required in any overlay district.

(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 39.7315 and 39.7320 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 39.7300 through 39.7330; and

(3) Obtain approval of a Geologic Hazard permit in conjunction with the mining conditional use approval. The Geologic Hazard permit shall be required in place of all references in the comprehensive plan and this Chapter to obtaining a DOGAMI operating permit in recognition that this level of mining activity is exempted by DOGAMI rules for such a permit.

§ 39.5415 DEFINITIONS.

As used in this Overlay and MCC 39.7300 through 39.7330, unless otherwise noted, the following terms and their derivations shall have the following meanings:

Conflicting Use – A use authorized in the underlying zone which, if allowed, could adversely 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.

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.

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.

Extraction Area – The area of a protected aggregate and mineral resource site in which mining and associated processing is permitted.

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.

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.

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.

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.

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.

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 overlay district designation Protected Aggregate and Mineral Resources (PAM) shall only be applied to protected sites.

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.

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.

§ 39.5420 PAM OVERLAY; GENERALLY.

(A) The PAM comprises two areas, the Extraction Area (PAM-EA) and the Impact Area (PAM-IA).

(B) 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 zone is applied. The Extraction Area shall be shown on the zoning map with the designation PAM-EA.

(C) 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.

§ 39.5425 PROCEDURE FOR APPLYING THE PAM OVERLAY.

(A) A PAM overlay shall be established by amendment of the Comprehensive Plan and Zoning Map. The relevant factors for the establishment of a PAM overlay are within the Oregon Administrative Rules Chapter 660, Division 16; Comprehensive Plan Policy 5.46; and the applicable provisions of MCC Chapter 39.

(B) Under the applicable provisions of OAR Chapter 660, Division 16 and Comprehensive Plan Policy 5.46 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 5.46 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 a PAM Overlay, 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 39.7300 through 39.7330 and shall not be subject to the conditional use provisions of MCC 39.7005 (C), 39.7015, and 39.7025.

(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 a PAM, 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 39.7300 through 39.7330. Review criteria and conditions shall not include the conditional use provisions of MCC 39.7005 (C), 39.7015, and 39.7025. Site-specific requirements developed through the Goal 5 process, MCC 39.5430 and 39.5435 shall govern development of conflicting uses.

(3) Allow conflicting uses fully and do not allow surface mining except as exempted in MCC 39.5410. The county shall then place the site on the "Not Protected Sites" inventory, not apply a PAM, and not protect the site from conflicting uses.

§ 39.5430 EXTRACTION AREA (PAM-EA) – USES.

(A) Except as provided in this Subsection, all uses allowed in the base zone are allowed in the PAM-EA when found to satisfy the applicable approval criteria given in such zone.

(1) Uses identified through the Goal 5 process to be prohibited within the PAM-EA 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 39.7000 through 39.7035 when found by the Hearing Authority to satisfy the approval criteria of MCC 39.5440 and the approval criteria of the base zone.

(3) Conflicting uses required by the Goal 5 process to be conditionally approved may be permitted under the procedural provisions of MCC 39.7000 through 39.7035 when found by the Hearing Authority to satisfy the approval criteria of MCC 39.5440 and the approval criteria of the base zone.

(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 39.7000 through 39.7035 are met. Review by the Hearing Authority shall be under the procedural provisions of MCC 39.7000; 39.7005 (A) and (B); 39.7020 and 39.7035.

(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.

§ 39.5435 IMPACT AREA (PAM-IA) - ALLOWED USES.

(A) Except as provided in this Section, all uses allowed in the base zone are allowed in the PAM-IA when found to satisfy the applicable approval criteria given in such zone.

(B) Uses identified through the Goal 5 process to be prohibited within the PAM-IA shall not be permitted;

(C) Noise or dust sensitive uses not prohibited in (B) may be permitted under the conditional use procedural provisions of MCC 39.7000 through 39.7035 when found by the Hearing Authority to satisfy the approval criteria of MCC 39.5440 and the approval criteria of the base zone; and

(D) Conflicting uses required by the Goal 5 process to be conditionally approved may be permitted under the procedural provisions of MCC 39.7000 through 39.7035 when found by the Hearing Authority to satisfy the approval criteria of MCC 39.5440 and the approval criteria of the base zone.

§ 39.5440 USE APPROVAL CRITERIA.

(A) In acting to approve a use subject to this Section, 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.

§ 39.5445 TERMINATION OF THE PAM OVERLAY.

When the aggregate or mineral site has been reclaimed, the county may rezone land to remove the 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.

5.H – SIGNIFICANT ENVIRONMENTAL CONCERN OVERLAYS (SEC)

5.H.1 – SIGNIFICANT ENVIRONMENTAL CONCERN GENERAL PROVISIONS

§ 39.5500- PURPOSES.

The purposes of the Significant Environmental Concern Overlays, MCC 39.5500 through MCC 39.5860 (collectively, the "SEC") are to protect, conserve, enhance, restore, and maintain significant natural and human-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, 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.

§ 39.5505 AREA AFFECTED.

(A) Except as otherwise provided in MCC 39.5510 or MCC 39.5515, the SEC shall apply to those lands designated SEC on the Multnomah County Zoning Map consisting of the following resource area designations:

Resource Area Designation
SEC-sw: Scenic Waterway Resource Area
SEC-v: Scenic Views Resource Area
SEC-w: Wetlands Resource Area
SEC-s: Streams Resource Area
SEC-wr: Water Resource Area)
SEC-h: Wildlife Habitat Resource Area

(B) In the event of a mapping inconsistency, the SEC-s zoning Overlay shall be interpreted to be the defined Stream Conservation Area as defined in MCC 39.5750.

(C) SEC - Scenic Waterway (SEC-sw) - Land areas that are contained within the Sandy River Scenic Waterway as shown on the zoning maps adopted on (September 6, 1977, Ord. 149).

(D) 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 District.

(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 width of the riparian/vegetated corridor for all Protected Water Features varies and shall be as depicted on the Multnomah County Zoning Maps and is measured from the top of bank.

(3) The zoning maps used to designate the SEC-wr zoning Overlay were created digitally by interpreting various data sources and maps contained in the 2002 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 2002 West of Sandy River Plan, the SEC-wr zoning Overlay shall be interpreted to be the Water Resource Area as defined in this subsection B.

(E) 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 subsection (B) 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 in subsection (B) above.

(F) The zoning maps used to designate the SEC-s were created digitally by interpreting various data sources including the hand drawn maps contained in the Goal 5 ESEE reports and Metro's riparian and wildlife habitat inventories. Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. In the event of a mapping inconsistency, the SEC-s zoning subdistrict shall be interpreted to be the defined Stream Conservation Area as defined in MCC 39.5750.

§ 39.5510 USES; SEC PERMIT REQUIRED.

(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.

(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.

§ 39.5515 EXCEPTIONS.

(A) Except as provided in subsection (B) of this Section, an SEC permit shall not be required for the following:

(1) Farm use, as defined in ORS 215.203 (2) (a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 541.695 (9) or on upland areas. This exception does not apply to buildings and other development associated with farm practices and agricultural uses in the West of Sandy River Planning Area.

(2) The propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act.

(3) 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).

(4) The placing, by a public agency, of signs, markers, aids, etc., to serve the public.

(5) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands.

(6) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations.

(7) The maintenance and repair of existing flood control facilities.

(8) Change, alteration, or expansion of a use or structure lawfully established on or before (November 17, 1994 , or lawfully established within the Sauvie Island Multnomah Channel Planning Area on or before January 7, 2010 provided that:

(a) Within the SEC, SEC-w, and SEC-v, there is no change to, or alteration, or expansion of, the exterior of the structure;

(b) Within the SEC-h and SEC-s, there is no change to, or alteration or expansion of, the structure's ground coverage in excess of 400 square feet. With respect to expansion, this exception does not apply on a project-by-project basis, but rather applies on a cumulative basis to all expansions occurring after the date above; and

(c) Within the SEC-h, there is no change to, or alteration or expansion of, a driveway in excess of 400 square feet.

(9) Type A Home Occupation.

(10) Type B Home Occupation that requires the addition of less than 400 square feet of ground coverage to the structure.

(11) Alteration, repair, or replacement of septic system drainfields due to system failure.

(12) Single utility poles necessary to provide service to the local area.

(13) Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to ensure continuous width.

(14) 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.

(15) 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.

(16) In the SEC , a solar energy system, including solar thermal and photovoltaic, that is installed on an existing building, provided that:

(a) 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;

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and

(c) The external surfaces of the solar energy system are designated as anti-reflective or have a reflectivity rating of eleven percent or less.

(17) Routine repair and maintenance of structures, roadways, driveways, utility facilities, and landscaped areas that were in existence prior to November 30, 2000.

(18) Response to emergencies pursuant to the provisions of MCC 39.6900 (Responses to and Emergency/Disaster Event), provided that after the emergency has passed, adverse impacts are mitigated.

(B) Within Metro's 2009 jurisdictional boundary, an SEC-s permit is required for agricultural buildings, structures and development associated with farm practices and agricultural uses, except that agricultural fences shall not require an SEC-s permit.

§ 39.5520 APPLICATION FOR SEC PERMIT.

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 39.5540 through 39.5860.

(A) An application for an SEC permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5540 through 39.5860.

(2) A map of the property 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) Proposed fill, grading, site contouring or other landform changes;

(e) 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;

(f) Location and width of existing and proposed roads, driveways, and service corridors.

§ 39.5525 APPLICABLE APPROVAL CRITERIA.

(A) The approval criteria that apply to uses in areas designated SEC-sw, SEC-v, SEC-w, SEC-s, SEC-wr, SEC-h on Multnomah County zoning maps shall be based on the type of protected resources on the property, as indicated by the subscript letter in the zoning designation, as follows:

Zoning Designation	Approval Criteria (MCC#)
SEC-sw (scenic waterway)	39.5600
SEC-v (scenic views)	39.5650
SEC-w (wetlands)	39.5700
SEC-s (streams)	39.5750
SEC-wr (water resource)	39.5560 and 39.5800
SEC-h (wildlife habitat)	Type I Permit – 39.5850 Type II Permit – 39.5560 and 39.5860

(B) 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.

(C) For protected stream resources, the approval criteria shall be used to determine the most appropriate location, size and scope of the proposed development, in order to make the development compatible with the purposes of this Overlay, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property. Any proposed development must comply with the approval criteria in order to be approved.

§ 39.5530 SEC PERMIT - REQUIRED FINDINGS.

A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC and with the applicable criteria for approval specified in MCC 39.5540 through 39.5860.

§ 39.5535 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 39.5540 through 39.5860 and any other requirements specified in the Goal 5 protection program for the affected resource. Conditions may relate, but are not limited to relating, 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 Overlay, 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.

§ 39.5540 CRITERIA FOR APPROVAL OF SEC PERMIT.

The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas, cultural areas, and wild and scenic waterways that are designated SEC on Multnomah County sectional zoning maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:

(A) 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.

(B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

(C) 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.

(D) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.

(E) The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

(F) Significant fish and wildlife habitats shall be protected.

(G) 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, and continuous riparian corridors.

(H) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.

(I) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.

(J) 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.

(K) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.

(L) 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.

(M) 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.

(N) The applicable policies of the Comprehensive Plan shall be satisfied.

§ 39.5545 DEFINITIONS.

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.

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.

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.

5.H.2 – SEC STANDARDS APPLICABLE IN THE WEST OF SANDY RIVER AREA ONLY

§ 39.5550- EXISTING USES IN THE WEST OF SANDY RIVER PLANNING AREA.

(A) Uses that legally existed in the West of Sandy River Planning Area on January 1, 2003, that are not included as Exceptions in MCC 39.5515, 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 preexisting 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 January 1, 2003, must obtain an SEC permit in addition to demonstrating compliance with the non-conforming use provisions of MCC 39.8300 through 39.8315.

(B) Change, expansion, or alteration of existing uses in the West of Sandy River Planning Area shall require an SEC permit as provided in MCC 39.5500 through 39.5860, except for changes to a structure as described in subsections (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 January 1, 2003; and

(3) Within the SEC-h overlay, alteration or expansion of 400 square feet or less of such driveway.

(C) Replacement or restoration of existing structures in the West of Sandy River Planning Area 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 subsection (A)(2) above.

(D) Within the SEC-wr, lawfully established structures in the West of Sandy River Planning Area that do not meet the casualty loss provisions of subsection (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 MCC 39.5800 Table 2. Replacement shall be processed as a Type II review.

(E) If development under this section is proposed to be located closer to a protected water feature, approval of a permit under the provisions of MCC 39.5520 through 39.5800 shall be obtained.

§ 39.5555 BUILDABLE LOT ENCROACHMENT IN THE WEST OF SANDY RIVER PLANNING AREA.

In the West of Sandy River Planning Area, 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 39.5800(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 39.5800 (E) Mitigation; and

(D) The proposed use complies with the standards of the base zone.

§ 39.5560 GENERAL REQUIREMENTS FOR APPROVAL IN THE WEST OF SANDY RIVER PLANNING AREA 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 located in the West of Sandy River Planning Area in addition to the provisions of MCC 39.5800 or 39.5860 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 nuisance plants in MCC 39.5580 Table 1, in addition to the nuisance plants defined in MCC 39.2000, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone.

5.H.3 – SEC STANDARDS APPLICABLE IN THE URBAN PLANNING AREA ONLY

§ 39.5570- EXISTING USES IN THE URBAN PLANNING AREA.

(A) Uses that legally existed in the Urban Planning Area on January 7, 2010, that are not included as Exceptions in section MCC .39.5515, 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 applicable SEC ordinance date, must obtain an SEC permit in addition to demonstrating compliance with the non-conforming use provisions of MCC 39.8300 through 39.8315.

(B) Change, expansion, or alteration of existing uses in the Urban Planning Area shall require an SEC permit as provided in MCC 39.5500 through 39.5860, except for changes to a structure as described in subsections (1) or (2) below;

(1) In areas subject to the provisions of the SEC Overlay, 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 January 7, 2010.

(C) In the Urban Planning Area 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 subsection (A)(2) above.

(D) In the Urban Planning Area within the SEC-wr, lawfully established structures that do not meet the casualty loss provisions of subsection (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 MCC 39.5800 Table 2. Replacement shall be processed as a Type II review.

(E) If development under this section is proposed to be located closer to a protected water feature, approval of a permit under the provisions of MCC 39.5520 through 39.5800 shall be obtained.

§ 39.5575 GENERAL REQUIREMENTS FOR APPROVAL IN THE URBAN PLANNING AREA DESIGNATED AS SEC-WR.

The requirements in this section shall be satisfied for development in the SEC-wr areas located in the Urban Planning Area in addition to the provisions of MCC 39.5800 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 nuisance plants in MCC 39.5580 Table 1, in addition to the nuisance plants defined in MCC 39.2000, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone.

5.H.4 – NUISANCE PLANT LIST

§ 39.5580- NUISANCE PLANT LIST.

Table 1

Nuisance Plant List:

Common Name	***Scientific Name***
Lesser celandine	*Chelidonium majus*
Canada Thistle	*Cirsium arvense*
Common Thistle	*Cirsium vulgare*
Western Clematis	*Clematis ligusticifolia*
Traveler’ s Joy	*Clematis vitalba*
Poison hemlock	*Conium maculatum*
Field Morning-glory	*Convolvulus arvensis*
Night-blooming Morning-glory	*Convolvulus nyctagineus*
Lady’s nightcap	*Convolvulus sepium*
Pampas grass	*Cortaderia selloana*
Hawthorn, except native species	*Crataegus sp. except C. douglasii*
Scotch broom	*Cytisus scoparius*
Queen Anne’s Lace	*Daucus carota*
South American Waterweed	*Elodea densa*
Common Horsetail	*Equisetum arvense*
Giant Horsetail	*Equisetum telmateia*
Cranesbill	*Erodium cicutarium*

Roberts Geranium, Herb Robert	*Geranium robertianum*
English Ivy	*Hedera helix*
St. John's Wort	*Hypericum perforatum*
English Holly	*Ilex aquafolium*
Golden Chain Tree	*Laburnum watereri*
Duckweed, Water Lentil	*Lemna minor*
Fall Dandelion	*Leontodon autumnalis*
Purple Loosestrife	*Lythrum salicaria*
Eurasian Watermilfoil	*Myriophyllum spicatum*
Reed Canary grass	*Phalaris arundinacea*
Annual Bluegrass	*Poa annua*
Swamp Smartweed	*Polygonum coccineum*
Climbing Bindweed, Wild buckwheat	*Polygonum convolvulus*
Giant Knotweed	*Polygonum sachalinense*
English, Portuguese Laurel	*Prunus laurocerasus*
Poison Oak	*Rhus diversiloba*
Himalayan Blackberry	*Rubus discolor*
Evergreen Blackberry	*Rubus laciniatus*
Tansy Ragwort	*Senecio jacobaea*
Blue Bindweed	*Solanum dulcamara*
Garden Nightshade	*Solanum nigrum*
Hairy Nightshade	*Solanum sarrachoides*
Common Dandelion	*Taraxacum officinale*
Common Bladderwort	*Utricularia vulgaris*
Stinging Nettle	*Urtica dioica*
Periwinkle (large leaf)	*Vinca major*
Periwinkle (small leaf)	*Vinca minor*
Spiny Cocklebur	*Xanthium spinosum*
Bamboo sp.	*various genera*

(Ord. 1270, Amended, 03/14/2019)

5.H.5 – SCENIC WATERWAY (SEC-sw)

§ 39.5600- CRITERIA FOR APPROVAL OF SEC-SW PERMIT - SCENIC WATERWAY.

Except as otherwise provided in this Subpart, all development within the SEC-sw shall be subject to the following:

(A) The application for the SEC-sw permit shall include a letter from the Oregon Parks and Recreation Department indicating 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.

5.H.6 – SIGNIFICANT SCENIC VIEWS (SEC-v)

§ 39.5650 CRITERIA FOR APPROVAL OF SEC-V PERMIT - SIGNIFICANT SCENIC VIEWS.

(A) For purposes of this Section, the following terms and their derivations shall have the meanings provided below:

(1) **Significant Scenic Resources** – Those areas designated SEC-v on Multnomah County sectional zoning maps.

(2) **Identified Viewing Areas** – Public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. The Identified Viewing Areas are:

Bybee-Howell House

Virginia Lakes

Sauvie Island Wildlife Refuge

Kelley Point Park

Smith and Bybee Lakes

Highway 30

The Multnomah Channel

The Willamette River

Public roads on Sauvie Island.

(3) **Visually Subordinate** – The subject development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.

(B) In addition to the information required by MCC 39.5520, an application for development in an area designated SEC-v shall include:

(1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;

(2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;

(3) A list of identified viewing areas from which the proposed use would be visible; and,

(4) A written description and drawings demonstrating how the proposed development will be visually subordinate as required by subsection (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.

(C) Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be visually subordinate. Guidelines which may be used to attain visual subordinance, and which shall be considered in making the determination of visual subordination include:

(1) Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.

(2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.

(3) No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so that it is not highly visible from identified viewing areas. Shielding and hooding materials should be composed of nonreflective, opaque materials.

(4) Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.

(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

(6) Limiting structure height to remain be-low the surrounding forest canopy level.

