

## Special Districts

### 11.15.6002 Classification of Special Districts

In addition to classification as a residential, commercial or manufacturing district as provided in MCC .2002 through .2966, .4002 through .4756, and .5002 through .5585 of this Chapter, land may also be classified in one or more of the following special districts. Such classification shall be made in accordance with the provisions of MCC .8205 through .8295. Land so classified shall be shown on the Multnomah County Zoning Map by a combination of color designations, symbols, or short title identification, as for example: LR-7, FH; GC, OP; LM, SEC.

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### Airport Landing Field (LF)

This district is defined as an Airport Landing Field District.

#### 11.15.6050 Purposes

The purposes of this sub-district are to provide for review, approval, and development standards for airports, air fields, landing pads, and related uses associated with aircraft operations in any district; to establish maximum structure heights for developments in the vicinity of an airport, designed to promote safe operating conditions for aircraft under ORS 492.560; to reduce the potential for exposure to hazardous conditions by limiting the occupancy of buildings and uses in airport approach areas.

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#### 11.15.6052 Uses

Uses permitted in the LF District are as provided in MCC 11.15.- 6054 through 11.15.6062.

#### 11.15.6054 Primary Uses

Any use permitted in the underlying district, except as provided in MCC .6060(B), subject to the height limitations of MCC .6060(A).

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### **11.15.6056 Conditional Uses**

The following uses may be permitted under the procedural provisions of MCC .7105 through .7640, when found by the approval authority to satisfy the approval criteria of MCC .6058:

- 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.

### **11.15.6058 Approval Criteria for an LF Conditional Use**

In approving a Conditional Use listed in MCC .6056, the approval authority shall find that the proposal:

- A. Will satisfy the applicable elements of Comprehensive Plan Policies:
  - 1. No. 5, Economic Development,
  - 2. No. 9, Agricultural Land Area,
  - 3. No. 13, Air and Water Quality and Noise Level,
  - 4. No. 14, Development Limitations,
  - 5. No. 29, Community Design,
  - 6. No. 27, Energy Conservation,
  - 7. No. 31, Community Facilities and Uses Location Policy,
  - 8. No. 33, Transportation System, and
  - 9. No. 40, Development Requirements;
- B. Will have minimal adverse impact, taking into account location, size, design, and operating characteristics on the:
  - 1. Livability,
  - 2. Value, and
  - 3. Appropriate development of abutting properties and the surrounding area; and
- C. Will satisfy the use and height limitations of MCC .6060.

### **11.15.6060 Development Limitations**

- A. The height of any structure or part of a structure, such as a chimney, tower, or antenna, and objects of natural growth, shall be limited to elevations depicted on a map or maps entitled *Airport Landing Field District - Height Restrictions*, and included as Attachment "A" of this Ordinance by this reference.

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B. In an approach zone to an airport or aircraft landing field, no meeting place which is designated to accommodate more than 25 persons at one time shall be permitted.

C. No use in this district shall:

1. Create electrical interference with navigational signals or radio communication between an airport and aircraft;
2. Display lights which may be confused with airport navigational lights or result in glare visible in the airport vicinity; or
3. Otherwise endanger or interfere with the safe operation of aircraft.

**11.15.6062** *[Repealed 2000, Ord. 940 § V]*

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## Noise Impact

This district is defined as a Noise Impact District.

### 11.15.6070 Purposes

The purpose of this zoning district is to put the owners of proposed new structures on notice that specific levels of aircraft noise can be expected over their property. It is also designed to reduce noise impact within noise-sensitive structures by the provision of sound insulation. The Noise Impact District establishes and defines the boundary of the district, and is established to promote sound land use planning noise impact areas through the consideration of Federal and State guidelines, Comprehensive Plan policies, and past County actions affecting land use near the airport.

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### 11.15.6072 Area Affected

A. MCC .6070 through .6086 shall apply to those lands designated NI on the Multnomah County Zoning Map. The initial boundaries of the NI zoning district shall coincide with the 1983 PIA Noise Abatement Plan, and as may be updated pursuant to MCC .6086.

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- B. Large scale maps of the NI zoning district boundaries shall be maintained by the County Division of Planning and Development for reference.
- C. For those lots or parcels partially within the NI zoning district boundary, the exact building site shall be determined using the large scale maps. If the building site is outside the NI zoning district boundary the provisions of this district do not apply.

### **11.15.6074 Application**

The NI district is established in combination with underlying zoning districts, and is applicable as defined in MCC .6072 through .6086.

### **11.15.6076 Uses**

- A. All uses allowed in the underlying zoning districts are allowed within the NI district, subject to MCC .6076 through .6086.
- B. Exception: No new residential zoning shall be allowed in excess of that existing as of the date of adoption of this district.
- C. Exception: Structures used in manufacturing or industrial processing and structures that are incidental (garages, storage buildings, etc.) to the primary use are exempt from the provisions of this district.

### **11.15.6078 Performance Standard**

- A. On land within the 65  $L_{dn}$  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.
  - 1. An Oregon registered engineer knowledgeable in acoustical engineering shall certify that the building plans comply with the above (A) performance standard.
    - a. The engineer must take into account the construction materials, type of foundation, soil type and other physical factors of the site in his/her evaluation.
    - b. 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.
    - c. Certification may also be accomplished by a study of existing structures located within the same  $L_{dn}$  Noise Contour and vicinity (block, subdivision, park or moorage) to determine the expected noise level of a proposed structure(s).

### **11.15.6080 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  $L_{dn}$  noise contour over the grantors property. Any increase of the  $L_{dn}$  noise level above that stated on the easement will not void nor be protected by such easement.

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### **11.15.6082 Disclosure Statement Required**

As a condition of a building or land use permit for land within the 65  $L_{dn}$  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.

### **11.15.6084 Appeals**

Any property owner or owners affected by the 65  $L_{dn}$  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  $L_{dn}$  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  $L_{dn}$  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.

### **11.15.6086 Review and Modification**

- A. The Planning Commission may reconsider the Noise Impact Zoning District should the 65  $L_{dn}$  noise contour expand beyond its 1983 boundary. It is recognized that minor fluctuations within the 65  $L_{dn}$  noise contour are projected during the next 20 years.
- B. Irrespective of Subsection (A), the Planning Commission shall review the NI zoning district every five (5) years. The purpose of the review will be to evaluate, and, if necessary, update the provisions of the district.

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## **Off-Street Parking and Loading**

This district is defined as Off-Street Parking and Loading District

### **11.15.6100 Purposes**

The purposes of this subdistrict and these off-street parking and loading regulations are to reduce traffic congestion associated with residential, commercial, manufacturing, and other land uses; to protect the character of neighborhoods; to protect the public's investment in streets and arterials and to provide standards for the development and maintenance of off-street parking and loading areas.

### **11.15.6102 General Provisions**

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section.

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### **11.15.6104 O-P Classification**

Land classified as Off-Street Parking and Loading (O-P) on the Zoning Map shall not be used for any purpose other than off-street parking and loading without a change of district as provided in MCC .8205 through .8295.

### **11.15.6106 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

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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.

### **11.15.6108 Plan Required**

A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.

### **11.15.6110 Use of Space**

- A. Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.
- B. No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.
- C. A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.
- D. Except for residential and local commercial districts, loading areas shall not be used for any purpose other than loading or unloading.
- E. In any district, it shall be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations.

### **11.15.6112 Location of Parking and Loading Spaces**

- A. Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.
- B. Exception The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:
  - 1. Parking use of the alternate site is permitted by this Ordinance;
  - 2. The alternate site is within 350 feet of the use;
  - 3. There is a safe and convenient route for pedestrians between the parking area and the use;
  - 4. Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and
  - 5. There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.
- C. Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

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### **11.15.6114 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 .8725, 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 Counsel.

### **11.15.6116 Change of Use**

- A. Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.
- B. In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.

### **11.15.6118 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.

### **11.15.6120 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.

### **11.15.6122 Interpretation**

Off-street parking or loading requirements for structures or uses not specifically listed in MCC .6142 and .6144 shall be determined by written decision of the Planning Director. The Director shall base such requirements on the standards for parking or loading of similar uses.

### **11.15.6124 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
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one-half shall be disregarded, and any fraction over one-half shall require one off-street parking or off-street loading space.

### 11.15.6126 Design Standards: Scope

- A. The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single or two-family residential dwelling or mobile home on an individual lot.
- 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.

### 11.15.6128 Access

- A. Where a parking or loading area does not abut directly on a public street or private street approved under MCC 11.45, the Land Division Chapter, there shall be provided an unobstructed paved drive 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. Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

### 11.15.6130 Dimensional Standards

- A. Parking spaces shall meet the following requirements:
  - 1. At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.
  - 2. Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.
  - 3. For parallel parking, the length of the parking space shall be 23 feet.
  - 4. Space dimensions shall be exclusive of access drives, aisles, ramps or columns.
- B. Aisle width shall be not less than:
  - 1. 25 feet for 90° parking,
  - 2. 20 feet for less than 90° 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:

District	Minimum Width	Minimum Depth
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LM, GM, HM	12 Feet	60 Feet
GC, EC, SC	12 Feet	35 Feet
All Others	12 Feet	25 Feet

1. Minimum vertical clearance shall be 13 feet.

### 11.15.6132 Improvements

#### A. Surfacing

1. All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.
2. Large parking fields for intermittent uses such as amusement parks, race tracks, stadiums, and the like may be surfaced with gravel or grass and spaces may be unmarked if the parking of vehicles is supervised.

#### B. Curbs and Bumper Rails

1. All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.
2. The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.

C. Marking All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC .6108, and such marking shall be continually maintained.

D. Drainage All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

E. Covered Walkways Covered walkway structures for the shelter of pedestrians only, and consisting solely of roof surfaces and necessary supporting columns, posts and beams, may be located in an O-P district. Such structures shall meet the setback, height and other requirements of the district which apply.

### 11.15.6134 Lighting

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

### 11.15.6136 Signs

Signs, pursuant to the provisions of 11.15.7964.