(7) Siting and/or design so that the silhouette of buildings and other structures re-mains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:

(a) New communications facilities (transmission lines, antennae, dishes, etc.), may protrude above a skyline visible from an identified viewing area upon demonstration that:

1. The new facility could not be located in an existing transmission corridor or built upon an existing facility;

2. The facility is necessary for public service; and

3. The break in the skyline is the minimum necessary to provide the service.

(D) Mining of a protected aggregate and mineral resource within a PAM Overlay shall be done in accordance with any standards for mining identified in the protection program approved during the Goal 5 process. The Application for SEC-v permit must comply only with measures to protect scenic views identified in the Goal 5 protection program that has been designated for the site.

(E) The approval authority may impose conditions of approval on an SEC-v permit in accordance with MCC 39.5535, in order to make the development visually subordinate. The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.

5.H.7 – SIGNIFICANT WETLANDS (SEC-w)

§ 39.5700- CRITERIA FOR APPROVAL OF SEC-W PERMIT - SIGNIFICANT WETLANDS.

Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1 inch = 200 feet made a part of the supporting documentation of the Comprehensive Plan. Any proposed activity or use requiring an SEC permit which would impact those wetlands shall be subject to the following:

(A) In addition to other SEC Permit submittal requirements, the application shall also include:

(1) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;

(2) A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;

(3) 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;

(4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;

(5) Detailed Mitigation Plans as described in subsection (D), if required;

(6) Description of how the proposal meets the approval criteria listed in subsection (B) below.

(B) The applicant shall demonstrate that the proposal:

(1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below;

(2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;

(3) Will not cause significant degradation of groundwater or surface-water quality;

(4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;

(5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).

(C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:

(1) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable

alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An alternative site is to be considered practicable if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;

(2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and

(3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.

(4) This section is only applicable for wetland resources designated "3-C".

(D) A Mitigation Plan and monitoring program may be approved upon submission of the following:

(1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC 39.5700 (A);

(2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;

(3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC 39.5700 (B) (2);

(4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:

(a) On the site of the impacted wetland, with the same kind of resource;

(b) Off-site, with the same kind of resource;

(c) On-site, with a different kind of resource;

(d) Off-site, with a different kind of resource.

5.H.8 – STREAMS (SEC-s)

§ 39.5750- CRITERIA FOR APPROVAL OF SEC-S PERMIT –STREAMS.

(A) For purposes of this Section, the following terms and their derivations shall have the meanings provided below:

(1) **Nuisance and invasive non-native plants** – 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.

(2) **Protected Streams** -- Those streams which have been evaluated through a Goal 5 ESEE analysis and protected by Ordinance and those streams and wetlands mapped by Metro's Title 13 as Habitat Conservation Areas as modified through the planning process are designated SEC-s on the Multnomah County Zoning Maps.

(3) **Stream Conservation Area** – For the protected streams originally designated by Ordinance, the Stream Conservation Area designated on the zoning maps as SEC-s is an area extending upslope from and perpendicular to the centerline on both sides of a protected stream. The width of the Stream Conservation Area varies and shall be as depicted on the

Multnomah County Zoning Maps and is from the centerline on both sides of the protected stream for the width of the mapped overlay. Any development proposed within a Stream Conservation Area shall be required to demonstrate that the development satisfies the standards of MCC 39.5750 (B) through (E).

(B) Except for the exempt uses listed in MCC 39.5515, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 39.5750 (C) through (F).

(C) In addition to other SEC Permit submittal requirements, any application to develop in a Stream Conservation Area shall also include:

(1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval equivalent to the best available U.S. Geological Survey 7.5' or 15' topographic information;

(2) A detailed description and map of the Stream Conservation Area including that portion to be affected by the proposed activity. This documentation must also include a map of the entire Stream Conservation Area, an assessment of the Stream Conservation Area's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;

(3) 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;

(4) A study of any flood hazard, erosion hazard, and/or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards as required by subsection (E) (5) below;

(5) A detailed Mitigation Plan as described in subsection (D), if required; and

(6) A description of how the proposal meets the approval criteria listed in subsection (D) below.

(D) For the protected stream resources, the applicant shall demonstrate that the proposal:

(1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:

(a) A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by subsection (C) above;

(b) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;

(c) A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in subsection (D) (1) above;

(d) An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.

(E) Design Specifications: The following design specifications shall be incorporated, as appropriate, into any developments within a Stream Conservation Area:

(1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the minimum width necessary to allow passage of peak winter flows shall be utilized for any crossing of a protected streams.

(2) All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.

(3) Any exterior lighting associated with a proposed development shall be placed, shaded or screened to avoid shining directly into a Stream Conservation Area.

(4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed.

(5) Satisfaction of the erosion control standards of MCC 39.5090.

(6) Soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion control shall be required within a Stream Conservation Area.

(7) Demonstration of compliance with all applicable state and federal permit requirements.

(F) For those Stream Conservation Areas located within Metro's jurisdictional boundaries, the following requirements apply in addition to subsections (C) through (E) above:

(1) The planting of any invasive non-native or noxious vegetation as listed in subsection (A)(4)above is prohibited. In addition, the species listed in MCC 39.5580 Table 1 shall not be planted.

(2) The revegetation of disturbed areas shall primarily use native plants. A list of native plants can be found in the latest edition of the Metro Native Plant List.

(3) Outside storage of hazardous materials as determined by DEQ is prohibited, unless such storage began before the effective date of the applicable SEC ordinance; or, unless such storage is contained and approved during development review.

(G) For Protected Aggregate and Mineral (PAM) resources within a PAM Overlay, the Mitigation Plan must comply only with measures identified in the Goal 5 protection program that has been designated for the site.

5.H.9 – WATER RESOURCES (SEC-wr)

§ 39.5800- CRITERIA FOR APPROVAL OF SEC-WR PERMIT -WATER RESOURCE

(A) Except for the exempt uses listed in MCC 39.5515 and the existing uses pursuant to MCC 39.5550, no development shall be allowed within a Water Resource Area unless the provisions of subsections (B) or (C) or (D) below are satisfied. An application shall not be approved unless it contains the site analysis information required in MCC 39.5520(A) and (C), and meets the general requirements in MCC 39.5560.

(B) 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 subsection (C) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this Overlay including the Development Standards of subsection (E) and the provisions for Mitigation in subsection (F):

(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.

(C) Alternatives Analysis - Development proposed within a Water Resource Area may be allowed if there is no alternative, when the other requirements of this Overlay including the Development Standards of subsection (E) and the provisions for Mitigation in subsection (F) 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.

(D) 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 MCC 39.5520(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 of this section. 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 of this section.

(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 of this section, regardless of its distance from the resource area.

(E) 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.

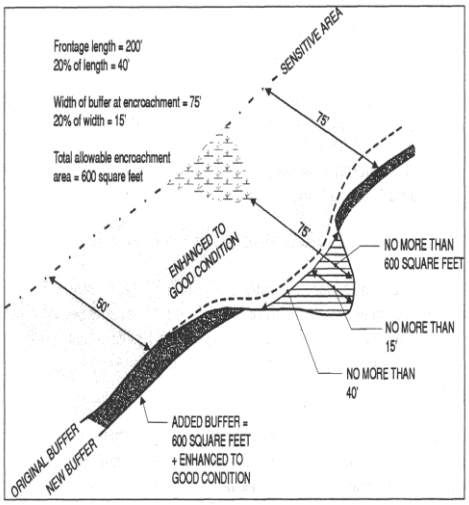
(3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual 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 subsection (F) below and the specifications in Table 2 of this section.

(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 MCC 39.5580 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 3.



(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 Overlay. 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.

(F) Mitigation - Mitigation shall be required to offset the impacts of development within the SEC-wr. This subsection 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 development 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 of this section 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**
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)	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
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)	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

Degraded Corridor Combination of native trees, shrubs, and groundcovers 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)	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

(Ord. 1270, Amended, 03/14/2019)

5.H.10 – WILDLIFE HABITAT (SEC-h)

§ 39.5850- SEC-H CLEAR AND OBJECTIVE STANDARDS.

(A) At the time of submittal, the applicant shall provide the application materials listed in MCC 39.5520(A) and 39.5860(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in MCC 39.5860(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 39.5860 may be submitted.

(B) The proposed development shall meet the applicable stormwater and ground disturbing activity requirements of MCC 39.6200 through 39.6235. Ground disturbing activity within 100 feet of a water body as defined by MCC 39.2000 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15th.

(C) The nuisance plants listed in MCC 39.5580 Table 1 shall not be used as landscape plantings within the SEC-h Overlay Zone.

(D) For development that fails to meet all of the standards listed in this section, a separate land use application pursuant to MCC 39.5860 may be submitted.
(Ord. 1271, Amended, 03/14/2019)

§ 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT.

(A) In addition to the information required by MCC 39.5520 (A), an application for development in an area designated SEC-h shall include 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:

(1) 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.

(2) Location of existing and proposed structures;

(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and 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.

(B) 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.

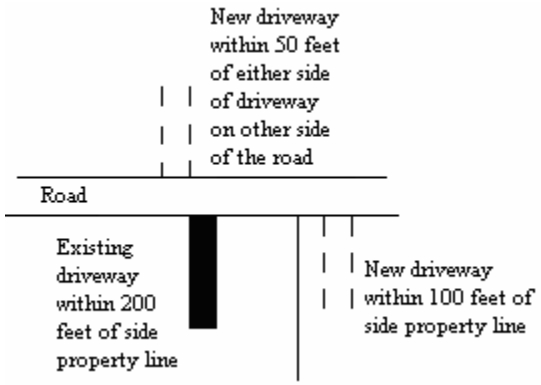
(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

(c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County "Design and Construction Manual," adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

1. The modification shall be the minimum necessary to allow safe access onto the public road.

2. The County Road Official shall provide written findings supporting the modification.

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

(6) 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.

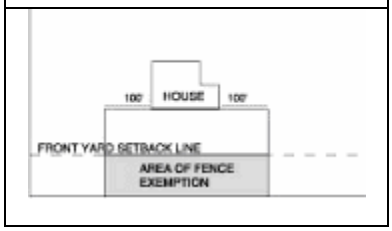
(c) Cyclone, woven wire, and chain link fences are prohibited.

(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. (See Figure 4 below.)

Figure 4.

FENCE EXEMPTION AREA



(f) Fencing standards do not apply where needed for security of utility facilities.

(7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

(C) 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 subsection (B) 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 subsection (B), but demonstrates that the alternative conservation measures exceed the standards of subsection (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in subsection (B).

(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), 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.

(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 subsection (C)(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 subsection (B)(6).

(d) For non-forested "cleared" areas that require nuisance plant removal pursuant to subsection (B)(7), 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 subsection (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 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.

(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 ground disturbing activity standards set forth in MCC 39.6200 through MCC 39.6235.

(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 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 between 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 MCC 39.5580 Table 1 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 Overlay, 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 this section 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 a SEC-s Overlay, 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 any time thereafter provided the applicable approval criteria of this section 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. 1271, Amended, 03/14/2019)

5.I – WILLAMETTE RIVER GREENWAY (WRG)

§ 39.5900- PURPOSES.

The purposes of the Willamette River Greenway Overlay, MCC 39.5900 through MCC 39.5940 (WRG), are to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River; to implement the County's responsibilities under ORS 390.310 to 390.368; to establish Greenway Compatibility Review Areas; and to establish criteria, standards and procedures for the intensification of uses, change of uses, or the development of lands within the Greenway.

§ 39.5905 AREA AFFECTED.

The WRG shall apply to those lands designated WRG on the Multnomah County Zoning Map.

§ 39.5910 USES - GREENWAY PERMIT REQUIRED.

All uses allowed in the base zone are allowed in the WRG when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5920, subject to approval of a WRG permit pursuant to this Subpart.

§ 39.5915 DEFINITIONS.

For the purposes of this Subpart, the following terms and their derivations shall have the following meanings. Definitions (A) through (E) are derived from paragraph a. of the Order Adopting Preliminary Willamette River Greenway Plan of the Oregon Land Conservation and Development Commission, dated December 6, 1975.

Change of use - means making a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for purposes of this order.

Development - means the act, process or result of developing.

(Footnote: The definitions of develop and development should be read in harmony with the definitions of intensification and change of use since it is not the intention of the Commission to include in the definitions of develop and development any of the items excluded specifically from the meanings of intensification or change of use.)

Develop - means to bring about growth or availability; to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights of access.

Farm Use - means (a) "the current employment of land including that portion of such lands under buildings supporting accepted farming practices for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Farm use includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. It does not include the use of land subject to the provisions of ORS Chapter 321 . . . ".

"It includes, for this purpose, the installation of irrigation pumps, and the use of existing pumps on the banks of the Willamette River, and the construction and use of dwellings customarily provided in conjunction with farm use when such dwellings are located 150 feet or more from the ordinary low-water, line of the Willamette River. It also includes the construction and use of buildings other than dwellings customarily provided in conjunction with farm use whether or not within 150 feet of the ordinary low-water line. If a dwelling is destroyed or torn down, it may be replaced in kind with another dwelling even though it is within 150 feet of the ordinary low-water line.

(b) "Current employment of land for farm use includes (A) land subject to the soil-bank provisions of the Federal Agricultural Act of 1956, as amended (P.S. 84540, 70 Stat. 188); (B) land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (C) land planted in orchards or other perennials prior to maturity; and (D) any land constituting a woodlot of less than 20 acres contiguous to and owned by the owner of land specially assessed at true cash value for farm use even if the land constituting the woodlot is not utilized in con-junction with farm use." (c) "As used in this subsection, 'accepted farming practice' means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use."

(Footnote: The definition of farm use is taken from ORS 215.203(2). The addition to the paragraph relating to farm dwellings is to incorporate the permitted non-farm uses for customary farm dwellings provided in ORS 215.283 but modified so as to permit only new farm dwellings which will be 150 feet or more from ordinary low water.)

Intensification - means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or protection of property are not an intensification of use. Residential use of land within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures, or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification for the purposes of this order. Seasonal increases in gravel operations shall not be considered an intensification of use.

Water-dependent use – means a use which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation or recreation. Water-dependent use also includes development, which by its nature, can be built only on, in, or over a water body (including a river). Bridges supported by piers or pillars are water-dependent uses.

§ 39.5920 EXCEPTIONS.

A Greenway Permit shall not be required for the following:

(A) Farm Use, as defined in ORS 215.203 (2) (a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 196.905 (9) or on upland areas;

(B) The propagation of timber or the cutting of timber for public safety or personal use;

(C) Gravel removal from the bed of the Willamette River, conducted under a permit from the State of Oregon;

(D) 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);

(E) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;

(F) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands;

(G) On scenic easements acquired under ORS 390.332 (2) (a), the maintenance authorized by that statute and ORS 390.368;

(H) The use of a small cluster of logs for erosion control;

(I) The expansion of capacity, or the replacement, of existing communications or energy distribution and transmission systems, except substations;

(J) The maintenance and repair of existing flood control facilities; and

(K) Uses legally existing on October 6, 1977, the effective date of Ordinance 148; provided, however, that any change or intensification of such use shall require a Greenway Permit.

§ 39.5925 GREENWAY PERMIT APPLICATION.

An application for a Greenway Permit shall address the elements of the Greenway Design Plan and shall be filed as follows:

(A) For an Allowed Use or a Review Use, in the manner provided in MCC Chapter 39 Part 1 as a Type II Permit;

(B) For a Conditional Use as specified either in the base zone or in MCC 39.7000 through 39.7410, or for a Community Service Use as specified in MCC 39.7500 through 39.7810, or for a change of zone classification, or for any other Type III Permit as specified in MCC Chapter 39 Part 1, the Greenway Permit Application shall be combined with the required application for the proposed action and filed in the manner provided in MCC Chapter 39 Part 1.

§ 39.5930 WRG PERMIT - REQUIRED FINDINGS.

A decision on a Greenway Permit application shall be based upon findings of compatibility with the elements of the Greenway Design plan listed in MCC 39.5935.

§ 39.5935 GREENWAY DESIGN PLAN.

The elements of the Greenway Design Plan are:

(A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.

(B) Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.

(C) Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource base zones may continue in urban uses.

(D) Agricultural lands shall be preserved and maintained for farm use.

(E) The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time on those lands inside the Urban Growth Boundary.

(F) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses.

(G) Significant fish and wildlife habitats shall be protected.

(H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.

(I) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

(J) The natural vegetation along the river, lakes, wetlands and streams shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, screening of uses from the river, and continuous riparian corridors.

(K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 39.7300 through 39.7330, when economically feasible and when conducted in a manner designed to minimize adverse effects on

water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.

(L) Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.

(M) Significant wetland areas shall be protected as provided in MCC 39.5940.

(N) Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.

(O) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.

(P) The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.

(Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource base zones, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.

(R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 39.8000 through 39.8050, to the extent that such design review is consistent with the elements of the Greenway Design Plan.

(S) The applicable policies of the Comprehensive Plan are satisfied.

§ 39.5940 SIGNIFICANT WETLANDS.

Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Plan. Any proposed activity or use requiring an WRG permit which would impact those wetlands shall be subject to the following:

(A) In addition to other WRG Permit submittal requirements, the application shall also include:

(1) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;

(2) A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;

(3) 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;

(4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;

(5) Detailed Mitigation Plans as described in subsection (D), if required;

(6) Description of how the proposal meets the approval criteria listed in subsection (B) below.

(B) In addition to the criteria listed in MCC 39.5935 the applicant shall demonstrate that the proposal:

(1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below;

(2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;

(3) Will not cause significant degradation of groundwater or surface-water quality;

(4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;

(5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).

(C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:

(1) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An alternative site is to be considered practicable if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;

(2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and

(3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.

(D) A Mitigation Plan and monitoring program may be approved upon submission of the following:

(1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC 39.5935 and subsection (A) of this section;

(2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;

(3) A Mitigation Plan which demonstrates retention of the resource values addressed in subsection (B) (2) above;

(4) Documentation that replacement wet-lands were considered and rejected according to the following order of locational preferences:

(a) On the site of the impacted wetland, with the same kind of resource;

(b) Off-site, with the same kind of resource;

(c) On-site, with a different kind of resource;

(d) Off-site, with a different kind of resource.

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PART 6 – COMMON DEVELOPMENT STANDARDS

6.A – APPLICABILITY AND SCOPE

§ 39.6000- APPLICABILITY AND SCOPE.

All development shall comply with all provisions in this Part 6, as well as all provisions of law regulating sewage disposal.
(Ord. 1271, Amended, 03/14/2019)

6.B – GROUND DISTURBING ACTIVITY AND STORMWATER

§ 39.6200- PURPOSES.

The purposes of this Subpart 6.B is to regulate ground disturbing activity and the establishment or replacement of impervious surfaces in order to promote public health, safety and general welfare and to minimize the following risks potentially arising from ground disturbing activity or the establishment or replacement of impervious surfaces; public and private costs, expenses and losses; environmental harm; and human-caused erosion, sedimentation or landslides.
(Ord. 1271, Amended, 03/14/2019)

§ 39.6205 DEFINITIONS.

As used in this Subpart 6.B, unless the context requires otherwise, the following terms and their derivations shall have the meanings provided below:

BEST MANAGEMENT PRACTICES. Methods that have been determined to be the most effective, practical means of preventing or reducing erosion, sedimentation or landslides including but not limited to: use of straw bales, slash windows, filter fabric fences, sandbags, straw cover, and jute netting.

ORDINARY HIGH WATERMARK. 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 watermark shall be measured to include the entire stream feature.

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

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 water bodies 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 (such as, swales) shall be considered streams when hydrologic and hydraulic analyses performed pursuant to a development proposal predict formation of a defined channel after development.

STREAM PROTECTION. Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and water bodies. Topographic information shall be prepared by a registered Land Surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.

VEGETATION. All plant growth, especially trees, shrubs, grasses and mosses.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

(A) Permanent seeding, producing long-term vegetative cover;

(B) Short-term seeding, producing temporary vegetative cover;

(C) Sodding, producing areas covered with a turf or perennial sod-forming grass; or

(D) Netting with seeding if the final grade has not stabilized.
(Ord. 1271, Amended, 03/14/2019)

§ 39.6210 PERMITS REQUIRED.

(A) Unless exempt under this Code, whether under MCC 39.6215, 39.5080, 38.5510 or otherwise, no ground disturbing activity shall occur except pursuant to one of the following permits: a Minimal Impact Project (MIP) permit, an Erosion and Sediment Control permit (ESC), an Agricultural Fill permit (AF), a Geologic Hazards permit (GH), or a Large Fill permit (LF).

(B) The permits referenced in subsection (A) are required in addition to and not in lieu of any other local, state or federal permit, including but not limited to permits required for ground disturbing activities within a water body regulated by the Oregon Department of State Lands, the U.S. Army Corps of Engineers or the Oregon Department of Fish and Wildlife.

(C) No ground disturbing activity shall occur except in support of a lawfully established use or in support of the lawful establishment of a use.

(D) No permit identified in subsection (A) shall be issued in any case where the planning director or a building official determines that the proposed ground disturbing activity will be hazardous by reason of flood, geological hazard, seismic hazard, or unstable soils; or is liable to endanger any other adjacent property; or result in the deposition of debris on any public right-of-way or property or water body; or otherwise create a nuisance.

(E) Responsibility. For any ground disturbing activity authorized under a permit listed in subsection (A):

(1) Whenever sedimentation is caused by ground disturbing activity, the person, corporation or other entity shall be responsible to remove that sedimentation 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 ground disturbing activity on, in, under or around a water body, or the floodplain or right-of-way, to maintain as nearly as possible in its present state the water body, floodplain, or right-of-way during such activity, and to return the same to a functional condition equal to or better than the condition existing immediately prior to the ground disturbing activity.

(F) Implementation.

(1) Performance bond. A performance bond may be required in the amount of the full cost of the establishment and maintenance of all erosion, sedimentation and stormwater control measures for activity authorized through any permit listed in subsection (A). 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 director may take steps to ensure compliance with the requirements of Part 6, Geologic Hazards permit requirements, and Large Fill permit requirements, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subpart of MCC Chapter 39 shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the permit, work may be stopped until appropriate correction measures are completed.

(G) Final approvals. A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subpart of MCC Chapter 39 only upon satisfactory completion of all applicable requirements.
(Ord. 1271, Amended, 03/14/2019)

§ 39.6215 EXEMPTIONS FROM MINIMAL IMPACT PROJECT PERMIT AND EROSION AND SEDIMENT CONTROL PERMIT.

Ground disturbing activity occurring in association with the following uses is exempt from Minimal Impact Project permit and Erosion and Sediment Control permit requirements:

(A) Test pits or borings excavated for purposes of geotechnical evaluation or septic system suitability.

(B) Cemetery graves, but not cemetery soil disposal sites.

(C) Excavations for wells.

(D) Mineral extraction activities as regulated by the county zoning code.

(E) Exploratory excavations under the direction of Certified Engineering Geologists or Geotechnical Engineers.

(F) Farming practices other than filling or the placement of structures.

(G) Residential gardening disturbing less than 5,000 square feet of ground surface area and landscape maintenance disturbing less than 10,000 square feet of ground surface area when either activity is at least 100 feet from the top of the bank of any watercourse located at a lower elevation to and in the surface drainage path of the ground disturbing activity. Landscape maintenance includes normal planting, transplanting, and replacement of trees and vegetation. Landscape maintenance does not include preparatory ground disturbing activity for a development project.

(H) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.

(I) Forest Practices.

(J) Ground disturbing activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act.

(K) Natural resource enhancement or restoration, but not including filling or placement of structures, pursuant to a conservation plan that is prepared by the local soil and water conservation district or the U.S. Department of Agriculture, Natural Resources Conservation Service and accepted by the property owner. The conservation plan must be provided to the County before the commencement of any ground disturbing activity.

(L) Removal of trees or vegetation within 30-feet of a structure for fire safety.

(M) Decommissioning or replacing an underground storage tank(s), such as a septic, oil, or other similar tank(s), but not including a sanitary drainfield, provided that:

(1) Any contaminated excavated material is handled in accordance with law, whether through treatment, being transported to and deposited at an off-site facility certified and willing to accept the material, or other direction from the Oregon Department of Environmental Quality, and

(2) Any replacement tank(s) is placed in the same location as the tank(s) being replaced.

(N) Placement and replacement of mailbox posts, fence posts, sign posts, utility posts or poles, and similar support structures, but not including any post or pole that provides structural support to a building requiring a structural building permit.

(O) Trenching and boring for utilities in a public road right-of-way, provided such activity does not occur within 100-feet of a water body and is completed within 48-hours of commencement. Completion includes final compaction of earthen materials within any trench and removal and lawful disposal or deposit of any excess excavation or fill material from the site of the activity.

(P) Placement of gravel or asphalt for the maintenance of existing driveways, roads and other travel surfaces.
(Ord. 1271, Amended, 03/14/2019)

§ 39.6220 MINIMAL IMPACT PROJECT PERMIT.

(A) An application for a Minimal Impact Project permit shall include two copies of each of the following:

(1) A scaled site plan showing the following, both existing and proposed:

(a) Property lines;

(b) Buildings, structures, driveways, roads and right-of-way boundaries;

(c) Location of wells, utility lines, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(d) Trees and vegetation proposed for removal and planting and an outline of wooded areas;

(e) Water bodies;

(f) Boundaries of ground disturbing activities;

(g) Location and height of unsupported finished slopes;

(h) Ground topography contours (contour intervals no greater than 10-feet); and

(i) Erosion and sediment control measures.

(2) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed fill (cubic yards), existing slopes in areas proposed to be disturbed (percent slope), and proposed unsupported finished slopes (percent slope);

(3) Written description of the proposed project, including but not limited to:

(a) The use that the ground disturbing activity will support or help facilitate;

(b) The materials to be used for any proposed fill; and

(c) A description of the erosion and sediment control measures that will be used to ensure that visible or measurable erosion or sedimentation does not leave the site. For purposes of this subsection and subsection (B)(8) below, the term “site” shall mean either a single lot of record or

contiguous lots of record under same ownership, whichever results in the largest land area.

(B) A Minimal Impact Project (MIP) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(1) Less than 10,000 square feet of ground surface area will be disturbed;

(2) Disturbed areas are not within 200' by horizontal measurement from the top of the bank of a water body;

(3) Slopes before development where ground disturbing activity is proposed are 10 percent grade or less (10 Horizontal: 1 Vertical);

(4) Unsupported finished slopes will be less than 33 percent grade (3 Horizontal: 1 Vertical) and will not exceed four feet in height;

(5) The ground disturbing activity will involve less than 10 cubic yards of fill;

(6) Fill will not be used to physically support a building requiring a structural building permit;

(7) Fill shall be composed of earth materials only;

(8) Persons conducting ground disturbing activities shall utilize erosion and sediment control best management practices. Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way, or be deposited into any water body or storm drainage system;

(9) Erosion and sediment control measures shall be installed prior to commencement of ground disturbing activity and are to be maintained, in working order, through all phases of development;

(10) Approval of any new stormwater discharges into public right-of-way is granted by each governing agency having authority over the matter;

(11) Approval of any new stormwater surcharges to sanitary drainfields is granted by the City of Portland Sanitarian and any other agency having authority over the matter;

(12) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way; and

(13) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

(Ord. 1271, Amended, 03/14/2019)

§ 39.6225 EROSION AND SEDIMENT CONTROL PERMIT.

(A) An application for an Erosion and Sediment Control permit shall include two copies of each of the following:

(1) A scaled site plan showing the following, both existing and proposed:

(a) Property lines;

(b) Buildings, structures, driveways, roads and right-of-way boundaries;

(c) Location of wells, utility lines, site drainage measures, stormwater disposal, sanitary tanks and drainfields (primary and reserve);

(d) Trees and vegetation proposed for removal and planting and an outline of wooded areas;

(e) Water bodies;

(f) Boundaries of ground disturbing activities;

(g) Location and height of unsupported finished slopes;

(h) Location for wash out and cleanup of concrete equipment;

(i) Storage location and proposed handling and disposal methods for potential sources of non-erosion pollution including pesticides, fertilizers, petrochemicals, solid waste, construction chemicals, and wastewaters;

(j) Ground topography contours (contour intervals no greater than 10-feet); and

(k) Erosion and sediment control measures.

(2) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut (cubic yards) and fill (cubic yards), total volume of fill that has been deposited on the site over the 20-year period preceding the date of application, and existing and proposed slopes in areas to be disturbed (percent slope). For purposes of this subsection, the term "site" shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area;

(3) A written description of the ground disturbing activity and any associated development, including:

(a) Specific timelines for all phases of work;

(b) With respect to fill:

(i) Description of fill materials, compaction methods, and density specifications (with calculations). The planning director may require additional studies or information or work regarding fill materials and compaction.

(ii) Statement of the total daily number of fill haul truck trips, loaded haul truck weight, and haul truck travel route(s) to be used from any fill source(s) to the fill deposit site.

(c) A description of the use that the ground disturbing activity will support or help facilitate.

(2) Surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian or other agencies authorized to review waste disposal systems; and

(3) Any new discharges into public right-of-ways have complied with the governing agencies discharge review process;

(4) Written findings, together with any supplemental plans, maps, reports, or other information necessary to demonstrate compliance of the proposal with all applicable provisions of the Multnomah County code including Erosion and Sediment Control permit standards in subsection (B). Necessary reports, certifications, or plans may pertain to: engineering, soil characteristics, stormwater drainage control, stream protection, erosion and sediment control, and replanting.

(5) Approval of any new stormwater surcharges to sanitary drainfields by the City of Portland Sanitarian and any other agency having authority over the matter; and

(6) Approval of any new stormwater discharges into public right-of-ways by each governing agency having authority over the matter.

(B) An Erosion and Sediment Control (ESC) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(1) The total cumulative deposit of fill, excluding agricultural fill pursuant to an Agricultural Fill permit, on the site for the 20-year period preceding the date of the ESC permit application, and including the fill proposed in the ESC permit application, shall not exceed 5,000 cubic yards. For purposes of this section, the term "site" shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

(2) Fill shall be composed of earth materials only.

(3) Cut and fill slopes shall not exceed 33 percent grade (3 Horizontal; 1 Vertical) unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that a grade in excess of 33 percent is safe (including, but not limited to, not endangering or disturbing adjoining property), and suitable for the proposed development.

(4) Unsupported finished cuts and fills greater than 1 foot in height and less than or equal to 4 feet in height at any point shall meet a setback from any property line of a distance at least twice the height of the cut or fill, unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that the cuts or fill will not endanger or disturb adjoining property. All unsupported finished cuts and fills greater than 4 feet in height at any point shall require a Certified Engineering Geologist or Geotechnical Engineer to certify in writing that the cuts and fills will not endanger or disturb adjoining property.

(5) Fills shall not encroach on any water body unless an Oregon licensed Professional Engineer certifies that the altered portion of the water body will continue to provide equal or greater flood carrying capacity for a storm of 10-year design frequency.

(6) Fill generated by dredging may be deposited on Sauvie Island only to assist in flood control or to improve a farm's soils or productivity, except that it may not be deposited in any SEC overlay, WRG overlay, or designated wetland.

(7) On sites within the Tualatin River drainage basin, erosion, sediment and stormwater drainage control measures shall satisfy the requirements of OAR 340-041-0345(4) and shall be designed to perform as prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. Ground-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland: unless a mitigation plan consistent with OAR 340-041-0345(4) is approved for alterations within the buffer area.

(8) Ground disturbing activity 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.

(9) 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.

(10) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

(11) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

(a) 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;

(b) The buffer required in subsection (11)(a) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment and stormwater control measures designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River drainage basin in OAR 340-041-0345(4).

(12) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical.

(13) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary.

(14) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized.

(15) 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.

(16) All drainage measures shall be designed to prevent erosion and adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural water bodies, drainage swales, or an approved drywell system.

(17) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion.

(18) Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system. Control measures which may be required include, but are not limited to:

(a) Energy absorbing devices to reduce runoff water velocity;

(b) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

(c) Dispersal of water runoff from developed areas over large undisturbed areas.

(19) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into water bodies by applying mulch or other protective

covering; or by location at a sufficient distance from water bodies or by other sediment reduction measures.

(20) 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.

(21) Ground disturbing activities within a water body shall use instream best management practices prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual.

(22) The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes.

(23) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way.

(24) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

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.

(Ord. 1271, Amended, 03/14/2019)

§ 39.6230 AGRICULTURAL FILL PERMIT.

(A) An application for an Agricultural Fill permit shall include two copies of the following:

(1) A scaled site plan showing the following, both existing and proposed:

(a) Property lines;

(b) Buildings, structures, driveways, roads and right-of-way boundaries;

(c) Location of wells, utility lines, site drainage measures, stormwater disposal, sanitary tanks and drainfields (primary and reserve);

(d) An outline of wooded areas;

(e) Water bodies;

(f) Boundaries of ground disturbing activities;

(g) Location and height of unsupported finished slopes;

(h) Ground topography contours (contour intervals no greater than 10-feet);

(i) Erosion and sediment control measures; and

(j) On-site farming practices.

(2) Calculations of the total area of proposed fill placement (square feet), total volume of proposed fill (cubic yards), depth of fill, including depth at various points if fill thickness will not be uniform (feet) and existing and proposed slopes in areas proposed to be filled (percent slope);

(3) A written farm management plan including the following information:

(a) Soil type(s) of both the existing soils to be either covered or amended and soil type(s) of the proposed fill;

(b) Description of existing farming practices;

(c) Description of future farming practices and the relationship to the proposed agricultural fill;

(d) Description of erosion and sediment control measures; and

(e) Project schedule, including the dates fill importation will begin, fill importation will conclude, grading of the agricultural fill will conclude, and farming practices associated with the fill will resume.

(4) Statement of the total daily number of fill haul truck trips, travel timing, loaded haul truck weight, and haul truck travel route(s) to be used from the fill source(s) to the fill destination.

(5) Documentation of compliance with stormwater drainage control provisions of MCC 39.6235(B)-(E) when fill is proposed to be placed within a waterbody, when existing stormwater drainage will be diverted to a new location, or when fill thickness at any point exceeds four feet.

(B) An Agricultural Fill permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(1) The farm management plan identifies a need for fill to support a farming practice.

(2) The fill is composed of topsoil only;

(3) No compensation, monetary or otherwise, is received by the property owner for the receipt or placement of the fill;

(4) An Agricultural Fill permit shall not authorize excavation.

(5) The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes;

(6) The fill shall not encroach any wetlands which have not been approved for fill by The U.S. Army Corp of Engineers, Oregon Department of State Lands or Oregon Department of Fish and Wildlife as required by law;

(7) The fill is not used to physically support any building requiring a structural building permit;

(8) Finished fill slopes shall not exceed 33 percent grade (3 Horizontal: 1Vertical);

(9) Finished grade of the disturbed area at property lines shall not exceed the elevation of the land at such locations that existed prior to the ground disturbing activity and any fill slopes exceeding 25% grade shall be setback from site property lines a distance equal to or greater than the maximum height of the fill;

(10) Erosion and sediment control best management practices shall be used. Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way, or be deposited into any storm drainage system. For purposes of this subsection, the term “site” shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area;

(11) The fill, and the grading of the fill, shall be completed, and disturbed areas returned to farming practices, within one calendar year of permit issuance, unless the permit specifies a different time period;

(12) The fill does not occur in a hazard area identified on the Geologic Hazards Overlay map, or on lands with average slopes of 25 percent or more. Agricultural fill proposed in any of those locations requires either a Geologic Hazards permit or Large Fill permit instead;

(13) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way;

(14) Fill shall not be transported on a public roadway during weekdays from 6:30am – 9:30am and 4:00pm – 6:30pm;

(15) The hours of operation for motorized equipment used on site shall be limited to 7:00am to 6:00pm; and

(16) The fill must comply with stormwater drainage control provisions of MCC 39.6235(B)-(E) when fill is proposed to be placed within a waterbody, when existing stormwater drainage will be diverted to a new location, or when fill thickness at any point exceeds four feet.

(Ord. 1271, Amended, 03/14/2019)

§ 39.6235 STORMWATER DRAINAGE CONTROL.

(A) Persons creating new or replacing existing impervious surfaces exceeding 500 square feet shall install a stormwater drainage system as provided in this section. This subsection (A) does not apply to shingle or roof replacement on lawful structures.

(B) The provisions of this section are in addition to and not in lieu of any other provision of the code regulating stormwater or its drainage and other impacts and effects, including but not limited to regulation thereof in the SEC overlay.

(C) The provisions of this section are in addition to and not in lieu of stormwater and drainage requirements in the Multnomah County Road Rules and Design and Construction Manual, including those requirements relating to impervious surfaces and proposals to discharge stormwater onto a county right-of-way.

(D) The stormwater drainage system required in subsection (A) shall be designed to ensure that the rate of runoff for the 10-year 24-hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a water body.

(E) At a minimum, to establish satisfaction of the standards in this section and all other applicable stormwater-related regulations in this code, the following information must be provided to the planning director:

(1) A site plan drawn to scale, showing the property line locations, ground topography (contours), boundaries of all ground disturbing activities, roads and driveways, existing and proposed structures and buildings, existing and proposed sanitary tank and drainfields (primary and reserve), location of stormwater disposal, trees and vegetation proposed for both removal and planting and an outline of wooded areas, water bodies and existing drywells;

(2) Documentation establishing approval of any new stormwater surcharges to a sanitary drainfield by the City of Portland Sanitarian and/or any other agency authorized to review waste disposal systems;

(3) Certified statement, and supporting information and documentation, by an Oregon licensed Professional Engineer that the proposed or existing stormwater

drainage system satisfies all standards set forth in this section and all other stormwater drainage system standards in this code; and

(4) Any other report, information, plan, certification or documentation necessary to establish satisfaction of all standards set forth in this section and all other applicable stormwater-related regulations in this code, such as, but not limited to, analyses and explanations of soil characteristics, engineering solutions, and proposed stream and upland environmental protection measures.

(Ord. 1271, Amended, 03/14/2019)

6.C – PARKING, SIGNS AND EXTERIOR LIGHTING

6.C.1 – PARKING, LOADING, CIRCULATION AND ACCESS

§ 39.6500- PURPOSE.

The purposes of 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.