### **11.15.6138 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.
- B. A parking or loading area not in a residential or office district listed in MCC .2002 through MCC .2966, but which adjoins such district along the same street shall not be located closer to the street property line than the required setback of the adjoining district for a distance of 50 feet from the boundary of any such district.
- C. A parking or loading area not in a residential or other district listed in MCC .2002 through MCC .2966, but which is across a street from such district, 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.
- D. 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.

### **11.15.6140 Landscape and Screening Requirements**

- A. The landscaped areas requirements of MCC .7855(C)(3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC .6126(A).
- B. Parking or loading spaces located within 50 feet of a property line of a lot in a residential or other district listed in MCC .2002 through MCC .2966 shall be separated from such property line by a sight-obscuring fence with height and materials suitable to meet the requirements of subsection MCC .7850(A)(7).

### **11.15.6142 Minimum Required Off-Street Parking Spaces**

#### **A. Residential Uses**

1. Single Family Dwelling Two spaces for each dwelling unit.
2. Two Family Dwelling Two spaces for each dwelling unit.
3. 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. Recreational Vehicle Park One space for each vehicle site.
8. Group Care Facility, Home for Aged, or Children's Home One space for each four beds.
9. A residential development designed and used exclusively for low income, elderly persons One space for each eight dwelling units.

#### **B. Public and Semi-Public Buildings and Uses**

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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. Passenger Terminal (Bus, Air or Rail) One space for each 2,000 square feet for the first 10,000 square feet of concourse and passenger loading area, plus one additional space for each additional 10,000 square feet.

#### C. Retail and Office Uses

1. Store, Supermarket, Department Store and Personal Service Shop One space for each 400 square feet of gross floor area.
2. Service and Repair Shop and Retail Store handling bulky merchandise, such as automobiles and furniture 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. Commercial Recreation

1. Amusement Park One space for each 1,000 square feet of public area.
2. Billiards or Pool One space for each table.

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3. Bowling Alley Five spaces for each alley.
4. Dance Hall One space for each 50 square feet of public area.
5. Go-Karts One space for each kart.
6. Golf Driving Range One space for each tee or ten linear feet of driving line.
7. Gymnasium (except Schools) One space for each 100 square feet of floor area.
8. Indoor Arena or Theater One space for each four seats or eight feet of bench length.
9. Miniature Golf One space for each two holes.
10. Moorage (Boat) One space for each two boat berths.
11. Moorage (Houseboat) Two spaces for each houseboat.
12. Race Track One space for each eight seats or 16 feet of bench length.
13. Skating Rink One space for each 100 square feet of floor or rink area.
14. Shooting Gallery One space for each 500 square feet of floor area.
15. Stadium One space for each eight seats or 16 feet of bench length.
16. Swimming Pool One space for each 100 square feet of water surface.
17. Tennis Court or Racquet Club One space for each court.

**E. Manufacturing and Storage**

1. Manufacturing One space for each two employee positions on the largest shift, or one space for each 800 square feet of non-storage gross floor area, whichever is greater.
2. Storage One space for each 5,000 square feet of storage area for the first 20,000 square feet, plus one additional space for each additional 50,000 square feet.

**F. Unspecified Uses**

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

**11.15.6144 Minimum Required Off-Street Loading Spaces**

**A. Commercial, Commercial Amusement, Office or Bank**

<b>Square foot of Floor or Land Area</b>	<b>Minimum Loading Spaces Required</b>
Under 5,000	0
5,000 - 24,999	1
25,000 - 59,999	2
60,000 - 99,999	3
100,000 - 159,999	4
160,000 - 249,999	5
250,000 - 369,999	6
370,000 - 579,999	7

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580,000 - 899,999	8
900,000 - 2,999,999	9
Over 3,000,000	10

B. Hotel or Motel

<b>Square foot of Floor or Land Area</b>	<b>Minimum Loading Spaces Required</b>
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

<b>Square foot of Floor or Land Area</b>	<b>Minimum Loading Spaces Required</b>
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
700,000 - 759,999	10
760,000 - 849,999	11
850,000 - 939,999	12
940,000 - 1,029,999	13
Over 1,030,000	14

D. Apartment: One loading space for each 50 dwelling units.

E. Motion Picture Theater: One Space.

F. Public or Semi-Public Use: Treated as mixed uses.

G. Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

### **11.15.6146 Exceptions from Required Off-Street Parking or Loading Spaces**

- A. The Planning Director may grant an exception with or without conditions for up to 30% of the required number of off- street parking or loading spaces, upon a finding by the Director that there is substantial evidence that the number of spaces required is inappropriate or unneeded for the particular use, based upon:
  - 1. A history of parking or loading use for comparable developments;
  - 2. The age, physical condition, motor vehicle ownership or use characteristics or other circumstances of residents, users or visitors of the use; or
  - 3. The availability of alternative transportation facilities; and
  - 4. That there will be no resultant on-street parking or loading or interruptions or hazards to the movement of traffic, pedestrians or transit vehicles.
- B. The Director shall file with the application for the building or other required permit, findings in support of any exception, including any conditions of approval.
- C. An exception in excess of 15% of the required number of spaces shall include a 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.
  - 1. The Director may order the revocation, in whole or in part, of any exception under this section, upon a finding of on-street parking or loading use or of interruptions in or hazards to the movement of traffic, pedestrians or transit vehicles caused by the absence of off-street parking or loading spaces.
- D. A decision by the Planning Director on an application for an off-street parking or loading space exception, or on the revocation of such exception under MCC .6146(C)(I), may be appealed to the Hearings Officer in the manner provided in MCC .8290 and .8295.

### **11.15. 6148 Appeal of Administration Decision**

A decision of the Planning Director under the provisions of MCC .6100 through .6148 may be appealed by the applicant to the hearings officer in the manner provided in MCC .8290 and .8295.

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## **Planned Development**

This district is defined as a Planned Development District.

### **11.15.6200 Purposes**

The purposes of the Planned Development sub-district are to provide a means of creating planned environments through the application of flexible and diversified land development standards; to encourage the application of new techniques and new technology to community development which will result in superior living or development arrangements; to use land efficiently and thereby reduce the costs of housing, maintenance, street systems and utility networks; to promote energy conservation and crime prevention; to relate developments to the natural environment and to inhabitants, employers, employees, customers, and other users in harmonious ways.

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### **11.15.6201 Areas Affected**

The Planned Development Subdistrict may only be applied in all urban districts and in the MUA-20, RR and RC rural districts.

*[Added 1991, Ord. 679 § II]*

### **11.15.6202 Procedure**

- A. An application for approval of a Planned Development District and a preliminary Development Plan and Program shall be initiated by the property owner as provided under MCC .8210(B).
- B. Preliminary action on an application for a Planned Development District and on the Preliminary Development Plan and Program shall be by the Planning Commission under the provisions of MCC .8205 through .8250.
  - 1. The decision of the Planning Commission shall be reported to the Board of County Commissioners in the manner provided in MCC .8255.
  - 2. The decision of the Planning Commission shall be subject to the notice of review provisions of subsections MCC .8260 through .8285.
  - 3. Action of the Planning Commission and the Board of County Commissioners for approval of a Planned Development District and a Preliminary Development Plan and Program, or for approval with conditions or modifications, shall be limited to approval in concept only and shall not constitute an amendment of the Zoning Map.

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- C. Within one year after action under subpart (B) of this section becomes final, the owner shall prepare and file with the Planning Director a Final Development Plan and Program, unless the action on the Preliminary Development Plan and Program shall have specified a different period.
- D. Action on the Final Development Plan and Program shall be by the Planning Director according to the approval criteria of MCC .6206(B) and the Design Review provisions of MCC .7845.
1. The written decision of the Planning Director on the Final Development Plan and Program shall be made within 20 business days of filing by the applicant. The decision shall be filed with the Director of Environmental Services and a copy mailed to the applicant.
  2. The decision of the Director may be appealed to the Planning Commission in the manner provided in MCC .8290 through .8295.
  3. Upon action by the Planning Director for approval of the Final Development Plan and Program or approval with conditions or modifications, the Director shall file with the Clerk of the Board for signature of the Executive Officer, a draft order amending the Zoning Map to designate the property as a Planned Development Special District.
  4. Unless an appeal of the Planning Director's decision is filed under subpart (2) of this subsection, the Executive Officer shall sign the draft order upon expiration of the appeal period.

#### **11.15.6204 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 .7830 (E).
    - 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.

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- e. The proposed ownership pattern.
- f. An operation and maintenance proposal.

### **11.15.6206 Criteria for Approval**

A. Planning Commission action on the Preliminary Development Plan and Program shall be based on findings that the following are satisfied:

1. The requirements of MCC .8230(D) (3);
2. The applicable provisions of MCC 11.45 the Land Division Chapter;
3. That any exceptions from the standards or requirements of the underlying district are warranted by the design and amenities incorporated in the Development Plan and Program, as related to the purposes stated in MCC .6200.
4. That the system of ownership and the means of developing, preserving and maintaining open space is suitable to the purposes of the proposal.
5. The provisions of MCC .6214.
6. That the proposed development can be substantially completed within four years of the approval or according to the development stages proposed under MCC .6220.
7. The Development Standards of MCC .6212, .6216 and .6218.
8. The purposes stated in MCC .6200; and
9. That modifications or conditions of approval are necessary to satisfy the purposes stated in MCC .6200.

B. Approval by the Planning Director of the Final Development Plan and Program shall be based on findings by the Director 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 by the Planning Commission;
2. The Development Standards of MCC .6210;
3. The criteria of MCC .7850 and the standards of MCC .7855.

### **11.15.6208 Modifications and Conditions**

In granting preliminary approval or final approval, the Planning Commission or the Planning Director may require such modifications of the Plan and Program, or attach such conditions of approval, as are necessary to satisfy the policies, purposes or standards of the Comprehensive Plan or of this Chapter.

### **11.15.6210 Development Standards**

The Development Standards stated in MCC .6212 through .6218 shall apply to an approved Planned Development. In the case of a conflict between a standard of the underlying district and that of the Planned Development District, the standard of the Planned Development District shall apply.

### **11.15.6212 Minimum Site Size**

A Planned Development District shall be established only on a parcel of land found by the Planning Commission 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 .6200.

### **11.15.6214 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.

### **11.15.6216 Open Space**

*Open space* in a Planned Development District means the land area used for scenic, landscaping or open recreational purposes within the development.