§ 39.6505 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, loading and traffic circulation and access (whether pedestrian, vehicular or otherwise) shall be provided according to the requirements of this Section Subpart. For nonconforming uses, the objectives of this Subpart shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

§ 39.6510 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.

§ 39.6515 PLAN REQUIRED.

A plot plan showing the dimensions, 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.

§ 39.6520 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 base zones, loading areas shall not be used for any purpose other than loading or unloading.

(E) In any base zone, 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.

§ 39.6525 LOCATION OF PARKING AND LOADING SPACES.

(A) Parking spaces required by this Subpart 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:

(l) Parking use of the alternate site is permitted by this Chapter;

(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.

§ 39.6530 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 29.014, 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.

§ 39.6535 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 Subpart 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.

§ 39.6540 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.

§ 39.6545 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 Subpart.

§ 39.6550 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.

§ 39.6555 DESIGN STANDARDS: SCOPE.

(A) The design standards of this Subpart shall apply to all parking, loading, and maneuvering areas except those serving a single family dwelling on an individual lot in a rural base zone and except those serving a single family or a two-family dwelling in an urban base zone. Any non-residential use approved on a parcel containing a single family dwelling shall meet the design standards of MCC 39.6560 through 39.6580.

(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.

§ 39.6560 ACCESS.

(A) Where a parking or loading area does not abut directly on a public street or private street approved under Part 9 of this 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 therefore 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 in the base zone 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 Subpart. Required spaces may be located in a private street when authorized in the approval of such private street.

§ 39.6565 DIMENSIONAL STANDARDS.

(A) Parking spaces shall meet the following requirements:

(l) 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:

(l) 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:

(l)

Base zone	Minimum Width	Minimum Depth
All	12 Feet	25 Feet

(2) Minimum vertical clearance shall be 13 feet.

§ 39.6570 IMPROVEMENTS.

(A) Surfacing

(l) 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 in the base zone 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

(l) 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 RC, BRC, SRC, PH-RC, OR, OCI and all 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 39.6515, and such marking shall be continually maintained. Except for development within the RC, BRC, SRC, 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 provided. Such structures shall meet the setback, height and other requirements of the base zone which apply.

§ 39.6575 SIGNS.

Signs, pursuant to the provisions of this subpart shall also meet MCC 39.6780.

§ 39.6580 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 RC, BRC, SRC, PH-RC, OR and OCI base zones, 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 this Subpart.

(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.

(D) Parking or loading areas on property located in the C-3, LM, or MR-4 base zones that adjoins any other base zone located in the Urban Planning Area and along the same street, shall not be located closer to the street property line than the required setback of the adjoining base zone for a distance of 50 feet from the boundary of any such base zone.

(E) Parking or loading areas on property located in the C-3, LM, or MR-4 base zones and across a street from any other base zone located in the Urban Planning Area, shall have a setback of not less than five feet from the street property line, and such five foot setback area shall be permanently landscaped and maintained.

§ 39.6585 LANDSCAPE AND SCREENING REQUIREMENTS.

(A) The landscaped areas requirements of MCC 39.8045 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 39.6555 (A).

§ 39.6590 MINIMUM REQUIRED OFF-STREET PARKING SPACES.

(A) The following Residential Uses shall have at least the number of off-street parking spaces indicated:

(1) Single Family Dwelling - Two spaces for each dwelling unit.

(2) Two Family Dwelling - Two spaces for each dwelling unit.

(3) Apartment – One and one-half spaces for each dwelling unit.

(4) Rooming or Boarding House or Fraternity - Two spaces plus one space for each three guest rooms.

(5) Motel or Hotel - One space for each guest room or suite.

(6) Mobile Home Park - One-and-one-half spaces for each mobile home space.

(7) Group Care Facility, Home for Aged, or Children's Home – One space for each four beds.

(8) A residential development designed and used exclusively for low income, elderly persons - One space for each eight dwelling units.

(B) The following Public and Semi-Public Buildings and Uses shall have at least the number of off-street parking spaces indicated:

(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) Hospital – One space for each two beds, including bassinets

(6) Library – One space for each 100 square feet of reading room.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) Campground – One space for each campsite.

(C) The following Retail and Office Uses shall have at least the number of off-street parking spaces indicated:

(l) 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) The following Commercial Recreation Uses shall have at least the number of off-street parking spaces indicated:

(1) Indoor Arena or Theater - One space for each four seats or eight feet of bench length.

(E)The following Manufacturing and Storage Uses shall have at least the number of off-street parking spaces indicated:

(l) 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.

(F) Unspecified Uses. Any use not specifically listed above shall have the off-street parking space requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

§ 39.6595 MINIMUM REQUIRED OFF-STREET LOADING SPACES.

(A) Commercial, Office or Bank, or Commercial Amusement Uses shall have at least the number of loading spaces indicated in the following table:

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 Uses shall have at least the number of loading spaces indicated in the following table:

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, Hospital Uses shall have at least the number of loading spaces indicated in the following table:

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

Square foot of Floor or Land Area	Minimum Loading Spaces Required
940,000 - 1,029,999	13
Over 1,030,000	14

(D) Apartment Uses shall have at least: One loading space for each 50 dwelling units.

(E) Motion Picture Theater Uses shall have at least: One loading space.

(F) Public or Semi-Public Use: Treated as mixed uses.

(G) Unspecified Uses. Any use not specifically listed above shall have the loading space requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

§ 39.6600 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:

(l) 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 condition 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.

6.C.2 – SIGNS

§ 39.6700- PURPOSE.

(A) This Subpart 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.

§ 39.6705 APPLICABILITY AND SCOPE.

This Subpart regulates the number, size, placement and physical characteristics of signs. These regulations are not intended to, and do not restrict, limit or control the content or message of signs. This Subpart applies to all zones. The regulations of this Subpart are in addition to all other regulations in the Multnomah County Zoning Code and State Building Code applicable to signs.

§ 39.6710 CONFORMANCE.

No sign may be erected unless it conforms with the regulations of this Subpart. Sign permits must be approved prior to erection of the sign.

§ 39.6720 EXEMPT SIGNS.

The following signs are exempt from the provisions of this Subpart, but may be subject to other portions of the County Zoning 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 Multnomah County Road Rules and Design and Construction Manual 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.

§ 39.6725 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 Subpart;

(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.

§ 39.6730 DETERMINATION OF FRONTAGES.

(A) Primary Building Frontages

Primary building frontages are derived from each ground floor occupant's qualifying exterior walls (See MCC 39.6820 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.

§ 39.6735 VARIANCES.

Under the provisions of MCC 39.8200 through 39.8215, variances may be requested for all sign regulations except as provided herein, and except for prohibited signs.

§ 39.6740 BASE ZONE SIGN REGULATIONS.

Signs are allowed in unincorporated Multnomah County depending on the base zone in which a property is situated as described in MCC 39.6745 through 39.6765. Signs are allowed on properties that are zoned PD or have CS designations to the extent that signs are allowed in the base zone, except as provided in this Subpart.

§ 39.6745 SIGNS GENERALLY.

For all uses and sites in all zones except the LM, C-3 and MR-4 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 39.6780 through MCC 39.6820.

(A) The following standards apply to 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) The following standards apply to 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 maximum 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 base zones for all usages:

(1) Directional signs pursuant to MCC 39.6805.

(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.

§ 39.6750 SIGNS GENERALLY IN THE LM ZONE.

For all uses and sites in the LM zone, 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 39.6780 through 39.6820.

(A) The following standards apply to Free Standing Signs:

(1) Allowable Area - 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.

(2) Number - One free standing sign is allowed for the first 300 linear feet of site frontage and one for each additional 300 linear feet of site frontage or fraction thereof. The second sign's area is determined by the length of frontage not part of the initial 300 feet.

(3) Height - The maximum height of a free standing sign is 30 feet.

(4) Extension into the Right-of-Way - Free standing signs may not extend into the right-of-way.

(B) The following standards apply to Signs Attached to Buildings:

(1) Allowable Area - For ground floor occupants, the total allowable area for all permanent signs attached to the building is determined as follows:

(a) Thirty two square feet of sign face area is allowed, or one square foot of sign face area per linear foot of occupant's primary building frontage, whichever is more.

(b) If there is no freestanding sign on the primary site frontage toward which the building face is oriented, then l.5 square feet of sign face per linear foot of the occupant's primary building frontage is allowed or 32 square feet, whichever is more. If the total of all signs attached to the building is more than one square foot of sign face area per linear foot of primary building frontage, then no freestanding sign is allowed.

(2) Individual sign face area -The maximum size of an individual sign within the total allowable area limits is 280 square feet.

(3) Types of Signs - Fascia, projecting, marquee, awning and flush pitched roof signs are allowed. Roof top signs are not allowed.

(4) Number of Signs - There is no limit on the number of signs if within the total allowable area limit. However, only one projecting sign is allowed per building frontage, and shall only be allowed if there is no free standing sign on the same site frontage.

(5) Extensions 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:

(1) Directional signs pursuant to MCC 39.6805.

(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.

(4) Painted wall signs Painted wall signs are allowed on all walls up to 50 percent of the exposed wall area.

§ 39.6755 SIGNS GENERALLY IN THE C-3 ZONE.

For all uses and sites in the C-3 zone, 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 39.6780 through 39.6820.

(A) The following standards apply to Free Standing Signs:

(1) Allowable Area - Free standing signs are allowed one square foot of sign face per linear foot of site frontage, up to a maximum of 75 square feet.

(2) Number - One free standing sign is allowed per site frontage.

(3) Height - The maximum height of a free standing sign is 20 feet.

(4) Extension into the Right-of-Way - Free standing signs may not extend into the right-of-way.

(B) The following standards apply to Signs Attached to Buildings:

(1) Total Allowable Area - For ground floor occupants, the total allowable area for all permanent signs attached to the building is determined as follows: Thirty square feet of sign face area is allowed, or one square foot of sign face area per linear foot of 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 limits is 150 square feet, except for projecting signs which are limited to 75 square feet per face.

(3) Types of Signs - Fascia, projecting, marquee, awning and painted wall signs are allowed. 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. However, only one projecting sign is allowed per building frontage.

(5) Extensions 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:

(1) Directional signs pursuant to MCC 39.6805.

(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.

§ 39.6760 SIGNS FOR OFFICE AND COMMERCIAL USES IN THE MR-4, ZONE.

The following signs are permitted for office, clinic or limited commercial uses authorized as provided in the MR-4 zone.

(A) The following standards apply to Free-Standing Signs:

(1) Allowable Area - Free standing signs are allowed .40 square feet of sign face area per linear foot of site frontage, up to a maximum of 50 square feet.

(2) Number - One free standing sign is allowed per site frontage.

(3) Height - The maximum height of a free standing sign is 20 feet.

(4) Extension into the Right-of-Way - Signs may not extend into the right-of-way.

(B) The following standards apply to Signs Attached to Buildings:

(1) Total Allowable Area - For ground floor occupants, 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 .60 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 32 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) Extensions 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:

(1) Directional signs pursuant to MCC 39.6805.

(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.

§ 39.6765 SIGNS GENERALLY IN THE MR-4, ZONE.

For all uses and sites in theMR-4 zone, except as provided in MCC 39.6760 for office and commercial uses in the MR-4 zone, 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 39.6780 through 39.6820.

(A) The following standards apply to Free Standing Signs:

(1) Allowable Area - Free standing signs are allowed .20 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) The following standards apply to Signs Attached to Buildings:

(1) Total Allowable Area - For ground floor occupants, the total allowable area for all permanent signs attached to the building is determined as follows: Twelve square feet of sign face area is allowed, or .20 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 20 square feet.

(3) Types of Signs - Fascia 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) Extensions 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:

(1) Directional signs pursuant to MCC 39.6805.

(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.

§ 39.6770 BILLBOARD REGULATIONS.

(A) Billboards are allowed in unincorporated Multnomah County as described in MCC 39.6700 through MCC 39.6820.

(B) Number of Billboards within unincorporated Multnomah County. The following standards and procedures apply to establishment of a billboard:

(1) No billboard, other than as provided in this section, 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 section. A billboard shall be considered to be in existence if it meets the definition criteria of MCC 39.6820 and is currently being adequately maintained or has been issued a building permit prior to the effective date of this section. 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 section shall not be changed unless such modifications bring the billboard closer to or into, conformance with the provisions of this section, 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 sign 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.

(C) Limitation on the Relocation of Existing Billboards. The following standards apply to the relocation of a billboard:

(1) An existing billboard may be relocated to a new location, as described in this section, 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 section. 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 section 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, they 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.

(D) Standards Governing the Relocation of Billboards. The following additional standards apply to the relocation of a billboard:

(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 section. 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. However, in areas zoned LM, GM, HM, M-1, M-2 OR M-3, if the lands on the opposite side of the road are zoned residential and have only a rear lot line adjacent to the road, billboards will be allowed subject to a 90-foot setback requirement inclusive of the right-of-way.

(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) Base zones in Which Billboards are Permitted, pursuant to the other requirements of this section:

C-3 Retail Commercial

LM Light Manufacturing

(7) Sign free areas

(E) Development Standards. The following development standards apply to establishment, change, alteration and expansion of billboards:

(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.

(F) Variances. No variances to the standards set forth in this Section are allowed.

§ 39.6780 SIGN PLACEMENT.

(A) Placement. 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 39.6820 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-l/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 base zone, 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.

§ 39.6785 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, except for electronic message signs which may be up to 24 inches in thickness. Fascia signs may not extend beyond the corner of buildings.

§ 39.6790 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.

§ 39.6795 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.

§ 39.6800 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-l/2 feet.

§ 39.6805 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

Maximum Sign Face Area:	Six Square Feet
Flashing Lights:	Not Allowed
Electronic Message Centers:	Not Allowed
Moving or Rotating Parts:	Not Allowed

§ 39.6810 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. The following standards apply to 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.

§ 39.6815 APPLICABILITY IN THE EVENT OF CONFLICTS.

The provisions of MCC 39.6700 through 39.6820 supersede all conflicting provisions of this Chapter.

§ 39.6820 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.

(l) 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 39.6820 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 39.6820 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 39.6820 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.

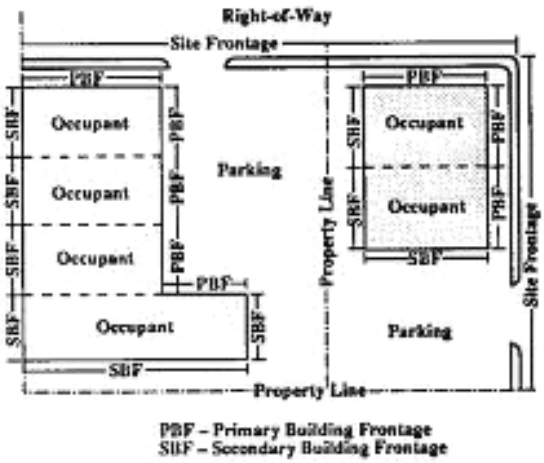

Figure 1 – Building Frontage Measurement

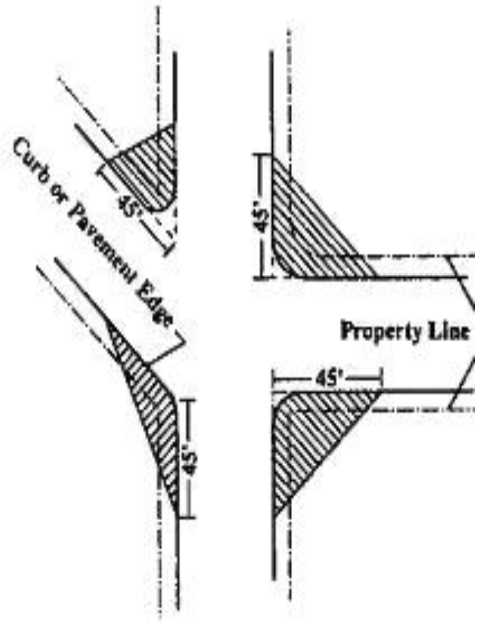

Figure 2 – Visibility Triangle

Visibility Triangle Areas at Typical Intersections

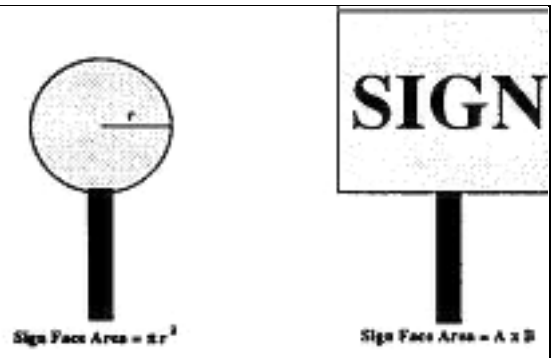

Figure 3 – Sign Face Measurements

Figure 4 – Sign Face Measurements

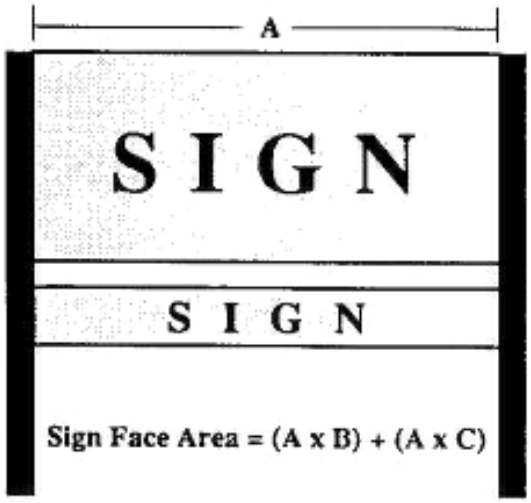

Figure 5 – Sign Face Measurements

6.C.3 – EXTERIOR LIGHTING

§ 39.6850 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 October 22, 2016, 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) 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 35.0535, 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.

6.D – RESPONSES TO AN EMERGENCY/DISASTER EVENT

§ 39.6900- RESPONSES TO AN EMERGENCY/DISASTER EVENT.

Responses to an emergency/disaster event are allowed in all base zones 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 39.2000, 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 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.

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PART 7 – CONDITIONAL USES AND COMMUNITY SERVICE USES

7.A – CONDITIONAL USES - CU

§ 39.7000- PURPOSES.

Conditional uses as specified in a base zone 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 base zone 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.

§ 39.7005 GENERAL PROVISIONS.

(A) Application for approval of a Conditional Use shall be subject to the provisions for Type III decisions in MCC 39.1105 through 39.1240.

(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 39.7015 and in the base zone or use provisions.

§ 39.7010 CONDITIONS AND RESTRICTIONS.

The approval authority may attach conditions and restrictions to any conditional use approved. Conditions and restrictions may include a definite time limit, a specific limitation of use, landscaping requirements, parking, loading, circulation, access, performance standards, performance bonds, and any other reasonable conditions, restrictions or safeguards that would uphold the purpose and intent of this Chapter and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use allowed.

§ 39.7015 CONDITIONAL USE APPROVAL CRITERIA.

(A) A Conditional Use shall be governed by the approval criteria listed in the base zone 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, Subsection (A) of this Section shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC 39.7315.

§ 39.7020 ADDITIONAL APPROVAL CRITERIA FOR CERTAIN TRANSPORTATION USES IN THE EXCLUSIVE FARM USE ZONE.