- A. Open space shall not include street rights-of-way, driveways or open parking areas.
- B. Locations, shapes and sizes of open space shall be consistent with the proposed uses and purposes of the Planned Development.
- C. Open spaces shall be suitably improved for intended use. Open spaces containing natural features worthy of preservation may be left unimproved or may be improved to assure protection of the features.
- D. The development schedule shall provide for coordination of the improvement of open spaces with the construction of other site improvements proposed in the Development Plan and Program.
- E. Assurance of the permanence of open spaces may be required in the form of deeds, covenants or the dedication of development rights to Multnomah County or other approved entity.
- F. The Planning Commission 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 Counsel.

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### **11.15.6218 Density Computation for Residential Developments**

In order to preserve the integrity of the Comprehensive Plan and relate to a residential Planned Development to it, the number of dwelling units permitted shall be determined as follows:

- A. Divide 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 Inside the Urban Growth Boundary -- The following standards for the calculation of residential density may be used singularly or in combination, when approved by the Planning Commission: *[Amended 1990, Ord. 643 § 2]*
  - 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 MCC .6218(B)(1).

### **11.15.6220 Staging**

- A. The applicant may elect to develop the site in successive stages in a manner indicated in the Development Plan and Program. Each such stage shall satisfy the requirements of this Chapter.
- B. In acting to approve the Preliminary Development Plan and Program, the Planning Commission may require that development be completed in specific stages if public facilities are not otherwise adequate to service the entire development.

### **11.15.6222 Permitted Uses**

In an underlying residential district, the following uses may be permitted in a Planned Development District:

A. Housing types may include single family detached or attached dwellings, duplexes, row houses, town houses or apartments, except that in the MUA20, RR and RC districts only duplexes and single family detached or attached dwellings are permitted.

[Amended 1990, Ord. 643 § 2]

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 .7715. [Amended 1991, Ord. 681 § III]

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 .7005 through .7030, when designated to serve the development or the adjacent area of which it is a part, upon approval by the Planning Commission.

1. A Community Service use, when approved under the provisions of MCC .7005 through .7030, may also be designed to serve the adjacent area outside the Planned Development if found by the Planning Commission 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 or industrial district, the following uses may be permitted in a Planned Development District:

1. Uses permitted in the underlying district.

2. Community Service Uses when approved by the Planning Commission under the provisions of MCC .7005 through .7030.

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 this Chapter.

### **11.15.6224 Changes and Modifications**

A. A major change in the Preliminary or Final Development Plan and Program after it has been approved shall be considered as a new petition and shall be made in accordance with the procedures under MCC .6202.

B. A minor change in the Preliminary or Final Development Plan and Program may be approved by the Planning Director. A *Minor Change* means a change which:

A. Does not increase the residential densities;

B. Does not enlarge the boundaries of the approved plan;

C. Does not change any use;

D. Does not change the general location or amount of land devoted to a specific land use; and

E. Includes only minor shifting of the location of buildings, proposed streets, public or private ways, utility easements, parks, paths or other public open spaces, or other features of the plan.

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### **11.15.6226 Expiration of Planned Development Approval**

If no substantial construction or development has occurred within four years of the date of Planning Commission action on the Preliminary Development Plan and Program, or within four years of any successive stage approved under MCC .6220, the Planning Director shall schedule the question of expiration of the approval for public hearing by the Planning Commission.

- A. Notice of the hearing shall be given in the manner provided in MCC .8220.
  - B. The Planning Commission shall consider whether continuation of approval in whole or in part is in the public interest, and may extend the approval for a specific period with such modifications and conditions as are deemed appropriate, or may terminate the approval and order removal of the Planned Development designation.
  - C. The Planning Commission decision shall be reported to the Board in the manner provided in MCC .8255.
  - D. The Planning Commission decision is subject to the review provisions of MCC .8260 through .8285.
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### **Willamette River Greenway**

This district is defined as the Willamette River Greenway

#### **11.15.6350 Purposes**

The purposes of the Willamette River Greenway subdistrict 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.

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These documents are provided for informational purposes only. If you have specific legal concerns you must contact the office.

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### **11.15.6352 Area Affected**

MCC .6350 through .6374 shall apply to those lands designated WRG on the Multnomah County Zoning Map.

### **11.15.6354 Uses Greenway Permit Required**

All uses permitted under the provisions of the underlying district are permitted on lands designated WRG; provided, however, that any development, change of use or intensification of use, except as provided in MCC .6358, shall be subject to a Greenway Permit issued under the provisions of MCC .6362.

### **11.15.6356 Definitions**

For the purposes of this district, the following terms and their derivations shall have the following meanings as defined in paragraph a. of the *Order Adopting Preliminary Willamette River Greenway Plan of the Oregon Land Conservation and Development Commission*, dated December 6, 1975: [Amended 1999, Ord. 932 § V]

A. 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. [Added 1999, Ord. 932 § V]

B. 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.) [Added 1999, Ord. 932 § V]

C. 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. [Added 1999, Ord. 932 § V]

D. 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

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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 man's 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 conjunction 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 215.213(1)(e) but modified so as to permit only new farm dwellings which will be 150 feet or more from ordinary low water.) *[Added 1999, Ord. 932 § V]*

- E. 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. *[Added 1999, Ord. 932 § V]*

## **11.15.6358 Exceptions**

A Greenway Permit shall not be required for the following:

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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;

*[Amended 1990, Ord. 643 § 2]*

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); *[Amended 1990, Ord. 643 § 2]*

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 the effective date of this Chapter; provided, however, that any change or intensification of such use shall require a Greenway Permit.

### **11.15.6360 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 a Permitted Use or a Use Under Prescribed Conditions, in the manner provided in MCC .8210(B);

B. For a Conditional Use as specified either in the underlying district or in MCC .7105 through .7640, or for a Community Service Use as specified in MCC .7005 through .7030, or for a change of zone classification, or for any other action as specified in MCC .8205, the Greenway Permit Application shall be combined with the required application for the proposed action and filed in the manner provided in subsections MCC .8210 and .8215.

### **11.15.6362 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 .6372.

### **11.15.6364 Decision by Planning Director**

A. A decision on a Greenway Permit application for a Permitted Use or a Use Under Prescribed Conditions shall be made by the Planning Director. The Director may approve the permit,

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disapprove it, or approve it with such modifications and conditions as may be consistent with the Comprehensive Plan or necessary to assure compatibility with the elements of the Greenway Design Plan. Such conditions may relate to the locations, design, and maintenance of existing and proposed improvements, including but not limited to buildings, structures and use areas, parking, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts and fills, signs, graphics, exterior colors, and lighting.

*[Amended 1990, Ord. 643 § 2]*

- B. Within ten business days following receipt of a completed Greenway Permit application, the Planning Director shall file a decision with the Director of the Department of Environmental Services and shall mail a copy of the decision to the applicant and to other persons who request the same.
- C. A decision by the Planning Director on a Greenway Permit application shall include written conditions, if any, and findings and conclusions. The conditions, findings, and conclusions shall specifically address the relationships between the proposal and the elements of the Greenway Design Plan.

#### **11.15.6366 Decision by Hearings Officer**

- A. A decision on a Greenway Permit application for a Conditional Use as specified either in the underlying district or in MCC .7150 through .7640, or for a Community Service Use as specified in MCC .7005 through .7030, shall be made by the Hearings Officer in conjunction with the decision on the use proposal associated therewith.
- B. Action by the Hearings Officer on a Greenway Permit application shall be taken pursuant to MCC .8205 through .8250.
- C. The findings and conclusions made by the Hearings Officer, and the conditions or modifications of approval, if any, shall specifically address the relationships between the proposal and the elements of the Greenway Design Plan.

#### **11.15.6368 Scope of Approval**

Approval of a Greenway Permit shall be deemed to authorize associated public utilities, including energy and communication facilities.

#### **11.15.6370 Appeals**

- A. A decision by the Planning Director on a Greenway Permit application may be appealed to the Hearings Officer in the manner provided in MCC .8290 and .8295.
- B. A decision by the Hearings Officer on a Greenway Permit application may be appealed to the Board of County Commissioners in the manner provided in MCC .8260.

#### **11.15.6372 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.

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- 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 districts 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.

*[Amended 1990, Ord. 643 § 2]*

- K. Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC .7105 through .7640, 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 .6376.

*[Amended 1990, Ord. 643 § 2]*

- N. Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.

*[Renumbered 1990, Ord. 643 § 2]*

- O. Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway. *[Renumbered 1990, Ord. 643 § 2]*
- 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. *[Renumbered 1990, Ord. 643 § 2]*
- 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 districts, 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. *[Renumbered 1990, Ord. 643 § 2]*

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- R. Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC .7805 through .7865, to the extent that such design review is consistent with the elements of the Greenway Design Plan.

[Renumbered 1990, Ord. 643 § 2]

- S. The applicable policies of the Comprehensive Plan are satisfied.[Added 1990, Ord. 643 § 2]

### **11.15.6374 Notice to Department of Transportation**

The Planning Director shall mail to the State Department of Transportation a copy of any application for a Greenway Permit within ten days of the filing thereof, and a copy of the written decision thereon, at the time the same is filed, under MCC .6364(B) or .8255, as appropriate.

### **11.15.6376 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 Framework 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 .6372, 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

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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 .6372 and .6376 (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 .6376 (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.

[Added 1990, Ord. 643 § 2]

## Significant Environmental Concern

This district is defined as a Significant Environmental Concern District.

### 11.15.6400 Purposes

The purposes of the Significant Environmental Concern (SEC) subdistrict are to protect, conserve, enhance, restore, and maintain significant natural and man-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.

[Amended 1990, Ord. 643 § 2]

[Amended 2010, Ord. 1152 § 8]

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### 11.15.6401 Definitions

A. *Development*: Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetative cover in the Water Resource Area or Habitat Area on a lot or parcel.

B. *Nuisance, invasive non-native and native plants*: Nuisance and invasive non-native plants include the those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List. Native plants are those listed in the latest edition of the Metro Native Plant List.

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- C. *Practicable, Practical*: As in No Practicable Alternative. Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.
- D. *Top of Bank*: The same as "bankfull stage" which means the stage or elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage.

*[Added 2010, Ord. 1152 § 9]*

### **11.15.6402 Area Affected**

Except as otherwise provided in MCC .6404 or MCC .6406, this subsection shall apply to those lands designated SEC on the Multnomah County Zoning Map.

### **11.15.6404 Uses SEC Permit Required**

- A. All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC .6406, shall be subject to an SEC permit. *[Amended 1994, Ord. 801 § 3]*
- 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. *[Amended 1994, Ord. 801 § 3]*
- C. Activities proposed for lands designated as scenic waterways under the Oregon Scenic Waterways System shall be subject to an SEC permit in addition to approval from the Oregon Parks and Recreation Department.

*[Amended 1994, Ord. 801 § 3]*

*[Added 1990, Ord. 643 § 2]*

### **11.15.6406 Exceptions**

An SEC permit shall not be required for the following:

- A. Farming practices as defined in ORS 30.930 and agricultural use as defined in OAR 603-095-0010, except that buildings and other development associated with farm practices and agricultural uses are subject to the requirements of this district except that agricultural fences shall not require an SEC-wr permit;

*[Amended 1990, Ord. 643 § 2]*

*[Amended 2010, Ord. 1152 § 10]*

- B. 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;

*[Amended 1990, Ord. 643 § 2; Amended 1999, Ord. 932 § VI]*

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- C. Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905(6); *[Amended 1990, Ord. 643 § 2]*
- D. The placing, by a public agency, of signs, markers, aids, etc., to serve the public;
- E. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- F. The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations; *[Renumbered 1994, Ord. 801 § 3]*
- G. The maintenance and repair of existing flood control facilities; and  
*[Renumbered 1994, Ord. 801 § 3]*
- H. Routine repair and maintenance of structures, roadways, driveways, utility facilities, and lawns that were in existence prior to the effective date of this ordinance;  
*[Amended and Renumbered 1994, Ord. 801 § 3]*  
*[Amended 2010, Ord. 1152 § 10]*
- I. All type A Home Occupations.  
*[Added 1998, Ord. 900 § III]*
- J. Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure.  
*[Added 1998, Ord. 900 § III]*
- K. Alteration, repair, or replacement of septic system drainfields due to system failure;  
*[Added 2010, Ord. 1152 § 10]*
- L. 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;  
*[Added 2010, Ord. 1152 § 10]*
- M. 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;  
*[Added 2010, Ord. 1152 § 10]*
- N. Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to ensure continuous width; and  
*[Added 2010, Ord. 1152 § 10]*
- O. Single utility poles necessary to provide service to the local area.  
*[Added 2010, Ord. 1152 § 10]*
- P. 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 .2282 Responses to and

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Emergency/Disaster Event, provided that after the emergency has passed, adverse impacts are mitigated.

*[Added 2010, Ord. 1152 § 10]*

*[Added 1990, Ord. 643 § 2; Amended and Renumbered 1994, Ord. 801 § 3; Amended 2010, Ord. 1152 § 10]*

### **11.15.6408 Application for SEC Permit**

A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC district and with the applicable criteria for approval specified in MCC .6420 through .6428. An application for a use on a property containing more than one protected resource shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.

- A. General SEC (SEC): All applications for SEC permits shall include the information listed in this section in sufficient detail for County staff to evaluate the impacts of the proposal. The applicant is responsible for providing all of the required information. In addition to the information listed in this section, the application shall contain the supplemental information that is listed for the resource area in which the development is proposed.
1. A written description of the proposed development and how it complies with the requirements applicable to the resource area in which development is proposed as listed in SEC, SEC-wr, and SEC-h.
  2. A map of the property drawn to scale showing:
    - a. Boundaries, dimensions, and size of the subject parcel;
    - b. Location and size of existing and proposed structures;
    - c. Contour lines and topographic features such as ravines or ridges;
    - d. Location of natural drainageways, springs, seeps, and wetlands on the site. The Planning Director may require the applicant to provide the location of the SEC-wr boundary, topography, or the location of development as determined by a registered professional surveyor or engineer;
    - e. Proposed fill, grading, site contouring or other landform changes;
    - f. Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas; and
    - g. Location and width of existing and proposed roads, driveways, parking and maneuvering areas, and service corridors and utilities.
  3. A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.
  4. Application for a flood hazard permit, erosion control permit, and/or other required natural hazards permit for the proposed development.

*[Amended 2010, Ord. 1152 §11]*

- B. For a Conditional Use as specified either in the underlying district or in MCC .7105 through .7640, or for a Community Service Use as specified in MCC .7005 through .7030, or for a change of zone classification or for any other action as specified in MCC .8205, the SEC permit application shall be combined with the required application for the proposed action and filed in the manner provided in MCC .8210 and .8215.
- C. SEC-Water Resource (SEC-wr): In addition to the information requirements listed in MCC .6408(A) above, the following information shall be submitted for applications within the SEC-wr overlay.
1. A topographic map of the development area and adjacent areas of the site at contour intervals of five feet or less showing a de-lineation of the Water Area or Habitat Area as determined by a documented field survey, the location of all existing and proposed watercourses, drainageways, stormwater facilities, and utility installations;
  2. The location of wetlands;
  3. Preparation of plans and surveys - Inventories, assessment of existing conditions, and mitigation or restoration plans shall be prepared by a qualified professional such as a fish or wildlife biologist at the discretion of the Planning Director. Wetlands shall be identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual;
  4. The applicant shall provide evidence that when federal or state requirements apply, that the agency has been contacted, and shall provide an assessment of whether the project can meet the requirements based on the agency response;
  5. An assessment of the existing condition of the Water Resource Area in accordance with Table 2 Riparian/Vegetated Corridor Standards;
  6. An inventory of vegetation, including percentage ground and canopy coverage, and location of nuisance plants listed in Table 1;
  7. A detailed Mitigation Plan as described in MCC .6428(E), if required;
  8. The location of all existing trees of a caliper greater than six (6) inches in diameter at breast height (DBH); and
  9. 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.

*[Amended 2010, Ord. 1152 §11]*

### **11.15.6409 Applicable Approval Criteria**

- A. The approval criteria that apply to uses in areas designated SEC, SEC-h and SEC-wr 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:

<b>zoning designation</b>	<b>approval criteria</b>
SEC	MCC .6420
SEC-wr (water resources)	MCC .6428

*[Amended and renumbered 2010, Ord. 1152 § 12]*

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- B. The zoning maps used to designate the Stream Conservation Areas (SEC-wr zoning subdistricts) were created digitally by interpreting various data sources. 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 Ordinance 830 (West Hills Rural Area Plan), the Stream Conservation Area designated on the zoning maps as SEC-s is an area extending 300 feet from the nearest point on the centerline on both sides of the protected stream. In the event of a mapping inconsistency, the SEC-wr zoning subdistrict shall be interpreted to be the defined Stream Conservation Area. *[Amended 1999, Ord. 932 § VI][Amended and renumbered 2010, Ord. 1152 § 12]*
- C. 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.
- D. 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 section, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property.

*[Amended 2010, Ord. 1152 § 12]*

*[Added 1994, Ord. 801 § 3]*

*[Amended and renumbered 2010, Ord. 1152 § 12]*

### **11.15.6410 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 district and with the applicable criteria for approval specified in MCC .6426 through .6428. *[Amended 1994, Ord. 801 § 3][Amended 2010, Ord. 1152 § 13]*

### **11.15.6413 Existing Uses**

Uses that legally existed on January XX, 2010, that are not included as Exceptions in section MCC .6406, may utilize the provisions of this section. This section is intended to define the circumstances under which existing development can be improved or replaced under limited requirements in recognition of the pre-existing status. The SEC provisions are also not intended to make existing uses non-conforming. However, approval of proposals for alteration of uses that were non-conforming prior to the SEC ordinance, must obtain an SEC permit in addition to demonstrating compliance with the non-conforming use provisions of this Chapter.

- A. Change, expansion, or alteration of existing uses shall require an SEC permit as provided in MCC .6400 through .6428, except for changes to a structure as described in Sections (1) or (2) below;
1. In areas subject to the provisions of the SEC, change, or alteration of existing uses which do not require any modification to the exterior of the structure;
  2. Within the SEC-wr and SEC-h - addition of less than 400 square feet of ground coverage to the structure. This provision is intended to allow a maximum of 400 square feet of additional coverage to the structure that existed on the effective date of this ordinance.

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- B. Replacement or restoration of existing structures that were unintentionally destroyed by fire or other casualty, or natural disaster within the same foundation lines shall not require an SEC permit. The redevelopment must be commenced within one year from the date of the loss, and may include addition of a maximum 400 square feet of ground coverage. Structures which are expanded up to 400 square feet under this provision, may not subsequently expand under the provision in (A)(2) above.
- C. Within the SEC-wr, lawfully established structures that do not meet the casualty loss provisions of (B) above may be replaced within the same foundation lines or area of ground coverage when the entire remaining vegetated corridor on the project site, or the first 50 feet closest to the stream, or an area equal to the ground coverage of the building and attached structures and paved areas, whichever is less, is enhanced to "good" condition pursuant to Table 2. Replacement shall be processed as a Type II review.
- D. If development under this section is proposed to be located closer to a protected water feature, approval of a permit under the provisions of MCC .6408, .6422 & .6428 shall be obtained.

*[Added 2010, Ord. 1152 § 2]*

### **11.15.6418 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 .6420 through .6428 and any other requirements specified in the Goal 5 protection program for the affected resource. Said conditions may relate to the locations, design, and maintenance of existing and proposed improvements, including but not limited to buildings, structures and use areas, parking, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts and fills, signs, graphics, and lighting, timing of construction and related activities.*[Amended 1994, Ord. 801 § 3]*
- B. Approval of an SEC permit shall be deemed to authorize associated public utilities, including energy and communication facilities.

### **11.15.6420 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:

*[Amended 1994, Ord. 801 § 3]*

- 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.

*[Renumbered 1995, Ord. 832 § 2]*

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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.

*[Renumbered 1995, Ord. 832 § 2]*

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.

*[Renumbered 1995, Ord. 832 § 2]*

F. Significant fish and wildlife habitats shall be protected.

*[Renumbered 1995, Ord. 832 § 2]*

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.