For the transportation uses listed in MCC 39.4230(P), (Q), and (R), 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.

§ 39.7025 DESIGN REVIEW.

Uses authorized under MCC 39.7000 through 39.7035 shall be subject to design review approval under MCC 39.8000 through 39.8050.

§ 39.7030 DESIGN REVIEW EXEMPTION.

Exempted from the Design Review criteria of MCC 39.8000 through 39.8050 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.

§ 39.7035 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.

7.A.1 – KEEPING OF DOGS (CU)

§ 39.7100- 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.

§ 39.7105 LOCATION REQUIREMENTS.

These uses shall be permitted only in the EFU, MUA-20, RR, C-3 and LM base zones and only where they will not conflict with the surrounding property uses. Additional requirements for locating or expanding kennels in the EFU base zone are found at MCC 39.4230 (I).

§ 39.7110 MINIMUM SITE SIZE REQUIREMENTS.

(A) Area: Two acres.

(B) Width: Two hundred fifty feet.

(C) Depth: Two hundred fifty feet.

§ 39.7115 MINIMUM SETBACK REQUIREMENTS.

These uses shall be located no closer than one hundred feet to any lot line.

§ 39.7120 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 MCC 39.7100 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.

§ 39.7125 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.

§ 39.7130 EXEMPTIONS.

Animal facilities for which Animal Control Facility licenses were issued prior to October 31, 1985 shall be exempted from the provisions of MCC 39.7100 through 39.7125 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.

7.A.2 – LARGE FILLS (CU)

§ 39.7200- PURPOSES.

The purpose of this Subpart 7.A.2 is to balance the need for large fill sites in unincorporated Multnomah County while protecting the rural character and natural resources of that area and the public health, safety and welfare in that area. These regulations are designed to:

(A) Minimize potentially adverse effects on the public and property surrounding the fill site;

(B) Acknowledge that natural resources can be impacted by large fill sites;

(C) 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 shall also be considered;

(D) Provide clear and objective standards by which these uses will be reviewed;

(E) Recognize that large fill areas should not impede future uses otherwise allowed under the Comprehensive Plan;

(F) Be consistent with state rules which do not currently list large fill sites as a use in farm and forest resource zones.
(Ord. 1271, Amended, 03/14/2019)

§ 39.7203 PERMIT REQUIRED.

Unless specifically exempted under MCC 39.7207, no large fill (as defined in MCC 39.2000) shall occur except pursuant to a Large Fill permit.
(Ord. 1271, Amended, 03/14/2019)

§ 39.7205 EXCLUDED AREAS.

Large fills shall not be allowed in:

(A) In areas designated SEC (general), SEC-s, SEC-w, SEC-wr, or WRG;

(B) In other stream areas protected by other local, state and federal agencies;

(C) On wetlands which have not been approved for fill by the Army Corp of Engineers and Division of State Lands;

(D) In 100 year floodplains; or

(E) On high-value farm land as defined in MCC 39.4210.
(Ord. 1271, Amended, 03/14/2019)

§ 39.7207 EXEMPTIONS.

Ground disturbing activity occurring in association with the following uses is exempt from the Large Fill permit requirements:

(A) Fill associated with a State or County owned and maintained road or bridge that is designated as a Rural Collector or a Rural Arterial on the Multnomah County Functional Classification of Trafficways map. The Trafficways map is part of the County Transportation System Plan.

(B) Agricultural fill authorized under an Agricultural Fill permit. Agricultural fill proposed in the Geological Hazards overlay is not eligible for this exemption.
(Ord. 1271, Amended, 03/14/2019)

§ 39.7210 APPLICATION INFORMATION REQUIRED.

An application for a Large Fill permit shall include two copies of each of the following:

(A) A scaled site plan showing the following, both existing and proposed:

(1) Property lines;

(2) Uses, buildings, structures, driveways, roads and right-of-way boundaries, fencing, gates, signs, lighting, and sound generating equipment;

(3) Location of wells, utility lines, site drainage measures, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(4) Trees and vegetation proposed for removal and planting and an outline of wooded areas;

(5) Water bodies, landslides, or other geologically unstable areas within 1,500 feet of any disturbed area;

(6) Boundaries of ground disturbing activities;

(7) Screening vegetation and any other screening methods including topography;

(8) Storage location and proposed handling and disposal methods for potential sources of non-erosion pollution including pesticides, fertilizers, petrochemicals, solid waste, construction chemicals, and wastewaters;

(9) Soil types; and

(10) Erosion and sediment control measures.

(B) A contour map at 5’ intervals showing both existing and proposed contours with datum;

(C) A geotechnical report for the entire site. The report shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer and 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) A hydraulic analysis of underground drainage systems utilized for fill compaction to determine the amount of water to be accommodated;

(6) Landslides and other geologically unstable areas within 1,500 feet surrounding the disturbed area; and

(7) An erosion and sediment control plan for year round protection of the fill site from erosion and sedimentation. The plan should include erosion and sediment control measures and timeless for:

(a) Winter stabilization;

(b) Rainy season operations in spring and fall;

(c) Summer operations;

(d) Areas of the site to be used for the various phases.

(8) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut (cubic yards) and fill (cubic yards).

(D) A written description of the project including:

(1) An explanation demonstrating how the proposal complies with MCC 39.7215;

(2) Specific timelines for all phases of the fill;

(3) Proposed hours of operation;

(4) The sound that will be generated by the fill operation; and

(5) Statement of the total daily number of fill haul truck trips, travel timing, loaded haul truck weight, and haul truck travel route(s) to be used from any fill source(s) to the fill deposit site.

(E) A copy of the deed(s) to all lots of record for the large fill site;

(F) Application materials required to comply with MCC 39.5085 and 39.5090 (Geologic Hazards);

(G) A reclamation plan submitted by a licensed landscape architect demonstrating that reclaimed surfaces conform with the natural landforms of the surrounding terrain and including an estimate of the cost to implement the plan based on the current local construction costs.

(H) Written documentation of:

(1) Approval of any new stormwater discharges into public right-of way by each governing agency having authority over the matter.

(2) Approval of any new stormwater surcharges to sanitary drainfields by the City of Portland Sanitarian and any other agency having authority over the matter.

(3) Any required permit from the Department of Environmental Quality or written confirmation from the Department of Environmental Quality that no permits are required.

(I) A traffic management plan that identifies impacts of fill haul trucks to existing County infrastructure and an assessment as to the ability of the existing infrastructure to withstand increased traffic loading and usage.
(Ord. 1271, Amended, 03/14/2019)

§ 39.7215 LARGE FILL PERMIT STANDARDS.

A Large Fill permit shall not be issued unless the application for such permit establishes compliance with MCC 39.5085, 39.5090, 39.6210 and satisfaction of the following standards:

(A) The applicant demonstrates that the site is capable of being used as provided in the Comprehensive Plan and the base zone 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 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.

(c) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No material shall be tracked or discharged in any manner onto any public right-of-way.

(d) The County Engineer shall review the submitted traffic management plan and determine whether to find, based on findings relating to the Multnomah County Road Rules and Design and Construction Manual:

1. No transportation impact; or

2. If a transportation impact occurs as a result of the proposal, the impact shall be mitigated in accordance with the Multnomah County Road Rules and Design and Constructions Manual and in accordance with the following:

i. The applicant must commit to finance installation of the necessary improvements under the provisions of the Multnomah County Road Rules and Design and Construction Manual, and

B. The applicant must develop a traffic plan for the number and weight of trucks that can safely be accommodated at specific levels of road improvement. Based upon a finding of impact, the approval 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) If the proposed disturbed area is within 500 feet of Oregon Department of Transportation right-of-way or railroad right-of-way, notice of the proposal shall be

forwarded by Multnomah County to 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 39.6805.

(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 Saturdays, 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 confirmation 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.

(c) Fill generated by dredging may be deposited on Sauvie Island only to assist in flood control or to improve a farm's soils or productivity, except that it may not be deposited in any SEC overlay, WRG overlay, or designated wetland.

(6) Minimum Setbacks.

(a) For filling activities the minimum setback shall be 100 feet to a property line, or if multiple lots of record, to the outermost property line of the site.

(b) For access roads and residences located on the same site as the filling or processing activity, setbacks shall be as required by the base zone.

(7) Reclaimed Topography.

All final reclaimed surfaces shall be stabilized by erosion and sediment 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.

Large fill Conditional Use permits shall be for a two-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 Part 1 of this zoning code.

If completion of a large fill project is approved to extend beyond two years, the applicant shall submit an engineering report prepared and signed by a licensed engineer at least once per calendar year by October 31, or as otherwise specified by the approval authority. The engineering report shall describe at a minimum the following:

(a) The volume 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 fill 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. 1271, Amended, 03/14/2017)

§ 39.7220 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 39.1510 or as deemed appropriate by the Multnomah County Attorney shall be instituted to require compliance.

(B) For multiple year projects, prior to commencement of fill placement in the spring, an engineer's report shall be submitted no later than May 1 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. 1271, Amended, 03/14/2017)

7.A.3 – MINING AND MINERAL EXTRACTION (CU)

§ 39.7300- DEFINITIONS.

As used in this subpart of MCC Chapter 39, the words and their derivations defined in MCC 39.5415 shall have the meanings given therein.

§ 39.7305 PURPOSES.

The purposes of the Mineral Extraction regulations 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 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 339.7315 through 39.7325; 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 shall also be considered.

§ 39.7310 EXCEPTIONS.

Exempted from the requirements of this subpart of MCC Chapter 39 are those mineral extraction sites and activities as given in MCC 39.5410.

§ 39.7315 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 base zone.

(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 Road Rules and Design and Construction Manual, 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 Road Rules and Design and Construction Manual, 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 Road Rules and Design and Construction Manual, 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 Road Rules and Design and Construction Manual; 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 39.8750.

(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 base zone; and

(c) For mineral extraction and all other activities:

1. 100 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.

(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 hazards 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).

§ 39.7320 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 subpart of MCC Chapter 39 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.

§ 39.7325 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 39.7315 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.

§ 39.7330 EXISTING OPERATIONS.

(A) All mineral extraction uses that have been approved without a time limit under MCC 39.7300 through 39.7330, 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 39.730 through 39.7330 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).

7.A.4 – STORAGE OF MOTOR VEHICLES OF SPECIAL INTEREST (CU)

§ 39.7350 DEFINITIONS.

For the purpose of this subpart of MCC Chapter 39, the following terms are hereby defined:

(A) 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.

(B) Motor Vehicle of Special Interest A motor vehicle satisfying the criteria of paragraph (a) of subsection (4) or paragraph (c) of subsection (6) of ORS 481.205 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.

(C) 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.

§ 39.7355 USES.

The following uses may be permitted under this subpart of MCC Chapter 39, 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.

§ 39.7360 APPROVAL CRITERIA.

The approval authority shall find that the proposal will satisfy the approval criteria listed in MCC 39.7015.

§ 39.7365 CONDITIONS AND RESTRICTIONS.

In addition to the conditions and restrictions which may be attached under the provisions of MCC 39.7010, 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.

7.A.5 – TYPE C HOME OCCUPATION (CU)

§ 39.7400- 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.

§ 39.7405 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 deliveries 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 39.6500-39.6600 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 39.6700–39.6820, 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 detectable 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 base zone. 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 base zones, the home occupation will not unreasonably interfere with other uses permitted in the base zone.

(12) The approval criteria listed in MCC 39.7015.

(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 39.1230, 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.

§ 39.7410 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 39.1105.

(B) The Planning Director may consider minor modifications to the Hearings Officer's decision required by MCC 39.7405(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 39.7405(A).

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

7.B – COMMUNITY SERVICE USES (CS)

§ 39.7500- PURPOSE.

This subpart of MCC Chapter 39 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 base zone.

§ 39.7505 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 39.8000 through 39.8050.

(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.

§ 39.7510 CONDITIONS AND RESTRICTIONS.

The approval authority may attach conditions and restrictions to any community service use approved. Conditions and restrictions may include a definite time limit, a specific limitation of use, landscaping requirements, parking, loading, circulation, access, performance standards, performance bonds, and any other reasonable conditions, restrictions or safeguards that would uphold the purpose and intent of this Chapter and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use allowed.

§ 39.7515 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 39.7550 through 39.7575, wireless communications facilities, subject to the provisions of MCC 39.7705, and except for regional sanitary landfills, which shall comply with MCC 39.7600 through 39.7625.

(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) In the West of Sandy River Rural Planning Area, the use is limited in type and scale to primarily serve the needs of the rural area.
(Ord. 1270, Amended, 03/14/2019)

§ 39.7520 USES.

(A) Except as otherwise limited in the EFU, all CFU and OR base zones, the following Community Service Uses and those of a similar nature, may be permitted in any base zone when approved at a public hearing by the approval authority.

Allowed Community Service Uses in the EFU, CFU and OR base zones are limited to those uses listed in each respective base zone.

(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, including power substation or other public utility buildings or uses, subject to the approval criteria in MCC 39.7515(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 base zone, provided only self-supporting structures are permitted in the Exclusive Farm Use base zone.

(b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any base zone except urban residential base zones, provided only self-supporting structures are permitted in the Exclusive Farm Use base zone.

(c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any base zone 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 base zone in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC 39.7575 (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 this paragraph (A) (8) and 39.7550 through 39.7575.

(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, or park and ride lot.

(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 39.7650.

(18) Fire Station.

(19) Accessory uses to the above.

(B) In addition to those uses listed in subsection A of this section, in the West Hills, Sauvie Island/Multnomah Channel and East of Sandy Rural Planning Areas, the following Community Service Uses and those of a similar nature may also be permitted when approved at a public hearing by the approval authority

(1) Boat moorage, marina, or boathouse moorage.

(2) Camp, campground, or recreational vehicle park.

(3) Cemetery, crematory, mausoleum, mortuary or funeral home.

(4) Government building or use.

(5) Hospital, sanitarium, rest or retirement home.

(6) Philanthropic or eleemosynary institution.

(7) Racetrack

(8) Refuse dump or sanitary landfill.

(9) Resort, dude ranch, hunting or fishing lodge.

(10) Regional sanitary landfills.

(11) Wireless communication facilities.

(C) Approval of a Community Service Use shall be deemed to authorize associated public utilities to serve the site, including energy and communication facilities.
(Ord. 1270, Amended, 03/14/2019)

§ 39.7525 RESTRICTIONS.

A building or use approved under MCC 39.7520 through 39.7650 shall meet the following requirements:

(A) Minimum yards in EFU, CFU, MUA-20, RR, BRC, OCI, OR and PH-RC, UF-20, LR-10, Base zones:

(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 base zone.

(B) Minimum yards in LR-7, LR-5 and MR-4 Base zones:

(1) Front yards shall be 30 feet.

(2) Side yards for buildings 25 feet or less in height shall be 15 feet; for buildings over 25 feet in height, 20 feet.(3) Rear yards shall be as required in the base zone.(C) Minimum yards in other base zones shall be as required in the base zone.

(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 39.6500 through 39.6600.

(E) Signs for Community Service Uses pursuant to the provisions of MCC 39.6700 through 39.6820.

(F) In the MUA-20, RR, and BRC, SRC and RC base zones, the length of stay by a person or vehicle in a camp, campground, campsite or recreational vehicle park shall not exceed a total of 90 days during any consecutive 12 month period by an individual, group or family. (G) Other restrictions or limitations of use or development not required under this subsection shall be provided in the base zone.

7.B.1 – RADIO AND TELEVISION TRANSMISSION TOWERS (CS)

§ 39.7550- PURPOSE.

The purposes of this subpart of MCC Chapter 39 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.

§ 39.7555 DEFINITIONS.

The following definitions shall apply to this subpart:

(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.

§ 39.7560 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 39.7565 (I) and (J).

(B) Landscape plan to the scale indicating size, spacing and type of plantings required in 39.7565 (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 39.7565 (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 39.7565 (J).

(F) Responses to the applicable Comprehensive Plan Policies.

§ 39.7565 APPROVAL CRITERIA FOR NEW TRANSMISSION TOWERS.

New transmission towers base zone permitted under MCC 39.7520 (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 base zone or a public property or street, except a building-mounted tower, the site size standards of MCC 39.7565 (I) and (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 base zone 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 freestanding 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 39.6500 to 39.6600 if the site serves multiple purposes.

(E) The applicable policies of the Comprehensive Plan are met.

(F) The NIER standards of MCC 39.7575 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 base zones, 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 base zone, 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 39.7565 (C) and (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 39.7560 (C) (4) and (5), and

(d) Protect the public from NIER in excess of the standard of MCC 39.7575 (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 base zone, 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 base zone 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 39.7525.

(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 base zone, public property or public street in addition to the size required to comply with 39.7565 (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 base zone 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 base zone.

(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 39.7565 (J) (3) as determined by the Planning Director.

§ 39.7570 DESIGN REVIEW.

The use shall comply with the design review provisions of MCC 39.8000 to 39.8050. This may be implemented as a condition of approval.

§ 39.7575 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 plan 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 magnetic 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 µw/cm2 as a function of averaging time (in hours is given by P = k/(where in turn K is equal to 1/2 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 isotopic 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 subsection (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/cm2 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 subsection (D), including the existing measured background, do not exceed the limits set forth in subsection (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 subsection (D) exceed one-third of the maximum levels of subsection (A), then, the approval shall be conditional upon measurements made after the new source is installed showing that the maximum levels of subsection (A) are not exceeded. If the calculated levels exceed the maximum level of subsection (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 subsection (D) if they comply with the separation requirement of this subsection (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 / □f feet	364 / □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.

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 / □*f* feet	572 / □*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(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.(4) Amateur intermittent sole source emitters of less than 1 KW average output.

TABLE 1

Non-Ionizing Electromagnetic Radiation Standards

Frequency (MHz)	Mean Squared Electric (E) Field Strength* (V^2/m^2)†	Mean Squared Magnetic (H) Field Strength* (A^2/m^2)‡	Equivalent Plane-Wave Power Density* (mW/cm^2)
100 Khz – 3 MHz	80,000	.05	20
3 MHz – 30 MHz	$4{,}000(180/f^2)$	$0.025(180/f^2)$	$180/f^2$
30 MHz – 300 MHz	800	0.005	0.2
300 MHz – 1500 MHz	$4{,}000(f/1500)$	$0.025(f/1500)$	$f/1500$
1500 MHz – 300 GHz	4,000	0.025	1.0

* All standards refer to root mean square (rms) measurements averaged over 0.5 hour (30 minutes).

† V^2/m^2 = Volts squared per meter squared.
‡ A^2/m^2 = Amperes squared per meter squared.

Note: *f* = frequency in megahertz (MHz).

7.B.2 – REGIONAL SANITARY LANDFILLS (CS)

§ 39.7600- 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 Base zone or its successor. (County or other authorized unit of government.)

(3) *Suitable* shall mean adapted or adaptable to a use.

(4) *Mitigate* shall mean to make less severe, less painful or less of a loss, to a level provided for in MCC 39.7600 through 39.7620.

(5) *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.

§ 39.7605 PURPOSE.

The purposes of MCC 39.7600 through 39.7625 are to:

(A) Determine whether a proposed landfill site is suitable and whether it can be reclaimed for uses allowed by the base zone.