*[Amended 1990, Ord. 643 § 2; Renumbered 1995, Ord. 832 § 2]*

H. Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.*[Renumbered 1990, Ord. 643 § 2]*

*[Renumbered 1995, Ord. 832 § 2]*

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. *[Renumbered 1990, Ord. 643 § 2; Renumbered 1994, Ord. 801 § 3]*

*[Renumbered 1995, Ord. 832 § 2]*

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.*[Amended and Renumbered 1994, Ord. 801 § 3]*

*[Renumbered 1995, Ord. 832 § 2]*

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. *[Renumbered 1994, Ord. 801 § 3; Renumbered 1995, Ord. 832 § 2]*

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.*[Renumbered 1994, Ord. 801 § 3; Renumbered 1995, Ord. 832 § 2]*

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. *[Renumbered 1994, Ord. 801 § 3; Renumbered 1995, Ord. 832 § 2]*

N. The applicable policies of the Comprehensive Plan shall be satisfied.*[Amended and Renumbered 1994, Ord. 801 § 3; Renumbered 1995, Ord. 832 § 2]*

### **11.15.6423 General Requirements for Approval in Areas Designated as SEC-wr.**

The requirements in this section shall be satisfied for development in the SEC-h and SEC-wr areas in addition to the provisions of MCC .6426 or MCC .6428 as applicable.

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- 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 re-source or habitat areas. Where illumination of a water resource or habitat area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this provision.
- C. The following nuisance plants, in addition to the nuisance plants defined in MCC .6401, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone:

Table 1  
Nuisance Plant List

Common Name	Scientific		Common Name	Scientific
Lesser celandine	Chelidonium majus		Fall Dandelion	Loentodon autumnalis
Canada Thistle	Cirsium arvense		Purple Loosestrife	Lythrum salicaria
Common Thistle	Cirsium vulgare		Eurasian Watermilfoil	Myriophyllum spicatum
Western Clematis	Clematis ligusticifolia		Reed Canary grass	Phalaris arundinacea
Traveler' s Joy	Clematis vitalba		Annual Bluegrass	Poa annua
Poison hemlock	Conium maculatum		Swamp Smartweed	Polygonum coccineum
Field Morning-glory	Convolvulus arvensis		Climbing Binaweed	Polygonum convolvulus
Night-blooming Morningglory	Convolvulus nyctagineus		Giant Knotweed	Polygonum sachalinense
Lady' s nightcap	Convolvulus		English, Portuguese/	Prunus laurocerasus

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Common Name	Scientific		Common Name	Scientific
	seppium		Laurel	
Pampas grass	Cortaderia selloana		Poison Oak	Rhus diversiloba
Hawthorn, except native species	Crataegus sp. except C. douglasii		Himalayan Blackberry	Rubus discolor
Scotch broom	Cytisus scoparius		Evergreen Blackberry	Rubus laciniatus
Queen Ann' s Lace	Daucus carota		Tansy Ragwort	Senecio jacobaea
South American Waterweed	Elodea densa		Blue Bindweed	Solanum dulcamara
Common Horsetail	Equisetum arvense		Garden Nightshade	Solanum nigrum
Giant Horsetail	Equisetum telemateia		Hairy Nightshade	Solanum sarrachoides
Crane' s Bill	Erodium cicutarium		Common Dandelion	Taraxacum officinale
Robert Geranium	Geranium roberianum		Common Bladderwort	Utricularia vulgaris
English Ivy	Hedera helix		Stinging Nettle	Utica dioica
St. John' s Wort	Hypericum perforatum		Periwinkle (large leaf)	Vinca major
English Holly	Ilex aquafolium		Periwinkle (small leaf)	Vinca minor

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Common Name	Scientific		Common Name	Scientific
Duckweed, Water Lentil	Lemna minor		Spiny Cocklebur	Xanthium spinosum
Fall Dandelion	Loentodon autumnalis		Bamboo sp.	various genera
Purple Loosestrife	Lythrum salicaria			

[Added 2010, Ord. 1152 § 17]

### 11.15.6429 CRITERIA FOR APPROVAL OF SEC-WR PERMIT -WATER RESOURCE

Except for the exempt uses listed in MCC .6406 and the existing uses pursuant to MCC .6412, no development shall be allowed within a Water Resource Area unless the provisions of section (A) or (B) or (C) below are satisfied. An application shall not be approved unless it contains the site analysis information required in MCC .6408(A) and (C), and meets the general requirements in MCC .6422.

A. Development on Low Impact Sites - Development on parcels in locations that would have low impacts on Water Resource Areas may be exempt from the Alternatives Analysis in (B) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E):

1. The development site is at least one hundred (100) feet from top of bank or top of ravine, whichever 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 re-source protection.

B. Alternatives Analysis - Development proposed within a Water Resource Area may be allowed if there is no alternative, when the other requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E) are met. The applicant shall prepare an alternative analysis which demonstrates that:

1. No practicable alternatives to the re-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

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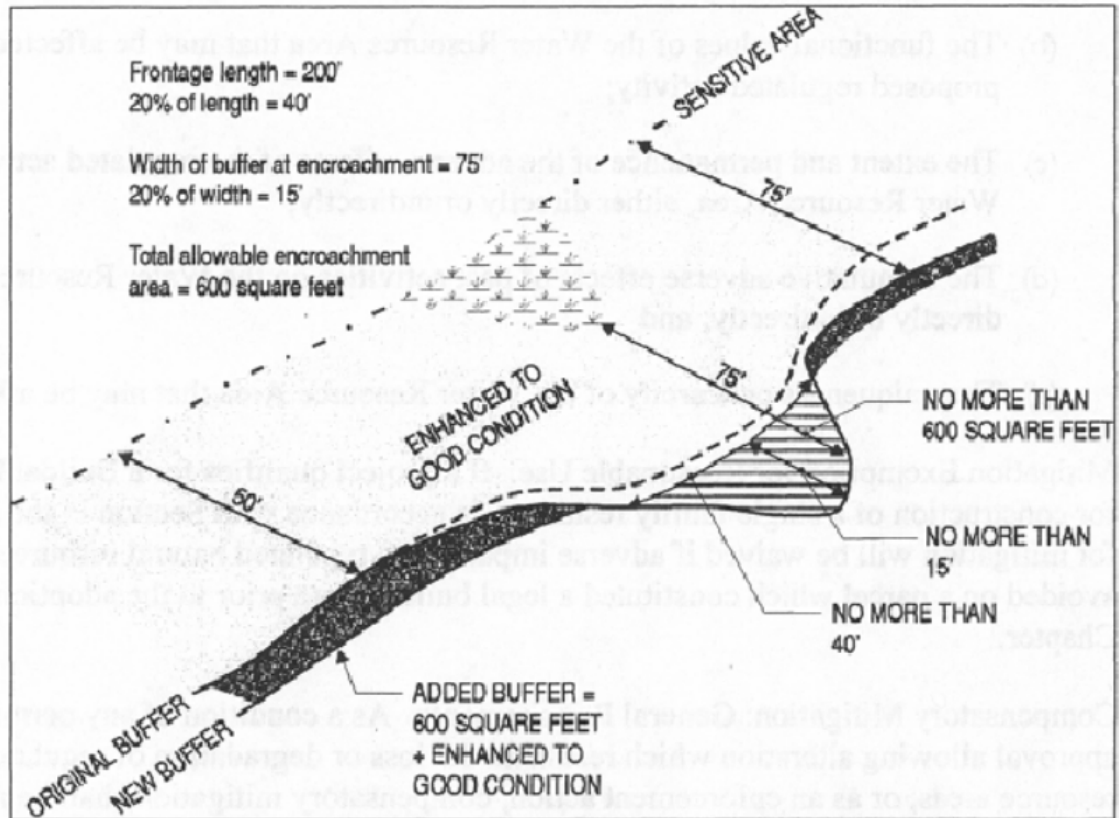


4. The Water Resource Area can be re-stored to an equal or better condition; or
  5. Any net loss on the property of resource area, function and/or value can be mitigated.
- C. Buffer Averaging - Development may be allowed to encroach into the 200' SEC-wr over-lay zone or "buffer" when the provisions 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 .6408(A) and (C) has been submitted.
  2. The riparian/vegetated corridor is certified to be in a marginal or degraded condition pursuant to Table 2. Buffer averaging is not allowed to encroach in areas certified to be in good condition.
  3. The maximum encroachment does not exceed 20% of the frontage length of the vegetated corridor by 20% of the required width.
  4. The entire remaining vegetated corridor on the project site or the first 50 feet closest to the stream (whichever is less) will be enhanced to "good" condition pursuant to Table 2.
  5. The area of encroachment will be re-placed with added buffer area at a 1:1 ratio.
  6. The replacement area will be incorporated into the remaining vegetated corridor on the project site and meet the "good" condition pursuant to Table 2, regardless of its distance from the resource area.
- D. Development Standards- Development within the Water Resource Area shall comply with the following standards:
1. Development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.
  2. Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH greater ) shall be removed with-out a one-for-one replacement with comparable species. The site plan for the pro-posed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.
  3. Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drain-age courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.
  4. The Water Resource Area shall be re-stored to "good condition" and maintained in accordance with the mitigation plan pursuant to (E) below and the specifications in Table 2.
  5. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment.

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6. Where existing vegetation has been re-moved, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.

Figure 2



7. Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this district. Such markings shall be maintained until construction is complete.
8. Stormwater quantity control and quality control facilities:
  - a. Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.
  - b. The stormwater quantity control and quality control facility may only encroach a maximum of 25 feet into the outside boundary of the Water Resource Area of a primary water feature; and
  - c. The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Water Resource Area on the subject property.

E. Mitigation - Mitigation shall be required to offset the impacts of development within the SEC-wr. This section establishes how mitigation can occur.

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1. Mitigation Sequence. Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.
  - a. When a proposed use or development activity could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1. through 5. below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.
    1. Avoiding the impact altogether by not taking a certain action or parts of actions on that portion of the site which contains the regulated natural resource area;
    2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
    3. Compensating for the impact by repairing, rehabilitating, or restoring the affected environment;
    4. Compensating for the impact by replacing, enhancing or providing substitute resources or environments on-site.
    5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments off-site.
  - b. When evaluating potential impacts to the natural resource, the County may consider whether there is an overriding public benefit, given:
    1. The extent of the public need for the proposed development;
    2. The functional values of the Water Resource Area that may be affected by the proposed development;
    3. The extent and permanence of the adverse effects of the development on the Water Resource Area, either directly or indirectly;
    4. The cumulative adverse effects of past activities on the Water Resource Area, either directly or indirectly; and
    5. The uniqueness or scarcity of the Water Resource Area that may be affected.
2. Compensatory Mitigation: General Requirements. As a condition of any permit or other approval allowing development which results in the loss or degradation of regulated natural resource areas, or as an enforcement action, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or violator.
  - a. Any person who alters or proposes to alter regulated natural resource areas shall restore or create natural resource areas equivalent to or larger than those altered in order to compensate for re-source losses.
  - b. The following ratios apply to the creation or restoration of natural re-source 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 re-source areas as described in Table 2 may be the subject of a restoration project proposed as part of a Mitigation Plan.
  - d. Highest priority sites for mitigation are marginal or degraded corridors that are closest to a natural drainage, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.
  - e. The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County.
  - f. Compensation shall be completed prior to initiation of development where possible.
  - g. In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that off-site mitigation areas will be protected in perpetuity, the owner shall cause a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.
3. Mitigation Plan Standards - Natural re-source mitigation plans shall contain the following information:
- a. A description of adverse impacts that could be caused as a result of development.
  - b. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.
  - c. A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.
  - d. A map drawn to scale, showing where the specific mitigation activities will occur.
  - e. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.

Table 2  
 Riparian/Vegetated Corridor Standards

Existing Riparian/Vegetated Corridor Condition	Requirements of Riparian/Vegetated Corridor Protection, Enhancement, and/or Mitigation
<p><i>Good Corridor</i></p> <p>Combination of native trees, shrubs, and groundcover covering greater than 80% of the</p>	<p>Provide certification, pursuant to the procedures provided by the Planning</p>

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<p>area</p> <p>and</p> <p>Greater than 50% tree canopy exists (aerial measure)</p>	<p>Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</p> <p>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand.</p> <p>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.</p> <p>Revegetate impacted area per approved plan to reestablish “good” corridor conditions</p>
<p><i>Marginal Corridor</i></p> <p>Combination of native trees, shrubs, and groundcovers covering 50% - 80% of the area</p> <p>and/or</p> <p>26-50% tree canopy exists (aerial measure)</p> <p>(Restoration up to “good” corridor required)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</p> <p>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.</p> <p>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.</p> <p>Vegetate corridor to establish “good” corridor conditions</p>

<p><i>Degraded Corridor</i></p> <p>Combination of native trees, shrubs, and groundcovers covering is less than 50% of the area</p> <p>and/or</p> <p>Less than 25% tree canopy exists (aerial measure)</p> <p>and/or</p> <p>Greater than 10% of the area is covered by invasive, non-native species</p> <p>(Restoration up to “good” corridor required)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</p> <p>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically as appropriate.</p> <p>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.</p> <p>Vegetate corridor to establish “good” corridor conditions</p>
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[Added 2010, Ord. 1152 § 20]

## Heritage Preservation

This district is defined as a Heritage Preservation District.

### 11.15.6500 Purposes

The general purposes of the Heritage Preservation subdistrict are to implement various provisions of the Comprehensive Plan, the Statewide Planning Goals, and elements of County programs to preserve and conserve for public benefit those districts, sites, buildings, structures, and objects which are found to be significant in history, architecture, archeology, and culture; to assist heritage preservation projects and activities in the public and private sector; to authorize adaptive uses not otherwise permitted where beneficial to the purposes of preservation; to establish development standards and other regulatory techniques designed to achieve the purposes of heritage preservation.

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11.15.6504 Area Affected

11.15.6506 Procedure to Establish an HP Subdistrict

These documents are provided for informational purposes only. If you have specific legal concerns you must contact the office.

### **11.15.6502 General Findings and Policy**

The Board finds:

- A. The Statewide Planning Goals and the County's Comprehensive Framework Plan and Community Plans Policies implemented by the Heritage Preservation Subdistrict are Goal 5 and Policies No. 15, 16, 17, and 18;
- B. The Goals and these Policies provide for the preservation, maintenance, and beneficial use of districts, sites, buildings, structures, and objects which have been identified as having historical, architectural, archaeological, or cultural significance;
- C. Surveys conducted in unincorporated Multnomah County reveal the presence of a wide variety of such sites, buildings, and objects;
- D. Each site, building, or object has unique characteristics or circumstances such that no single overlay preservation zone would be adequate to address the range of issues involved;
- E. These individual situations thus require special sets of measures, each designed to apply the preservation techniques found most appropriate; and
- F. The creation and enactment of a special overlay subdistrict when a site, building, object or need is identified, is deemed to be the effective and flexible means to implement the policies and purposes of heritage preservation.

### **11.15.6504 Area Affected**

The provisions of a Heritage Preservation subdistrict shall apply to land areas according to their designations as Subdistricts HP-1, HP-2, HP-3, etc., on the Multnomah County Zoning Map.

### **11.15.6506 Procedure to Establish an HP Subdistrict**

- A. An HP subdistrict shall be established as an addition to this section by legislative amendment of the text and zoning map of this Chapter.
- B. An amendment establishing an HP subdistrict shall include the following:
  - 1. The designation of the subdistrict as HP-1, HP-2, HP-3, etc., in the text and on the appropriate Sectional Zoning Map;
  - 2. A statement of the purposes of the subdistrict;
  - 3. Definitions of terms, as appropriate;
  - 4. A statement of the findings and policies on which the subdistrict is based, including reference to the related Community Plan or Comprehensive Plan provision which the subdistrict is designed to implement, or to the special problems or circumstances which the subdistrict is designed to address;
  - 5. A description of the relationships between the provisions of the HP subdistrict and those of the underlying district;
  - 6. A listing of the HP subdistrict uses authorized as Permitted Uses, Uses Permitted Under Prescribed Conditions, or Conditional Uses, as appropriate;
  - 7. A description of any approval procedures or criteria required to satisfy the subdistrict provisions;

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8. Any development standards, dimensional requirements, or special provisions for authorized uses in the subdistrict;
  9. A description of the nature of and approval procedures for any exceptions from subdistrict requirements;
  10. A statement of the methods of appeal from a decision made under the provisions of the subdistrict; and
  11. Any other provision deemed appropriate to the purposes of the HP subdistrict.
- C. In acting to establish an HP subdistrict or to designate property as HP, the Planning Commission and the Board shall consider the report and recommendation thereon prepared by the Multnomah County Historical Sites Advisory Committee.
1. The Planning Director shall notify the Chairman and the Secretary of the Historic Sites Advisory Committee by First Class Mail of a proposal for establishment or designation of an HP subdistrict at least 30 days prior to action thereon by the Planning Commission.
  2. The Committee shall file its report and recommendation with the Planning Director.
  3. In the absence of the report and the recommendation of the Committee, the proposed subdistrict or designation shall be deemed to be recommended for approval.
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## Heritage Preservation HP-1

### 11.15.6510 Purposes

The purposes of the HP-1 subdistrict are to provide for the preservation and protection of buildings, not otherwise designated WRG, SEC, CS, or CU, which satisfy the Historical Site Criteria in the Comprehensive Framework Plan and to permit authorization of adaptive uses not otherwise permitted where found to be beneficial to the purposes of heritage preservation.

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### **11.15.6512 Definition**

*Historical Landmark* means any building, structure, or physical object and the premises on which it is located which is recognized to be of particular cultural, aesthetic, educational, or historical significance under the Historical Site Criteria of the Comprehensive Plan.

### **11.15.6514 Findings and Policy**

The Board finds:

- A. There are buildings within the unincorporated County area which qualify as historic landmarks by reason of their special historical character, their association with historical events or persons, their antiquity, their unique or representative architectural style, design or method of construction, or by reason of other aesthetic, cultural, economic, or educational significance or importance.
- B. Many buildings which merit designation as historical landmarks have been altered or destroyed in the absence of regulatory controls to insure preservation or of measures to authorize adaptive uses which would make preservation economically feasible.
- C. Creation and application of a specialized overlay subdistrict will implement the Statewide Planning Goals and the Comprehensive Plan Policies No. 15 and 18 with respect to buildings of historical significance not otherwise subject to the protective provisions of the WRG, SEC, CS, and CU Sections of this Ordinance.

### **11.15.6516 Uses**

- A. The following uses are permitted uses in the HP-1 subdistrict:
  - 1. A use existing or for which a valid building or land use permit was in effect on the effective date of the HP-1 classification; and
  - 2. Any use listed as a Permitted Use in the underlying district.
- B. A use listed as a Use Under Prescribed Conditions in the underlying district is a use permitted under those prescribed conditions in the HP-1 subdistrict.
- C. Any other use listed in this Chapter is a Conditional Use in the HP-1 subdistrict and may be permitted by the Hearings Officer under the procedural provisions of MCC .7105 through .7640 when found to satisfy the approval criteria of MCC .6518.

### **11.15.6518 HP-1 Conditional Use Approval Criteria**

In acting to approve a Conditional Use under MCC .6516(C), the Hearings Officer shall find that the proposal:

- A. Will maintain or restore the unique characteristics of the site and structure which are the basis of the HP-1 classification;
- B. Will satisfy the dimensional requirements of the underlying district and the development standards specified by this Chapter for the proposed use to the maximum extent possible, consistent with the nature of the existing improvements of historical significance;
- C. Will permit an adaptive use which is necessary and appropriate to the preservation of the historical characteristics; and

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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.

### **11.15.6520 Appeals**

A decision of the Hearings Officer made under MCC .6516(C) may be appealed to the Board of County Commissioners in the manner provided in MCC .8260 through .8275.

### **11.15.6522 Permits**

The provisions of MCC .8720, "Permits for Historical Structures and Sites", shall apply to any building, structure, or premises classified HP-1.