(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.

§ 39.7610 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.

§ 39.7615 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 leacheate 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 subpart of MCC Chapter 39, 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 landfilling operations, is not reduced. The Approval Authority shall also request that any Soil and Water Conservation Base zone which includes the site within its boundaries review the proposal and offer testimony on potential soil erosion problems;

(6) Leacheate 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 base zone. For resource base zones (CFU, EFU, MUF, MUA), the primary use will be the resource for which the base zone was created (i.e., timber production in CFU, farmland in EFU, etc.). 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.

§ 39.7620 CONDITIONS.

(A) The proposal provides a plan for the reclamation of the site, in compliance with MCC 39.7615 (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.

§ 39.7625 LIMITATIONS ON APPLICATION OF ORDINANCE.

MCC 39.7600 through 39.7620 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 Zoning Code provisions applicable to such landfills which were in effect at the time of the initial application.

7.B.3 – SURPLUS PUBLIC SCHOOL SPACE (CS)

§ 39.7650- LIMITED ALTERNATIVE USES OF SURPLUS PUBLIC SCHOOL SPACE LOCATED IN MUA-20, RR, RC, BRC, SRC, PH-RC, AND OR BASE ZONES.

(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, RC, BRC, SRC, PH-RC, and OR base zones 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 39.7515 and the restrictions of MCC 39, 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 39.7650(D) and the restrictions of MCC 39.7525, 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 39.7650 (C), the approval authority shall find:

(1) The approval criteria of MCC 39.7515 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.

7.B.4 – WIRELESS COMMUNICATION FACILITIES (CS)

§ 39.7700- PURPOSES.

The purpose and intent of 39.7700 through 39.7765 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.

§ 39.7705 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).

§ 39.7710 REVIEW PROCEDURES DISTINGUISHED.

(A) An application for a WCF that employs co-location upon a tower or structure approved under 39.7700 through 39.7765 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 39.7700 through 39.7765 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 base zone. New WCFs within an Exclusive Farm Use base zone 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 subpart of Chapter 39)	Building Permit	N/A
Co-location (tower or structure not approved under this subpart of Chapter 39)	Planning Director	N/A
Concealment Technology	Planning Director	See: 39.7740(B)(2) (a)
Screened Tower	Community Service Hearing	See: 39.7740(B)(2) (a)
All Towers within EFU zone	Planning Director	<200 feet

§ 39.7715 DEFINITIONS.

As used in MCC 39.7700 through 39.7765 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 wireless 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 MCC 39.7700 through 39.7765 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.

§ 39.7720 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.

§ 39.7725 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 39.8000 through 39.8020.

(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 superseding 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 MCC 39.7700 through 39.7765within 90 days of change. Failure to provide appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 39.1510.

(J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, ground disturbing activities, 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. 1271, Amended, 03/14/2019)

§ 39.7730 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.

§ 39.7735 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 setbacks 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 (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 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.

§ 39.7740 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 their 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 ground disturbing activities regulations of MCC 39.6200 through 39.6235 when applicable;

(c) The facility shall comply with Flood Hazard regulations of MCC 39.5000 through 39.5055 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 Hearings 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 human-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 subordinance 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 base zone, 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 zone, whichever 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 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 subordinance 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 Base zone.

(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 variety 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. 1271, Amended, 03/14/2017)

§ 39.7745 APPROVAL CRITERIA FOR LAND ZONED EXCLUSIVE FARM USE.

A wireless communications facility located within an Exclusive Farm Use base zone 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 ORS 215.283 (1)(c) 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)(c) et. seq.

(1) Location pursuant to: MCC 39.7740(B)(1),

(2) Height. The maximum height of any tower shall be 200 feet from finished grade.

(3) Setback pursuant to: MCC 39.7740(B)(3).

(4) Storage pursuant to: MCC 39.7740(B)(4).

(5) Color and materials pursuant to: MCC 39.7740(B)(5).

(6) Fences pursuant to: MCC 39.7740(B)(6).

(7) Security pursuant to: MCC 39.7740(B)(7).

(8) Lighting pursuant to: MCC 39.7740(B)(8).

(9) Signs pursuant to: MCC 39.7740(B)(9).

(10) Access driveways and parking pursuant to: MCC 39.7740(B)(10).

(11) Landscaping and screening pursuant to: MCC 39.7740(B)(11).

§ 39.7750 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.

§ 39.7755 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 section shall constitute a violation and be subject to the penalties prescribed in this Chapter.

§ 39.7760 APPEALS.

Any person aggrieved by a decision of the Approval Authority made pursuant to this subpart of MCC Chapter 39 may appeal that decision as provided in MCC 39.1160.

§ 39.7765 STATUTORY SEVERABILITY.

If any subsection, sentence, clause, phrase, or word of this subpart of MCC Chapter 39 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 subpart. The Multnomah County Board of

Commissioners hereby declares that it would have passed and adopted this subpart and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

7.B.5 – WATERFRONT USES (CS)

§ 39.7800- MARINAS AND FLOATING HOME MOORAGES.

The location of a floating home or the alteration of an existing floating home moorage shall be subject to approval of the approval authority:

(A) Definitions:

Houseboat – Any floating structure designed as a dwelling for occupancy by one family and having only one cooking facility

Floating Home – See Houseboat

Houseboat Moorage – The provision of facilities for two or more houseboats

(B) Location Requirements: Houseboats shall be permitted only as designated by the Comprehensive Plan.

(C) Criteria for Approval: In approving an application pursuant to this subsection, the approval authority shall find that:

(1) The proposed development is in keeping with the overall land use pattern in the surrounding area;

(2) The development will not adversely impact, or be adversely affected by normal fluvial processes;

(3) All other applicable governmental regulations have, or can be satisfied; and

(4) The proposed development will not generate the untimely extension or expansion of public facilities and services including, but not limited to, schools, roads, police, fire, water and sewer.

§ 39.7802 DENSITY.

The maximum density minimum of houseboats shall not exceed one for each 50 feet of waterfront frontage.

The Hearings Officer in approving a houseboat moorage may reduce the density below the maximum allowed upon finding that:

(A) Development at the maximum density would place an undue burden on school, fire protection, water, police, road, basic utility or any other applicable service.

(B) Development at the maximum density would endanger an ecologically fragile natural resource or scenic area.

§ 39.7805 PARKING.

In addition to the requirements of MCC 39.6500 through MCC 39.6600, waterfront uses shall meet the following:

(A) Two automobile spaces shall be provided for each houseboat.

(B) The parking area and all ingress and egress thereto shall be constructed two feet above the elevation of the 100 year flood boundary, and under the provisions of MCC 39.6500 through 39.6600.

§ 39.7810 OTHER REQUIREMENTS.

(A) All ramps, walkways and moorage spaces shall be designed, constructed and maintained to provide maximum safety in all weather conditions.

(B) Lighting adequate to provide for the safety of residents and visitors shall be provided throughout a houseboat moorage.

(C) Siting and design of all pickup and delivery facilities shall insure maximum convenience with minimum adverse visual impacts.

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PART 8 – SPECIFIC USE STANDARDS

8.A – DESIGN REVIEW

§ 39.8000- PURPOSES.

MCC 39.8000 through 39.8050 (Design Review) 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 human-made environment.

§ 39.8005 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.

§ 39.8010 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 Code.

§ 39.8015 EXCEPTIONS.

The provisions of MCC 39.8000 through 39.8050 shall not be applied to the following:

(A) Single family residences.

(B) Type C Home Occupations unless located in the RC, BRC, OR, PH-RC or SRC base zones.

(C) Type C Home Occupations located in the RC, BRC, OR, PH-RC, or SRC base zones that require the addition of less than 400 square feet of ground coverage.

(D) Commercial photovoltaic solar power generation facility.

§ 39.8020 APPLICATION OF REGULATIONS.

(A) Except those exempted by MCC 39.8015, the provisions of MCC 39.8000 through 39.8050 shall apply to all conditional and community service uses, and to specified uses, in any base zone.

(B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 39.6590 shall only be subject to the following Design Review approval criteria: MCC 36.8040(A)(1)(a) and (1)(c), (4) and (7), except when located in the RC, BRC, OR, OCI, PH-RC or SRC zone base zones.

(C) All other uses are subject to all of the Design Review Approval Criteria listed in MCC 39.8040 and 39.8045.

(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 39.8040 and 39.8045.

(E) A multiplex, garden apartment or apartment dwelling or structure.

(F) A boarding, lodging or rooming house.

(G) A hotel or motel.

(H) A business or professional office or clinic.

(I) A use listed in any commercial base zone.

(J) A use listed in any manufacturing base zone.

§ 39.8025 DESIGN REVIEW PLAN CONTENTS.

(A) The design review application shall be filed on forms provided by the Planning Director and shall be accompanied by 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, Geologic Hazards 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;

(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.

§ 39.8030 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 39.8025, as appropriate;

(B) Architectural drawings, indicating floor plans, sections, and elevations; and

(C) Approved minor exceptions from yard, parking, and sign requirements.

§ 39.8035 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 39.8010 and 39.8020, require the posting of a performance bond, cash deposit, or other surety, to secure execution of the feature at a time certain.

§ 39.8040 DESIGN REVIEW CRITERIA.

(A) Approval of a final design review plan shall be based on the following criteria:

(l) 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 stormwater 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.

§ 39.8045 REQUIRED MINIMUM STANDARDS.

(A) Private and Shared Outdoor Recreation Areas in Residential Developments:

(l) 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.

(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:

(l) 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.

§ 39.8050 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:

(l) Dimensional standards for yards as required in the primary base zone;

(2) Dimensional standards for off-street parking as required under MCC 39.6560 and 39.6565;

(3) Standards for minimum number of off-street parking spaces as required in the primary base zone; and

(4) Dimensional standards for signs as required in the primary base zone;

(5) In the case of a proposed alteration, standards for landscaped areas under MCC 39.8045 (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 subsection.

(l) 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 39.8000, considering the extent and type of proposed alteration and the degree of its impact on the site and surrounding areas.

8.B – ADJUSTMENTS AND VARIANCES

§ 39.8200- ADJUSTMENTS AND VARIANCES; GENERALLY.

(A) MCC 39.8200 through MCC 39.8215 (Adjustments and Variances) are designed to implement the Policies of the Comprehensive 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 39.8205 may be permitted if the approval authority finds that the applicant has satisfactorily addressed and met the respective approval criteria in MCC 39.8210, Adjustments, or 39.8215, 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.

(E) All proposed modification of the dimensional standards given in MCC 39.8205(A)(2) shall be reviewed under the Variance review process regardless of the proposed percentage modification.

§ 39.8205 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) Overlays are prohibited. Additionally, reductions to the fire safety zones in the Commercial Forest Use base zones are not allowed under the Adjustment process; and

(2) Reduction of yards and setback requirements within the Geologic Hazards Overlay (GH) shall only be reviewed as a Variance; and

(3) Reduction of yards/setback/buffer/re-source 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) Overlays; and

(2) Modification of fire safety zone standards given in Commercial Forest Use base zones; 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 Base zone.

§ 39.8210 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 39.8205 upon finding that all the following standards in (A) through (F) 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 base zone; 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 the Rural Residential (RR), Rural Center (RC), Burlington Rural Center (BRC), Orient Residential (OR), Orient Commercial-Industrial, Pleasant Hill Rural Center, or Springdale Rural Center base zone, the proposal will not significantly detract from the livability or appearance of the residential area.

(F) The adjustment must be in support of a lawfully established use or in support of the lawful establishment of a use.
(Ord. 1270, Amended, 03/14/2019)

§ 39.8215 VARIANCE APPROVAL CRITERIA.

The Approval Authority may permit and authorize a variance from the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (G) 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 base zone. 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 base zone, 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 base zone in which the property is located, or adversely 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.

(G) The variance must be in support of a lawfully established use or in support of the lawful establishment of a use.
(Ord. 1270, Amended, 03/14/2019)

8.C – NONCONFORMING USES

§ 39.8300- NONCONFORMING USES.

(A) The purpose of MCC 39.8300 through 39.8315 (Nonconforming Uses) 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 39.8315 (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 39.8310 and 39.8315 after verification under MCC 39.8305.

(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:

(l) 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 the base zone regulates such alteration, expansion, or replacement and the proposed alteration, expansion, or replacement satisfies the dimensional requirements of the base zone.

§ 39.8305 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:

(l) 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:

(l) 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 39.8315 (B), the Planning Director may impose conditions to any verification of nonconforming use status to ensure 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.

§ 39.8310 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 39.8305, 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.

§ 39.8315 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 39.8305, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that:

(l) 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 39.8305, 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.

(l) 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 Part 1 of this Zoning Code.

8.D – SPECIAL PERMITS AND APPLICATIONS

8.D.1 – BUS PASSENGER SHELTERS

§ 39.8400- BUS PASSENGER SHELTERS.

(A) In addition to all other uses permitted in any base zone, 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.

8.D.2 – HISTORICAL STRUCTURES AND SITES PERMITS

§ 39.8450 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 provided for in MCC 39.5100 through 39.5170, or any building structure or premises classified HP under MCC 39.5100.

(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 39.8000 through 39.8050.

(B) In addition to the final design review criteria listed in MCC 39.8040 and the standards and exceptions of MCC 39.8045 and 39.8050, 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 Subsection (B)(1) of this Section 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 Subsection (C)(7) of this Section.

(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 (C) of this Section, the application shall be subject to the applicable provisions of Part 1 of this Zoning Code.

(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 base zone;

(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 Subsection (C)(5) of this Section. The Board may affirm, reverse, or modify the recommendation of the Planning Commission. The approval criteria of MCC 39.1205 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 Subsection (C)(1) of this Section, 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 this Section, shall be subject to the provisions of Subsection (C) of this Section.

(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.

8.D.3 – MARIJUANA BUSINESS

§ 39.8500- 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 Subsection (C) of this Section, 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 39.8315, 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 base zone is specified in Table A, the Marijuana Business may not operate in that base zone.

Table A

X = Not Allowed

Base Zone	Marijuana Production	Marijuana Processing	Marijuana Wholesaling	Marijuana Dispensing or Retailing
CFU CFU-1 CFU-2 CFU-3 CFU-4 CFU-5	Outdoor Production only 39.4070(C)	X	X	X
EFU	39.4220(A)	39.4225(L)	X	X
MUA-20	39.4310(A)	39.4320(B)(2)	X	X
UF-20	39.4751(B)	39.4753(B)(2)	X	X
RR	Indoor Production only and the total combined footprint of the Marijuana Business shall not exceed 2,500 square feet. 39.4360(B)	X	X	X
LR-5	X	X	X	X
LR-7	X	X	X	X
LR-10	X	X	X	X
RC	Indoor Production only 39.4410(A)	39.4420(B)(4)	39.4420(B)(3)(a)	39.4420(B)(1)

Base Zone	Marijuana Production	Marijuana Processing	Marijuana Wholesaling	Marijuana Dispensing or Retailing
PH-RC	Indoor Production only 39.4510(A)	39.4520(B)(6)	39.4520(B)(4)	39.4520(B)(1)
OR	Indoor Production only and the total combined footprint of the Marijuana Business shall not exceed 2,500 square feet. 39.4610(B)	X	X	X
OCI	Indoor Production only 39.4660(B)	39.4665(C)	39.4665(B)(3)	39.4665(A)
BRC	Indoor Production only 39.4460(A)	39.4470(B)(3)	X	39.4470(B)(1)
SRC	Indoor Production only 39.4560(A)	39.4570(B)(3)	X	39.4570(B)(1)
All Other Base Zones	X	X	X	X

(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 base 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 base zones 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 lawfully established 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, the Significant Environmental Concern Overlays, MCC 39.5500 through MCC 39.5860 (SEC), shall not apply to a building or structure lawfully established prior to January 1, 2016, but shall apply to all other buildings and structures within the SEC. The farm use exception in MCC 39.5515(A) from SEC permit requirements shall apply only to marijuana production in the Exclusive Farm Use base zone 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

(f) 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.

8.D.4 – MOBILE HOMES AND MOBILE HOME PARKS

§ 39.8600- DEVELOPMENT STANDARDS FOR MOBILE HOMES ON INDIVIDUAL LOTS WITHIN URBAN BASE ZONES.

A mobile home on an individual lot located in any Urban base zone shall:

(A) Be a *manufactured home* constructed after June 15, 1976, and carry a State insignia indicating compliance with applicable Oregon State mobile home construction or equipment standards;

(B) Notwithstanding deterioration, which may have occurred due to misuse, neglect, accident or other cause, meet the State standards for mobile home construction evidenced by the required insignia;

(C) Be placed on an excavated and back-filled foundation and enclosed at the perimeter;

(D) Have a minimum floor area of 1,000 square feet;

(E) Have a pitched roof with a pitch of at least a nominal three feet in height for each 12 feet in width (3:12);

(F) Be multisectional. A "tip-out" or "expandable" unit is not a multisectional home.

(G) Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the state building code as defined in ORS 455.010.

§ 39.8605 MOBILE HOME PARK APPROVAL CRITERIA.

In approving a mobile home park the approval authority shall find that the proposal:

(A) Is located outside a "Developed Neighborhood" as designated in the Community Plan;

(B) Will have direct pedestrian and two-way vehicular access to a publically maintained road;

(C) Will be located on a site free from development limitations such as slopes exceeding 20%, severe erosion or earth slide potential, or a high seasonal water table;

(D) Will provide for the privacy of the occupants of the mobile homes, of adjoining dwellings and of outdoor living areas through such means as the placement of mobile homes and accessory structures, the arrangement of landscaping, parking and circulation and the preservation of natural vegetation and other features;

(E) Will provide for the conservation of energy through orientation of mobile homes, accessory structures and open spaces with regard to solar exposure and climatic conditions (MCC 39.4798 through 39.4803);

(F) Will provide outdoor or indoor recreation spaces of a type and location suitable to the needs of the residents of the park; and

(G) Will satisfy the mobile home park development standards of MCC 39.8610.

§ 39.8610 MOBILE HOME PARK DEVELOPMENT STANDARDS.

A mobile home park approved under this Chapter shall comply with the State standards in effect at the time of construction, the other applicable requirements of this Chapter, and the following:

(A) Application for a permit shall include evidence that the park will be eligible for a certificate of sanitation required by State law;

(B) The space provided for each mobile home shall be supplied with piped potable water and electrical and sewage disposal connections;

(C) Not more than 40 percent of the area of a mobile home space may be occupied by a mobile home and any attached or detached structure used in conjunction with the mobile home;

(D) Only those accessory structures authorized by Oregon Administrative Rule may be attached to a mobile home;

(E) The only detached structures located on a mobile home space shall be a carport or a fully-enclosed storage building;

(F) A mobile home and any attached accessory structure shall not be located less than:

(1) Ten feet from any other mobile home or accessory structure attached thereto;

(2) Ten feet from any detached accessory building or other building located within the mobile home park; or

(3) Five feet from a mobile home park property line.

(G) A permanent building in a mobile home park shall not be located less than ten feet from another permanent building and shall meet the yards as required in the base zone;

(H) A sight-obscuring fence of not less than six feet in height, with openings only for required entrances or exits to a street or public place, shall be provided between mobile homes and a mobile home park property line;

(I) Each vehicular way in a mobile home park of 50 spaces or more shall be named and marked with signs of a design similar to those for public streets. A map of the named vehicular ways and of the mobile home space numbers shall be provided by the owner to the fire base zone;

(J) There shall be no outdoor storage of furniture, electrical appliances, tools, equipment, building materials or supplies within a mobile home park;

(K) Any mobile home in a mobile home park within an LR-7 or LR-5 base zone shall:

(1) Be located in a mobile home space which complies with the standards of this subsection;

(2) Be a *manufactured home* constructed after June 15, 1976, and carry a State insignia indicating compliance with applicable Oregon State mobile home construction or equipment standards;

(3) Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the State standards for mobile home construction evidenced by the required insignia;

(4) Have a minimum floor area of not less than 800 square feet;

(5) Have a roof with a minimum slope of 16 percent (2:12); and

(L) Any mobile home in a mobile home park within an MR-4 base zone shall:

(1) Be located in a mobile home space which complies with the standards of this subsection;

(2) Be a *residential trailer* or *manufactured home* which has a state insignia or other documentation indicating compliance with Oregon State mobile home construction and equipment standards in effect at the time of manufacture, reconstruction or equipment installation;

(3) Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the State standards for mobile home construction evidenced by the required insignia;

(4) Have a minimum floor area of not less than 225 square feet;

(5) Be equipped with a water closet, lavatory, shower or bath tub, and with a sink in a kitchen or other food preparation space;

(6) Be provided with a continuous skirting; and

(7) If a single-wide unit, be tied down with devices which meet state tie-down standards.

8.D.5 – TEMPORARY DWELLING FOR A HEALTH HARDSHIP PERMIT

§ 39.8700- TEMPORARY DWELLING FOR A HEALTH HARDSHIP PERMIT.

(A) The purpose of the Temporary Dwelling for a Health Hardship Permit authorized in this Section 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 Dwelling for a 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 child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either.

(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 39.2000;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 39.2000; 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 39.8200 through 39.8215 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 and 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 Dwelling for a Health Hardship Permit. The Temporary Dwelling for a 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 Dwelling for a Health Hardship Permit. The expiration date of a Temporary Dwelling for a 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.

8.D.6 – TEMPORARY PERMITS FOR CERTAIN USES

§ 39.8750- TEMPORARY PERMITS FOR CERTAIN USES.

(A) Notwithstanding the limitations of use as established by this Chapter in each of the several base zones, 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.

8.D.7 – TYPE A HOME OCCUPATION

§ 39.8800- 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 39.6720 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 39.1230, 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.

8.D.8 – TYPE B HOME OCCUPATION

§ 39.8850- 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 39.6500 – 39.6600 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 39.6700 – 39.6820, 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 base zone. 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 base zones, the home occupation will not unreasonably interfere with other uses permitted in the general base zone 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 39.1230, 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 39.1105.

(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 39.8850(A); and

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

8.E – ACCESSORY STRUCTURES – CONDITION OF APPROVAL

§ 39.8860- 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.

8.F – FARM STANDS

§ 39.8870- 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.

§ 39.8875 DEFINITIONS.

As used in MCC 39.8870 through 39.8885, 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.

§ 39.8880 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.

§ 39.8885 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 graveled 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 39.6700 through 39.6820.

(M)Exterior lighting shall be in compliance with the dark sky lighting standards of MCC 39.6850.

8.G – WINERIES

§ 39.8900- 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.

§ 39.8905 DEFINITIONS.

As used in MCC 39.8900 through 39.8920:

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.

§ 39.8910 STANDARDS FOR ESTABLISHMENT AND OPERATION OF WINERIES.

A winery authorized under MCC 39.4225 (G) shall comply with the following:

(A) The applicant shall show that vineyards described in the definition of the term "winery" in MCC 39.8905 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 39.6500 through 39.6600, 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.

§ 39.8915 USES AND ACTIVITIES IN CONJUNCTION WITH A WINERY.

(A) In addition to producing and distributing wine, a winery authorized under MCC 39.4225 (G) may engage in the following uses and activities subject to the standards in MCC 39.8910 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 con-junction 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 de-scribed 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 39.8920.

(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 39.4225 (G) 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.

§ 39.8920 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 39.4225 (T) 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 sur-rounding 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 sol-id 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 39.4225 (T), the winery may not conduct agri-tourism or other commercial events or activities authorized by ORS 215.283(4).

AGRI-TOURISM

§ 39.8925 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:

(1) Within the EFU base zone, 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.

(2) Within the MUA-20 base zone, the agri-tourism event is held on a tract that is five acres or larger in size, there is existing farm use on the tract, and the tract is not within a designated urban or rural reserve.

(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) In the EFU base zone, all agri-tourism event parking shall be accommodated on the tract; off-tract parking is prohibited.

(3) In the MUA-20 base zone, all agri-tourism event parking shall be accommodated on the tract or on a contiguous property that is also located within the MUA-20 base zone. Parking on a contiguous property may be permitted if:

(a) The owner of record or contract purchaser of the contiguous property has provided written consent to allow parking on the owner or contract purchaser's property as described in the parking plan;

(b) All event parking will be located within the MUA-20 base zone;

(c) There is safe and convenient access for pedestrians between the parking area and the event property;

(d) No portion of a public road right of way will be crossed, traversed, or otherwise used by pedestrians traveling between the parking area and the event property; and

(e) The contiguous property used for parking and circulation will not host other activities associated with or related to the agri-tourism event.

(4) A permit authorizing event parking on a contiguous property is not a land use decision that the contiguous property is or is not in full compliance with all applicable provisions of the Multnomah County Land Use Code or any permit approvals previously issued by the County for that property.

(5) 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 39.6850.

(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 39.1230, 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.

§ 39.8930 STANDARDS FOR OTHER AGRI-TOURISM 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:

(1) Within the EFU base zone, 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.

(2) Within the MUA-20 base zone, the agri-tourism event is held on a tract that is five acres or larger in size, there is existing farm use on the tract, and the tract is not within a designated urban or rural reserve.

(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) In the EFU base zone, all agri-tourism event parking shall be accommodated on the tract; off-tract parking is prohibited.

(3) In the MUA-20 base zone, all agri-tourism event parking shall be accommodated on the tract or on a contiguous property that is also located within the MUA-20 base zone. Parking on a contiguous property may be permitted if:

(a) The owner of record or contract purchaser of the contiguous property has provided written consent to allow parking on the owner or contract purchaser's property as described in the parking plan;

(b) All event parking will be located within the MUA-20 base zone;

(c) There is safe and convenient access for pedestrians between the parking area and the event property;

(d) No portion of a public road right of way will be crossed, traversed, or otherwise used by pedestrians traveling between the parking area and the event property; and

(e) The contiguous property used for parking and circulation will not host other activities associated with or related to the agri-tourism event.

(4) A permit authorizing event parking on a contiguous property is not a land use decision that the contiguous property is or is not in full compliance with all applicable provisions of the Multnomah County Land Use Code or any permit approvals previously issued by the County for that property.

(5) 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 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 39.6850.

(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 39.1230, 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.

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PART 9 – PARCELS, LOTS, PROPERTY LINES AND LAND DIVISIONS

9.A – PURPOSE, SCOPE AND TYPE OF LAND DIVISIONS

§ 39.9000- TITLE.

Subparts A thru G of this Part shall be known as the Multnomah County Land Division Ordinance (Ordinance) and may be so pleaded and referred to.

§ 39.9005 PURPOSE.

This Ordinance 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.

§ 39.9010 INTENT.

In the regulation of the division of land, it is intended that this Ordinance 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.

§ 39.9015 SCOPE.

This Ordinance shall apply to the subdivision and partitioning of all land within the unincorporated area of Multnomah County.

§ 39.9020 COMPLIANCE REQUIRED.

No land may be divided in the area of unincorporated Multnomah County except in accordance with this Ordinance.

(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 Ordinance.

(B) No development permit shall be issued for the improvement or use of any land divided in violation of the provisions of this Ordinance, 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 Ordinance.

(C) The requirements of this Ordinance 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.

§ 39.9025 BOARD FINDINGS CONCERNING LAND DIVISION CLASSIFICATIONS.

The Board of County Commissioners finds that:

(A) The Comprehensive 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 Ordinance.

(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 Ordinance, 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.

§ 39.9030 LAND DIVISION CATEGORIES DISTINGUISHED.

For the purposes of this Ordinance, the land division classifications listed in sections MCC 39.9035 through MCC 39.9050 are established.

§ 39.9035 CATEGORY 1 LAND DIVISIONS.

The following proposals are designated Category 1 Land Divisions:

(A) A Rural Area subdivision;

(B) An Urban Area subdivision of more than 10 lots;

(C) Except as provided in subpart (3) below, a Rural or Urban Area partition which creates a new street, and an Urban Area subdivision of 10 lots or less 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.

(3) Exception: A land division described in subsection (1) or (2) above is designated a Category 2 Land Division when, as determined by the Planning Director, the proposed street layout is consistent with a street pattern adopted as part of the Comprehensive Plan or with a future street plan approved under MCC 39.9400 through 39.9470.

(D) A subdivision or partition associated with an application affecting the same property for any action requiring a public hearing under this Chapter; and

(E) 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, landslides or other existing or potential hazards.

§ 39.9040 CATEGORY 2 LAND DIVISIONS.

A Category 2 Land Division is an Urban area subdivision of 10 lots or less, or a partition which includes the creation of a new street when:

(A) Continuation of an existing street is neither proposed nor needed to complete an appropriate street system or to provide access to adjacent undivided property, as determined by the Planning Director; and

(B) The proposed street layout is consistent with a street pattern adopted as part of the Comprehensive Plan, with a future street plan approved under MCC 39.9450.

§ 39.9045 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 Road Rules and Design and Construction Manual;

(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 located within the Significant Environmental Concern Overlay (SEC), Willamette River Greenway Overlay (WRG), Flood Hazard Overlay, or Exclusive Farm Use (EFU) base zone.

(G) A partition resulting in the creation of a lot for which an Exception, Adjustment or Variance is required under another part of this Chapter.

§ 39.9050 CATEGORY 4 LAND DIVISIONS.

Partitions not listed in MCC 39.9035 to 39.9045 are designated Category 4 Land Divisions.

(A) The Planning Director may approve a Category 4 Land Division based on a finding that the proposed parcels comply with the area and dimensional requirements of the base zone in which the land division site is located and the tentative plan complies with the following approval criteria:

(1) MCC 39.9505 Land Suitability, 39.9510 Lots and Parcels, 39.9550 Sidewalks, Pedestrian Paths and Bikeways, 39.9555 Easements, 39.9570 Water System, 39.9575 Sewage Disposal, 39.9580 Surface Drainage, and 39.9585 Electrical and Other Wires;

(B) Notwithstanding Subsection (A) of this Section, compliance with the area and dimensional requirements of the base zone is not required to approve a lot or parcel that was unlawfully divided prior to January 27, 1994, as provided in MCC 39.9700(A). The applicable approval criteria are those listed in MCC 39.9700(A) and MCC 39.9555 Easements, MCC 39.9570 Water System, MCC 39.9575 Sewage Disposal, and MCC 39.9580 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 39.9435 that are determined by the Planning Director to be adequate to demonstrate compliance with the applicable approval criteria.

§ 39.9055 DEFINITIONS.

As used in this Part, 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 Part, land divisions are further classified as Category 1, Category 3, and Category 4 Land Divisions.

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; 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:

(1) Ways described as streets, highways, throughways, or alleys;

(2) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(3) 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.

9.B – CONSOLIDATION OF PARCELS AND LOTS

§ 39.9200 CONSOLIDATION OF PARCELS AND LOTS.

(A) This section sets forth 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.

(B) Consolidation of parcels and lots may be approved under the applicable descriptions and approval criteria given in Subsection (C) of this Section for parcels created by "metes and bounds" deed descriptions and Subsection (D) of this Section for parcels and lots that were created by a Partition or Subdivision Plat.

(C) Consolidation of parcels created by "metes and bounds" deed descriptions may be approved under the standards of either Subsections (1) or (2) of this Subsection as follows:

(1) If all the subject parcels proposed for consolidation were created by deed instruments prior to October 19, 1978, (the effective 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 39.9050, then the following shall apply:

(a) Under a Type I Permit Review , 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 Subsection (C)(1) of this Section 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 Subsection (C)(1)(a) and (b) of this Section;

(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.

(D) Consolidation of parcels within a Partition Plat or lots within a Subdivision Plat (Parcel and Lot Line Vacation) may be approved with a replat.

9.C – PROPERTY LINE ADJUSTMENTS

§ 39.9300 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 base zone; and

(D) The procedure and forms shall be submitted for obtaining approval of a property line adjustment as provided for by the Planning Director.

9.D – LAND DIVISIONS

§ 39.9400- CRITERIA FOR APPROVAL, CATEGORY 1 AND CATEGORY 2 TENTATIVE PLAN AND FUTURE STREET PLAN.

In granting approval of a Category 1 or Category 2 tentative plan, the approval authority shall find that:

(A) The tentative plan or future street 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 [or future street plan] complies with the applicable provisions, including the purposes and intent of this Ordinance.

(D) The tentative plan or future street plan complies with the Zoning Code 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 39.9520 and 39.9525 and the Multnomah County Road Rules and Design and Construction Manual, 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 39.9520 and 39.9525 and the Multnomah County Road Rules and Design and Construction Manual, 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.

§ 39.9405 CONTENTS OF CATEGORY 1 AND CATEGORY 2 TENTATIVE PLAN.

A tentative plan shall consist of maps, written information and supplementary material adequate to provide the information required in MCC 39.9510 through 39.9425.

§ 39.9410 CATEGORY 1 AND CATEGORY 2 TENTATIVE PLAN MAP SPECIFICATIONS.

(A) 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.

(B) A future street plan may be combined with the tentative plan map or may be drawn on a sheet 8.5 x 11 inches or larger in size at a scale of one inch to one hundred feet.

§ 39.9415 CATEGORY 1 AND CATEGORY 2 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 39.9400.

(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 two foot intervals for land inside the Urban Growth Boundary with 10% slope or less, five foot intervals for land inside the Urban Growth Boundary with slope exceeding 10%; contour lines at ten foot intervals for land outside the Urban Growth Boundary. 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 or storm sewer overflow, the location of any designated Flood Hazard Overlay (FH), 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.

§ 39.9420 WRITTEN INFORMATION: CATEGORY 1 AND CATEGORY 2 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 39.9400 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.

§ 39.9425 SUPPLEMENTARY MATERIAL: CATEGORY 1 AND CATEGORY 2 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 Ordinance.

§ 39.9430 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 39.9400 are satisfied and that the tentative plan complies with the area and dimensional requirements of the base zone.

§ 39.9435 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) Category 3 tentative plan map contents. A tentative plan map of a sheet size and scale as specified in MCC 39.9410 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:

(l) 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 39.9430 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 39.9405 through 39.9425, as the Director deems necessary to assist in the review and assessment of the land division proposal according to the provisions of this Ordinance.

§ 39.9440 TENTATIVE PLAN APPROVAL TIME LIMITS; STAGED DEVELOPMENT.

Tentative plan approval expiration and extension shall be in accordance with MCC 39.1185 through 39.1195.

§ 39.9445 FUTURE STREET PLAN REQUIREMENTS: FINDINGS AND PURPOSES.

(A) Many urban area tracts have been divided into parcel sizes too large for efficient land development under present needs. Prior divisions have resulted in block sizes typically of 40 acres or less which are now appropriate for redivision. The diverse ownerships within these blocks make redivision difficult without an overall pattern for future streets.

(B)The purposes of the future street plan requirement are to aid in determining the suitability of an Urban Area Category 1 Land Division in relation to the existing and potential development of nearby land; to establish a guide for the appropriate and economical provision of streets, land divisions and needed support services and to facilitate the orderly division or redivision of nearby lands.

§ 39.9450 FUTURE STREET PLAN REQUIRED.

A future street plan shall be filed in conjunction with an application for an Urban Area Category 1 Land Division. The plan shall show the pattern of future streets from the boundaries of the Category 1 Land Division to the boundaries of those other tracts within a 40-acre area surrounding or adjacent to the Category 1 Land Division which are capable of subsequent Category 1 or 2 Land Division under MCC 39.9040.

§ 39.9455 EXCEPTION TO FUTURE STREET PLAN REQUIREMENT.

A future street plan shall not be required for any portion of the 40-acre area described in MCC 39.9450 for which a proposed street layout has been established by:

(A) The Comprehensive Plan; or

(B) A future street plan approved under MCC 39.9400 through 39.9470.

§ 39.9460 FUTURE STREET PLAN CONTENTS.

The future street plan shall show the proposed continuation of streets in the Category 1 Land Division in sufficient detail to demonstrate that future division of the adjacent area in compliance with the provisions of this Ordinance is reasonably possible.

§ 39.9465 RECORDING AND FILING.

Upon final approval, a future street shall be:

(A) Recorded by the applicant with the public office responsible for public records; and

(B) Indexed and filed by the Planning Director in the offices of the Department of Environmental Services.

§ 39.9470 REVISION OF FUTURE STREET PLAN.

An approved future street plan may be revised by:

(A) Action by the Hearings Officer or Planning Commission, as appropriate, to approve a revised future street plan filed by an applicant in conjunction with a Category 1 Land Division; or

(B) Action by the Board to approve a revised future street plan or to approve an alternative street pattern as part of the Comprehensive Plan.

9.E – STANDARDS FOR LAND DIVISIONS

§ 39.9500- APPLICATION OF GENERAL STANDARDS AND REQUIREMENTS.

Every land division proposal shall comply with the applicable provisions of MCC 39.9505 through 39.9585.

§ 39.9505 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;

(F) Subject to slumping, earth slides or movement;

(G) Pre-existing field drains or other subsurface drainage systems.

§ 39.9510 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

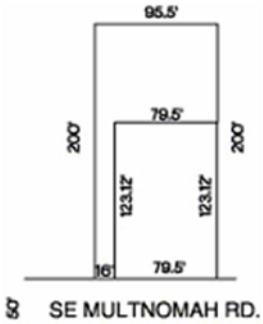
(5) To the climactic conditions including solar orientation and winter wind and rain.

(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 base zone, subject to the following:

(1) When a flag lot does not adjoin another flag lot, as shown in MCC 39.9510 Figure 1, the pole portion of the flag lot shall be at least 16 feet wide.

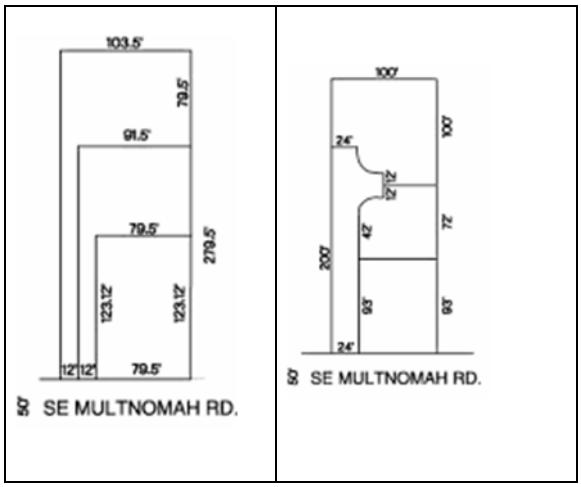


(2) Where two flag lots are placed back to back as shown in MCC 39.9510 Figure 2, the pole portion of each flag lot shall be at least 12 feet wide.