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## **Special Plan Area**

### **11.15.6600 Purposes**

The general purposes of the Special Plan Area Subdistricts are to implement various provisions of the Comprehensive Plan, the Statewide Planning Goals and the land use control elements of Special Plan Area plans and of plans for neighborhoods and subcommunity vitalization; to aid in realizing opportunities to achieve community, social and economic stability and vigor; to institute desired patterns and improvement standards for land uses according to adopted specific-place plans; to facilitate public-private sector cooperation in the development of such areas; to establish more flexible and diversified standards and procedures; and to provide means to establish such interim land use controls as are deemed necessary, pending the preparation of local area comprehensive plan revisions or development strategies.

### **11.15.6602 Area Affected**

The provisions of a Special Plan Area subdistrict shall apply to specific land areas according to their designations as subdistricts SPA-1, SPA-2, SPA-3, etc., on the Multnomah County Zoning Map.

### **11.15.6604 Procedure to Establish an SPA Subdistrict**

- A. An SPA subdistrict shall be established as an addition to this section by legislative amendment of the text and Zoning Map of this Chapter.
- B. An amendment establishing an SPA subdistrict shall include the following:
  - 1. The designation of the subdistrict as SPA-1, SPA-2, SPA-3, etc., in the text and on the appropriate Sectional Zoning Map;
  - 2. A statement of the purposes of the subdistrict;
  - 3. Definitions of terms, as appropriate;
  - 4. A statement of the findings and policies on which the subdistrict is based, including reference to the related Special Area Plan or Comprehensive Plan revision which the subdistrict is designed to implement or to the special problems or circumstances which the subdistrict is designed to address;

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5. A description of the relationships between the provisions of the SPA subdistrict and those of the underlying district;
  6. A listing of the SPA subdistrict uses authorized as Permitted Uses, Uses Under Prescribed Conditions, or Conditional Uses, as appropriate;
  7. A description of any approval procedure or criteria required to satisfy the subdistrict provisions;
  8. Any development standards or dimensional requirements for authorized uses in the subdistrict;
  9. A description of the nature of and approval procedures for any exceptions from subdistrict requirements;
  10. A statement of the methods of appeal from a decision made under the provisions of the subdistrict; and
  11. Any provisions for the expiration of the SPA subdistrict.
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## Special Plan Area No.2

**11.15.6610 through .6624** *[Repealed 1994, Ord. 805 § II]*

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## Special Plan Area No. 3

**11.15.6630 through .6648** *[Repealed 1994, Ord. 805 § II]*

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## Hillside Development and Erosion Control

### 11.15.6700 Purposes

The purposes of the Hillside Development and Erosion Control subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated Multnomah County, all in accordance with ORS 215, LCDC Statewide Planning Goal No. 7 and OAR 340-41-455 for the Tualatin River Basin, and the Multnomah County Comprehensive Framework Plan Policy No. 14. This subdistrict is intended to:

- A. Protect human life;
- B. Protect property and structures;

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- C. Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- D. Control erosion, production and transport of sediment; and
- E. Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and
- F. Control stormwater discharges and protect streams, ponds, and wetlands within the Tualatin River and Balch Creek Drainage Basins.

*[Added 1991, Ord. 677 § 2; Amended 1991, Ord. 691 § 2]*

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11.15.6735 Hillside Development and Erosion Control Related Definitions:

### **11.15.6710 Permits Required**

**A. Hillside Development Permit:** All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC .6715.

*B. [Amended 1994, Ord. 785 § 2; deleted 1996, Ord. 847 § II]*

*C. [Added 1991, Ord. 677 § 2; Amended 1991, Ord. 691 § 2; ; deleted 1996, Ord. 847 § II]*

### **11.15.6715 Exempt Land Uses and Activities**

The following are exempt from the provisions of this Chapter:

A. Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site-specific requirements applicable herein.

B. General Exemptions Outside the Tualatin River and Balch Creek Drainage Basins, all land-disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if :

1. Natural and finished slopes will be less than 25 %; and,
2. The disturbed or filled area is 20,000 square feet or less; and,

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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. *[Amended 1991, Ord. 677 § 2; 1991, Ord. 691 § 2; and 1994, Ord. 785 § 2]*
- C. Categorical Exemptions Notwithstanding MCC .6715(A) and (B)(1) through (6), the following activities are exempt from the permit requirements, except that in the Tualatin River Drainage Basin, activities which effect water quality shall require a Permit pursuant to OAR 340-41-455(3): *[Amended 1991, Ord. 691 § 2; 1991, Ord. 705 § 2; and 1994, Ord. 785 § 2]*
1. An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.
  2. Cemetery graves, but not cemetery soil disposal sites.
  3. Excavations for wells, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3). *[Amended 1991, Ord. 705 § 2; and Renumbered 1994, Ord. 785 § 2]*
  4. Mineral extraction activities as regulated by MCC .7305 through .7335, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3). *[Amended 1991, Ord. 705 § 2; and Renumbered 1994, Ord. 785 § 2]*
  5. Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.  
*[Renumbered 1994, Ord. 785 § 2]*
  6. Routine agricultural crop management practices. *[Amended 1994, Ord. 785 § 2; and Renumbered 1994, Ord. 785 § 2]*
  7. Residential gardening and landscape maintenance at least 100-feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.  
*[Amended 1991, Ord. 691 § 2; and 1994, Ord. 785 § 2]*
  8. Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.
  9. Forest practices as defined by ORS 527 (The State Forest Practices Act) and approved by the Oregon Department of Forestry. *[Added 1991, Ord. 677 § 2]*

### **11.15.6720 Application Information Required**

An application for development subject to the requirements of this subdistrict shall include the following:

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- A. A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.
- B. An estimate of depths and the extent and location of all proposed cuts and fills.
- C. The location of planned and existing sanitary drainfields and drywells.
- D. Narrative, map or plan information necessary to demonstrate compliance with MCC .6730(A). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting. *[Amended 1991, Ord. 677 § 2]*
- E. A Hillside Development permit may be approved by the Director only after the applicant provides:
  - 1. Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or
  - 2. A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,
  - 3. An HDP Form–1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.
    - a. If the HDP Form–1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form–1, a geotechnical report as specified by the Director shall be prepared and submitted. *[Renumbered 1996, Ord. 847 § II]*

F. Geotechnical Report Requirements

- 1. A geotechnical investigation in preparation of a Report required by MCC .6720(E)(3)(a) shall be conducted at the applicant’s expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.
- 2. Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.
- 3. Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant’s expense; the geologist’s or engineer’s name shall be submitted to the Director prior to issuance of the Permit.
- 4. The Director, at the applicant’s expense, may require an evaluation of HDP Form–1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.

*[Renumbered 1996, Ord. 847 § II]*

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G. Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC .6730(A) through (D). Conditions of approval may be imposed to assure the design meets those standards. *[Renumbered 1996, Ord. 847 § II]*

**11.15.6725** *[Deleted 1996, Ord. 847 § II]*

**11.15.6730 Grading and Erosion Control Permit Standards**

Approval of development plans on sites subject to a Hillside Development Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

*[Amended 1996, Ord. 847 § II]*

A. Design Standards For Grading and Erosion Control

1. Grading Standards

- a. Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;
- b. Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;
- c. Cuts and fills shall not endanger or disturb adjoining property;
- d. The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;
- e. Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;

2. Erosion Control Standards

- a. On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the *Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)* and the *City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)*. Land-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 is approved for alterations within the buffer area. *[Amended 1991, Ord. 677 § 2; 1991, Ord. 705 § 2; Amended 1999, Ord. 932 § VII]*
- b. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;
- c. Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;

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- d. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;
- e. Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
  - i. 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;
  - ii. The buffer required in (i) may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the *Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)* and the *City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)* and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340. [Amended 1994, Ord. 785 § 2; Amended 1999, Ord. 932 § VII]
- f. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;
- g. Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;
- h. Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;
- i. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;
- j. All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;
- k. Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;
- l. Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:
  - i. Energy absorbing devices to reduce runoff water velocity;
  - ii. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
  - iii. Dispersal of water runoff from developed areas over large undisturbed areas.
- m. Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by

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location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

- n. Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.
- o. On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the *Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*. All land disturbing activities 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. *[Added 1991, Ord. 691 § 2]*

## B. Responsibility

1. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;
2. It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

## C. Implementation

1. **Performance Bond** A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the Director determines the scale and duration of the project and the potential problems arising therefrom will be minor.
2. **Inspection and Enforcement.** The requirements of this subdistrict shall be enforced by the Planning Director. If inspection by County staff reveals erosive conditions which exceed those prescribed by the Hillside Development, work may be stopped until appropriate correction measures are completed.

## D. Final Approvals

A certificate of Occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

## 11.15.6735 Hillside Development and Erosion Control Related Definitions:

- A. *Certified Engineering Geologist* Any person who has obtained certification by the State of Oregon as an engineering geologist.
- B. *Cut*:
1. An excavation;
  2. The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
  3. The material removed in excavation work.
- C. *Development Area* The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.
- D. *Drainage Area* The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.
- E. *Drainageway* Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.
- F. *Earth Movement* Any type of land surface failure resulting in the downslope movement of material . The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.
- G. *Erosion* The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.
- H. *Excavation* Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.
- I. *Fill*:
1. Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting therefrom.
  2. The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.
  3. The material used to make a fill.
- J. *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.
- K. *Geotechnical Report* Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.
- L. *Grading* Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.
- M. *HDP Form 1* The form required for specified developments subject to the Hillside Development and Erosion Control subdistrict. It contains a geotechnical reconnaissance and stability

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questionnaire which must be filled out and certified by a Certified Engineering Geologist or Geotechnical Engineer.

- N. *Land-disturbing Activities* Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land-disturbing activities includes: excavations or fills, site grading, and soil storage. [Added 1991, Ord. 677 § 2]
- O. *Mulch* Materials spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.
- P. *Ordinary High Water Mark* Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.[Added 1991, Ord. 677 § 2]
- Q. *Slope:*
1. Any ground whose surface makes an angle from the horizontal; or
  2. The face of an embankment or cut section. [Renumbered 1991, Ord. 677 § 2]
- R. *Slope Hazard Map* A series of maps maintained and updated from time to time by the Office of the Director, Department of Environmental Services;
- [Renumbered 1991, Ord. 677 § 2]
- S. *Spoil Material* Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.
- [Renumbered 1991, Ord. 677 § 2]
- T. *Stream* Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (e.g. swales) shall be considered streams when hydrologic and hydraulic analyzes performed pursuant to a development proposal predict formation of a defined channel after development.
- [Added 1991, Ord. 677 § 2]
- U. *Stream Protection* Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.
- [Added 1991, Ord. 677 § 2]
- V. *Topographic Information* Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed 10 feet.