Figure 2.

(E) Within a land division, flag lots shall not be stacked one behind the other as shown in MCC 39.9510 Figure 3. Instead, a private accessway shall be used as shown in MCC 39.9510 Figure 4.

Figures 3. Figure 4.



§ 39.9515 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.

§ 39.9520 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,, 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.

§ 39.9525 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 Multnomah County Road Rules and Design and Construction Manual; and

(B) For a private street, in accordance with the Multnomah County Road Rules and Design and Construction Manual, 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 Community Services Transportation Division. 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.

§ 39.9530 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.

§ 39.9535 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.

§ 39.9540 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.

§ 39.9545 REQUIRED IMPROVEMENTS.

Improvements in a land division shall be made in accordance with the provisions of MCC 39.9550 through 39.9590 and 39.9600.

§ 39.9550 STREETS, SIDEWALKS, PEDESTRIAN PATHS AND BIKEWAYS.

(A) Sidewalks shall be required in Urban Area public streets in accordance with the provisions of the Multnomah County Road Rules and Design and Construction Manual.

(B) A sidewalk shall be required along any private street serving more than six dwelling units.

(C) A pedestrian path located outside a street right-of-way may be substituted for a required sidewalk when it serves the same circulation function.

(D) 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.

(E) 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.

(F) The width, design and configuration of sidewalks and pedestrian paths and bikeways shall comply with applicable standards, as follows:

(1) In a public right-of-way, in accordance with the Multnomah County Road Rules and Design and Construction Manual; and

(2) On private property, as approved by the Planning Director in accordance with the Design Review provisions of this Chapter.

(G) Any street, pedestrian path or bikeway shall be improved as follows:

(1) In a public street, in accordance with this Chapter and the Multnomah County Road Rules and Design and Construction Manual; and

(2) In a private street, in accordance with the this Chapter and the Multnomah County Road Rules and Design and Construction Manual;

(H) Underground utilities and street lighting facilities, sanitary sewers, storm drains and water mains located in a street shall be installed prior to the surfacing of the street.

§ 39.9555 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.

§ 39.9560 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.

§ 39.9565 STREET LIGHTING.

Street lighting shall be provided in all Urban Area subdivisions in accordance with the requirements of the Multnomah County Road Rules and Design and Construction Manual.

§ 39.9570 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 the following:

(A) Water mains, service and fire hydrants shall meet the requirements of the Water District and shall be located as follows:

(1) In a public street, in accordance with the Multnomah County Road Rules and Design and Construction Manual; and

(2) In a private street, as approved by the approval authority.

§ 39.9575 SEWAGE DISPOSAL.

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of Subsections (5)(a), (b) or (c) of ORS 92.090 and the following:

(A) Except as provided in Subsection (B) of this Section, a sanitary sewer line shall be installed to serve every lot or parcel in a land division by extension of an existing sewer line:

(1) In a public street, in accordance with the Multnomah County Road Rules and Design and Construction Manual; and

(2) In a private street, as approved by the approval authority.

(B) Where sanitary sewer is not available to the site or where the State Department of Environmental Quality determines that it is impractical to serve any lot or parcel by an existing sewer system, a private sewage disposal system approved by the Department 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.

(C) Where a private subsurface sewage disposal system is used, the 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.

§ 39.9580 SURFACE DRAINAGE AND STORM WATER SYSTEMS.

Surface drainage and storm water control systems shall be provided as required by this section .

(A) 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.

(B) Drainage facilities shall be constructed as follows:

(1) In a public street, in accordance with the Multnomah County Road Rules and Design and Construction Manual; and

(2) 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.

§ 39.9585 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.

§ 39.9587 REQUIRED IMPROVEMENTS.

Improvements in a land division shall be made in accordance with the provisions of MCC 39.9587 through 39.9590 and 39.9600.

§ 39.9588 STREETS, SIDEWALKS, PEDESTRIAN PATHS AND BIKEWAYS, WATER SYSTEM, SEWAGE DISPOSAL, SURFACE DRAINAGE AND STORM WATER SYSTEMS.

(A) Any street, pedestrian path or bikeway shall be improved as follows:

(1) In a public street — in accordance with this Chapter and the Street Standards Code and Rules; and,

(2) In a private street — in accordance with the Street Standards Code and Rules.

(3) 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.

(B) Water mains, service and fire hydrants shall meet the requirements of the Water District and shall be located as follows:

(1) In a public street - in accordance with the Street Standards Code and Rules; and

(2) In a private street - as approved by the approval authority.

(C) 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.

(D) Drainage facilities shall be constructed as follows:

(1) In a public street - in accordance with the Street Standards Code and Rules; and

(2) 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.

§ 39.9590 OTHER UTILITIES.

Other utilities, including electric, gas, street lighting and cable television facilities shall be provided as required by this Ordinance and as follows:

(A) In a public street, in accordance with the Multnomah County Road Rules and Design and Construction Manual; and

(B) In a private street, as approved by the approval authority.

§ 39.9595 ADJUSTMENTS AND VARIANCES.

An adjustment or variance from certain dimensional requirements in MCC 39.9500 through 39.9590 of this Ordinance may be authorized by the Approval Authority under the provisions of MCC 39.8200 through 39.8215.

§ 39.9600 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 Ordinance 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.

§ 39.9605 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.

§ 39.9610 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 39.2000, 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.

§ 39.9615 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) A copy of the future street plan, when required, as recorded according to MCC 39.9465(A).

(D) 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.

(E) 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 39.5005.

§ 39.9620 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.

§ 39.9625 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.

9.F – REPLATS

§ 39.9650 REPLATTING OF PARTITION AND SUBDIVISION PLATS.

(A) This Section sets forth 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

base zones 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 Section, "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 portion 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) 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 MCC 39.2000 and this Ordinance;

(3) Parcels or lots that do not meet the minimum lot size of the base zone shall not be further reduced in lot area in the proposed replat;

(4) The proposed reconfiguration shall meet the approval criteria in MCC 39.9555, MCC 39.9570, MCC 39.9575, and MCC 39.9580;

(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 base zone; 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.

9.G – LEGALIZATION OF LOTS AND PARCELS THAT WERE UNLAWFULLY DIVIDED

§ 39.9700 LEGALIZATION OF LOTS AND PARCELS THAT WERE PREVIOUSLY UNLAWFULLY DIVIDED.

This 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 Subsections (A) and (B) of this Section, or under Subsection (C) of this Section 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 base zone on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or base zone boundary intersects a parcel of land. The base zones 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) base zones 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) base zone 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) base zones 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.

(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 29.004 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 base zone on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or base zone boundary intersects a parcel of land. The base zones and effective dates that apply to this provision are the Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20) base zones 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 established 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 MCC 39.2000; and

(6) The building was constructed under a valid building permit and the building remains on the unlawfully established unit of land described in Subsection (2) of this Subsection (C).

(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 Subsection (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 Subsection (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 Subsection (C) of this Section, 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 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.

9.H – CONDOMINIUMS

§ 39.9800- APPROVAL OF DECLARATION, PLAT AND FLOOR PLANS FOR CONDOMINIUMS.

Before the declaration, plat and floor plans for a condominium, or an amendment, may be recorded, it must be approved by the county surveyor that it complies with ORS 92.080 and 94.042.

9.I – STREETNAMING AND PROPERTY NUMBERING

§ 39.9905- POLICY AND PURPOSE.

In order to provide a uniform street naming and property numbering system of benefit to all the citizens of the County, it is the policy of Multnomah County to extend the property numbering system and street naming pattern established by the City of Portland to all unincorporated areas of the County, except for those areas identified as being within the Gresham Urban Service Boundary; retain, restore and extend the historical road-naming system for all rural County areas; and to apply the City of Gresham Street Naming and Property Addressing Guidelines, where appropriate, within the Gresham Urban Service Boundary.

§ 39.9910 SCOPE.

The provisions of this Subpart shall apply to the naming of streets and the numbering of property in the unincorporated areas of Multnomah County.

§ 39.9915 APPLICATION OF CITY OF PORTLAND SYSTEM.

The street naming and property numbering system set forth in MCC 39.9915 through 39.9980 shall be utilized within all unincorporated areas of the county except that areas within the City of Gresham's Urban Service Area may utilize the City of Gresham Street Naming and Property Addressing Guidelines where appropriate pursuant to MCC 39.9985.

§ 39.9920 DIRECTIONAL DESIGNATIONS, URBAN AREA.

For the purpose of this Subpart, the urban area of Multnomah County, except areas inside the Urban Service Boundary of the City of Gresham utilizing the City of Gresham Street Naming and Property Addressing Guidelines, is hereby divided into five sections having the directional designations, abbreviations and dividing lines as listed herein,

The name or number of a public or private street within a section shall be preceded by the abbreviated directional designation of that section. The five sections are:

(A) "North," abbreviated "N.," consisting of the areas between N. Williams Avenue and its northerly extension and the Willamette River channel from the Burnside Bridge to the river mouth;

(B) "Northeast," abbreviated "N.E.," consisting of the area east of N. Williams Avenue and its northerly extension and north of E. Burnside Street and its easterly extension;

(C) "Northwest," abbreviated "N.W.," consisting of the area between the Willamette River channel downstream from the Burnside Bridge and W. Burnside Road;

(D) "Southeast," abbreviated "S.E.," consisting of the area south of E. Burnside Street and its easterly extension and east of the Willamette River channel; and

(E) "Southwest," abbreviated "S.W.," consisting of the area west of the Willamette River channel and south of W. Burnside Road.

§ 39.9925 STREET NAMING AND PROPERTY NUMBERING GRID.

A street naming and property numbering grid is hereby established.

(A) The grid shall consist of parallel lines spaced 264 feet apart and centered as follows:

(1) The north-south center gridline shall be N. Williams Avenue and its northerly and southerly extension; and

(2) The east-west center gridline shall be W. Burnside Road and E. Burnside Street and its easterly extension.

(B) For urban area streets there shall be 20 names or numbers provided per mile, centered on the gridlines.

(C) For urban and rural area property numbering there shall be 100 numbers provided between each two gridlines. Except as provided in MCC 39.9965(B), the numbers shall start with the number "1" at the center gridlines described in Subsection (A) of this Section, and continue in consecutive hundreds at each gridline.

§ 39.9930 NORTH-SOUTH STREET NUMBERING SYSTEM, URBAN AREA.

A north-south street number system is hereby established for the urban area.

(A) An urban area street having an alignment generally north and south shall be identified by a number according to the system established in the City of Portland and in practice in unincorporated Multnomah County on the effective date of this subpart. There shall be 20 numbers per mile which shall increase in magnitude to the east and to the west of the N. Williams Avenue centerline.

(B) A numbered street on or close to a gridline established under MCC 39.9925 shall be designated “Avenue.”

(C) A numbered street located midway between two gridlines established under MCC 39.9925 shall be designated "Place" and shall have the lesser number of the two adjacent gridlines.

§ 39.9935 EAST-WEST STREET NAMING SYSTEM, URBAN AREA.

An east-west street naming system is hereby established for the urban area as follows:

(A) An urban area street having an alignment generally east and west shall be identified by a name according to the pattern of names established in the City of Portland and in practice in unincorporated Multnomah County on the effective date of this subpart.

(B) A named street on or close to a gridline established by MCC 39.9925 shall be designated "Street."

(C) A named street located midway between two gridlines established under MCC 39.9925 shall be designated "Court" and shall have the same name as that of the preceding street on the gridline nearest to the Burnside center gridline.

§ 39.9940 STREET NAMING SYSTEM, RURAL AREA.

A rural area street naming system is hereby established as follows:

(A) The existing pattern of street names shown on County Assessor's maps or as designated by a County decision, is hereby established as the street naming system for the rural area of Multnomah County. Said map is herein incorporated by reference to the same force and effect as if set forth fully herein.

(B) Except as established pursuant to subsection (A) of this section on the County Assessor's maps, or as may be established under MCC 39.9945(D), a rural area street shall be designated as "Road."

(C) An extension of a rural area street shall continue the name of that street.

(D) The name for a new rural area street shall be designated under the provisions of MCC 39.9955.

(E) To the extent feasible, the directional designation grid established in MCC 39.9920 shall be extended throughout the rural areas of unincorporated Multnomah County.

§ 39.9945 OTHER DESIGNATIONS FOR STREETS.

The following additional street naming and numbering provisions are hereby established as follows:

(A) A named or numbered urban area street which crosses two or more gridlines of the same direction as the street shall be designated "Drive."

(B) A named or numbered urban area street which forms a loop having two intersections with one other street shall be designated "Circle."

(C) The designation of a street as "Boulevard," "Highway," "Lane," "Parkway," "Road," "Terrace," "Way" or similar term, established prior to the effective date of Chapter, is hereby adopted and shall be continued for any extension of that street.

(D) A designation listed in Subsection (C) of this Section, or a similar term, may be included in the naming of a new street or the renaming of an existing street upon a finding that another designation otherwise authorized by this Subpart is inappropriate to the circumstances or inconsistent with the policy and purpose stated in MCC 39.9905.

§ 39.9950 NAMING AND NUMBERING OF PRIVATE STREETS.

A naming and numbering system for private streets is hereby established as follows:

(A) The name or number of a private street having a length greater than 250 feet shall conform with the naming or numbering system established under MCC 39.9930 through MCC 39.9945 as appropriate.

(B) The name or number of a private street having a length of 250 feet or less shall be the same as the name or number of the connecting public street.

§ 39.9955 NAMING OF A NEW RURAL AREA STREET; RENAMING OF AN EXISTING URBAN OR RURAL AREA STREET: PROCEDURE.

Action to name a new rural area street or to rename an existing urban or rural area street shall be subject to the following:

(A) A proposed naming or renaming shall be initiated by:

(1) Resolution of the Board of County Commissioners;

(2) Resolution of the Planning Commission;

(3) A petition filed with the Director, signed by 20 percent or more of the owners of property abutting an existing street to be renamed;

(4) A petition filed with the Director, signed by the owners of 51 percent or more of the property abutting a new street to be named as part of a proposed land division; or

(5) Administrative order of the Director, Department of Community Services or their designee.

(B) A copy of the resolution, petition or order shall be filed with the Clerk of the Board.

(C) The Hearings Officer shall conduct a public hearing and make a decision on the proposed naming or renaming.

(D) In addition to the provisions of this section, the provisions of MCC 39.1100 through MCC 39.1240 for Hearings Officer decision shall apply in the consideration and action on a naming or renaming proposal.

(E) First class mailed notice of the proposal shall be given at least ten days prior to the hearing to:

(1) The owners of all property abutting on the street,

(2) The rural fire protection district,

(3) The Postmaster having jurisdiction,

(4) The Office of City-County Emergency Communication Service.

(5) Parties of the hearing.

(F) Factors for the selection of a rural area street name are:

(1) Factors of historical significance related to persons, circumstances or events,

(2) Factors of geographical significance,

(3) Factors of street location, function or direction,

(4) Common usage of a name for the street or in the area,

(5) Prior use of the name for the street,

(6) Name consistency for a continuous route, and

(7) Nonduplication of another rural area street name.

§ 39.9960 STREET NAME SIGNS.

Standards and requirements for street name signs are hereby established as follows:

(A) A street name sign shall have the name of the street as designated under the provisions of this subpart.

(B) A name sign for a public street shall be designed, installed and maintained in accord with requirements established by the Oregon Department of Transportation.

(C) A private street name sign to be located in the connecting public street right-of-way shall be installed by the County at the expense of the property owner or land division applicant and thereafter shall be maintained by the County.

(D) Exception: Approval of a planned development or other land development program may include alternate provisions for the installation and maintenance of a private street sign.

(E) A private street sign shall be designed and located according to standards approved by the Director of the Department of Community Services.

§ 39.9965 NUMBERING OF PROPERTY, RURAL AND URBAN AREAS.

The Director shall assign address numbers for buildings or property and shall maintain records thereof according to the following:

(A) One hundred numbers shall be provided between each two gridlines established under MCC 39.9925. The numbers shall start with the number "1" at the centerlines described in MCC 39.9925(A) and (B). The numbers shall continue in consecutive hundreds at each gridline.

(B) Address numbers on east-west streets between the extended alignment of S.W. Viewpoint Terrace and the Willamette River shall be preceded by "0".

(C) Odd numbers shall apply to properties or buildings on the northerly or westerly sides of a public street or a private street greater than 250 feet in length.

(D) Even numbers shall apply to properties or buildings on the southerly or easterly sides of a public street or a private street greater than 250 feet in length.

(E) Numbering of properties or buildings served by a private street having a length of 250 feet or less shall be by consecutive odd or even numbers consistent with those on the same side of the connecting public street.

(F) An address number shall be assigned for each property or building in separate ownership, possession or occupancy.

(G) In the event the building address number sequence exceeds the available numbers, a suffix "A," "B," "C," etc. may be assigned by the Director.

(H) An address number or numbers shall be assigned by the Director in conjunction with the application for a building or land use permit, a land division or upon the written request of the property owner.

§ 39.9970 RENUMBERING OF PROPERTY; NOTICE.

When the Director reassigns a property or building address number, under the provisions of MCC 39.9965, to a property or building, the following notification is required:

(A) First class mailed notice of an address number reassignment shall be given to the property owner by the Director.

(B) Notice of an address number reassignment shall also be given to:

(1) The rural fire protection district,

(2) The Postmaster having jurisdiction,

(3) The Office of City-County Emergency Communication Service.

§ 39.9975 PLACEMENT OF ADDRESS NUMBERS.

(A) The property owner or owner's agent shall place the address number assigned by the Director on the building or property at the earliest practical time in one or more of the following locations:

(1) On the building,

(2) On a sign on the property,

(3) On a mailbox adjacent to the street, or

(4) In such other location as to be legible from the street or access drive.

(B) Address numbers shall be permanently affixed, of a size, design and placement as to be legible from the street or access drive serving the property, and shall comply with zoning or other ordinance standards for signs.

(C) Failure to place an assigned address number or the placement of an address number other than one consistent with the provisions of this subpart shall be deemed a violation.

§ 39.9980 ADMINISTRATION; POWERS OF THE DIRECTOR.

(A) The Director shall be responsible for the administration and enforcement of this subpart.

(B) The Director shall have the authority to do the following:

(1) Determine standards of design and location for private street signs,

(2) Place and maintain street name signs in public street rights-of-way, as described in this subpart,

(3) Assign property and building address numbers, give notice thereof and keep a record of the number assignment,

(4) Initiate a new street name or the renaming of an existing street under the provisions of MCC 39.9955, and

(5) Exercise such other powers as are necessary to carry out the provisions of this subpart.

§ 39.9985 APPLICATION OF CITY OF GRESHAM STREET NAMING AND PROPERTY ADDRESSING GUIDELINES.

The street naming and property numbering system set forth in the City of Gresham Street Naming and Property Addressing Guidelines, Sections I through VII, as amended, may be utilized, within the unincorporated areas of Multnomah County within the City of Gresham's Urban Service Area insofar as the applications of the Guidelines do not conflict with the administration and procedures set forth in this Subpart.

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