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[Renumbered 1991, Ord. 677 § 2]

W. *Vegetation* All plant growth, especially trees, shrubs, grasses and mosses.

[Renumbered 1991, Ord. 677 § 2]

X. *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.

[Renumbered 1991, Ord. 677 § 2]

Y. *Water Body* Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds.

[Added 1991, Ord. 677 § 2]

Z. *Watercourse* Natural and artificial features which transport surface water. Watercourse includes a river, stream, creek, slough, ditch, canal, or drainageway.

[Added 1991, Ord. 677 § 2]

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## Protected Aggregate and Mineral Sites

### 11.15.6750 Purposes

The purposes of the Protected Aggregate and Mineral Resources Overlay Subdistrict are:

- A. To provide a mechanism to identify and, where appropriate, protect significant aggregate and mineral resource sites;
- B. To allow surface mining subject to uniform operating standards; and
- C. To regulate conflicts with surface mining activities.

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### **11.15.6755 Area Affected**

This subsection shall apply to those lands designated PAM on the Multnomah County Zoning Map. On the Zoning Map shall also be a reference to the relevant site-specific Comprehensive Plan documents.

Exemption activities as described in MCC .6760(A) and (B) are allowed in all districts, not only those designated PAM.

### **11.15.6760 Exemptions**

- A. The following activities are exempt from the requirements of MCC .6750 through .6795 and .7305 through .7335. 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 (the effective date of the Ordinance) 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 .8805 and .8810.
- 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 .6750 through .6795 and .7305 through .7335, but shall require the approval of a Hillside and Erosion Control Permit and any other permits as may be required in any overlay subdistrict.
- C. Mining a quantity in excess of (B), but mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres is exempt from the requirement in MCC .7325 and .7331 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 .7305 through .7335; and
  - 3. Obtain approval of a Hillside and Erosion Control Permit in conjunction with the mining conditional use approval. The Hillside and Erosion Control permit shall be required in place of all references in the plan and MCC 11.15 to obtaining a DOGAMI operating permit in recognition that this level of mining activity is exempted by DOGAMI rules for such a permit.

### **11.15.6765 Definitions**

As used in this subdistrict and MCC .7305 through .7335, unless otherwise noted, the following words and their derivations shall have the following meanings:

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- A. *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.
- B. *Dust Sensitive Use* A *conflicting use* which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered dust sensitive uses during their period of use. Forest uses and farm uses are not *dust sensitive uses* unless determined through the *Goal 5 process*.
- C. *ESEE Analysis* The analysis of Economic, Social, Environmental and Energy consequences of allowing mining at a *significant site*, and allowing *conflicting uses* to displace mining at a *significant site*. The *ESEE analysis* is the basis for determining the level of protection to be given the resource.
- D. *Extraction Area* The area of a *protected* aggregate and mineral resource site in which mining and associated processing is permitted.
- E. *Goal 5 Process* The planning process required by Oregon Administrative Rules Chapter 660, Division 16. The *Goal 5 process* involves identifying resource sites, determining their significance, identifying conflicting uses, analyzing the economic, social, environmental and energy consequences of *conflicting uses*, determining the level of protection given to a resource site, and implementing a program to protect *significant sites*.
- F. *Impact Area* The area where uses may occur that could adversely affect the resource site or be adversely affected by use of the resource site.
- G. Mining The excavation of sand, aggregate (gravel), clay, rock, or other similar surface or subsurface resources. Mining does not include:
1. Excavations conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstructing or maintaining access roads,
  2. Excavation or grading conducted in the process of farm or cemetery operations,
  3. Excavation or grading conducted within a road right-of-way or other easement for the primary purpose of road construction, reconstruction or maintenance, or
  4. Removal, for compensation, of materials resulting from on-site construction for which a development permit and a construction time schedule have been approved by the county.
- H. *Noise Sensitive Use* A *conflicting use* which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered *noise sensitive uses* during their period of use. Forest uses and farm uses are not *noise sensitive uses* unless determined through the *Goal 5 process*.
- I. PAM Overlay Subdistrict A special purpose zoning designation for the purposes of MCC .6750 that is placed on a zoning map over a base zoning district (ie. CFU). The provisions of the PAM subdistrict shall apply to land uses as specified, notwithstanding the provisions of the underlying zone district.

- J. *Processing* The washing, crushing, screening, and handling of aggregate and mineral resources. Batching and blending of asphalt or portland cement concrete are included in the definition of processing.
- K. *Protected Site* Significant resource sites which are identified through the *Goal 5 Process* as resources that the county will protect from *conflicting uses*. The special district designation Protected Aggregate and Mineral Resources (PAM) shall only be applied to *protected sites*.
- L. *Restrictive Covenant* An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel may be restricted in some fashion by mining occurring on another parcel, not to object to the terms of a permit issued by a local government, state agency or federal agency. The restrictive covenant shall be recorded in the real property records of the county, shall run with the land, and is binding upon the heirs and successors of the parties. The covenant shall state that obligations imposed by the covenant shall be released when the site has been mined and reclamation has been completed.
- M. *Significant Site* A site containing either significant aggregate resources or significant mineral resources. The county will judge the significance of mineral and aggregate resources on a case by case basis, under the standards and procedures in LCDC's Goal 5 interpretive rules.

### **11.15.6770 PAM Overlay Special Subdistricts**

The Protected Aggregate and Mineral Resource Subdistrict (PAM) comprises two areas, the *Extraction Area* (PAM-EA) and the *Impact Area* (PAM-IA).

- A. The *Extraction Area* shall be applied to the portion of *protected sites* where mining and associated processing is to occur. The *Extraction Area* may consist of one or more parcels or portions of parcels, and may be applied to contiguous properties under different ownership. The *Extraction Area* boundary may be modified through the *Goal 5 process* to reduce conflicts with *conflicting uses* existing when the overlay is applied. The *Extraction Area* shall be shown on the zoning map with the designation PAM-EA.
- B. The *Impact Area* shall be applied to parcels or portions of parcels adjacent to the *Extraction Area* and within the *Impact Area* deemed appropriate through the *Goal 5 process*. The *Impact Area* shall be shown on the zoning map with the designation PAM-IA.

### **11.15.6775 Procedure For Applying The PAM Subdistrict**

- A. A PAM subdistrict shall be established by amendment of the Comprehensive Framework Plan and Zoning Map. The relevant factors for the establishment of the subdistrict are within the Oregon Administrative Rules Chapter 660, Division 16; Comprehensive Plan Policy 16-B; MCC 11.05.290(A)(1) and (2); and the applicable provisions of MCC 11.15.8205 through .8295. The factors in MCC 11.15.8230(D) and (E) shall not apply.
- B. Under the applicable provisions of OAR Chapter 660, Division 16 and Comprehensive Plan Policy 16-B and based upon the analysis of information about the location, quality, and quantity of the aggregate and mineral resource, the county shall make the following determinations regarding the inventory status of the resource site and, if appropriate, continuation of the *Goal 5 process*:
  1. If the information about the location, quality, and quantity of a resource site is not adequate to allow a determination of significance, the site shall be placed on a plan

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- inventory of "potential sites" and shall remain on that inventory until information is available to determine whether or not the site is *significant*, or
2. If the resource site does not meet the definition of a *significant site*, the site shall be placed on a plan inventory of "not significant sites", or
  3. If the resource site meets the definition of a *significant site*, the *Goal 5 process* shall be continued.
- C. Under the applicable provisions of OAR Chapter 660, Division 16 and Comprehensive Plan Policy 16-B and based upon the *ESEE analysis*, the county shall determine the amount of protection to be given each *significant site*. Each determination shall be incorporated into the comprehensive plan, and shall be reflected on the zoning maps. One of the following determinations shall be made:
1. Protect the site fully and allow surface mining as a conditional use. The county shall place the site on the *Protected Sites* inventory, apply the Protected Aggregate and Mineral Resources Subdistrict, specify the planned use of the site following reclamation, and prohibit the establishment of *conflicting uses* within the *Extraction Area* and the *Impact Area*. Conditional use approval of surface mining shall be pursuant to MCC .7305 through .7335 and shall not be subject to the conditional use provisions of MCC .7110(C), .7110(E), .7115, .7120, and .7125.
  2. Balance protection of the site and conflicting uses, allow surface mining as a conditional use. The county shall place the site on the *Protected Sites* inventory, apply the Protected Aggregate and Mineral Resources Subdistrict, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Conditional use approval of surface mining shall be pursuant to any site-specific requirements developed through the *Goal 5 process* and MCC .7305 through .7335. Review criteria and conditions shall not include the conditional use provisions of MCC .7110(C), .7110(E), .7115, .7120, and .7125. Site-specific requirements developed through the *Goal 5 process*, MCC .6780, and .6785 shall govern development of *conflicting uses*.
  3. Allow *conflicting uses* fully and do not allow surface mining except as exempted in MCC .6760. The county shall then place the site on the "Not Protected Sites" inventory in accordance with Framework Plan Policy 16-B, not apply the Protected Aggregate and Mineral Resource Subdistrict, and not protect the site from *conflicting uses*.

### **11.15.6780 Extraction Area (PAM-EA) - Allowed Uses**

Notwithstanding the use provisions of the underlying district, the following use provisions shall apply in the PAM-EA Subdistrict:

- A. Primary Uses, Uses Permitted Outright, Uses Permitted Under Prescribed Conditions, and Conditional Uses allowed in the underlying district may be permitted subject to the underlying district provisions and criteria of approval, except as provided for in this subsection.
  1. Uses identified through the *Goal 5 process* to be prohibited within the *Extraction Area* shall not be permitted.

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2. *Noise or dust sensitive* uses not prohibited in (1) may be permitted under the conditional use procedural provisions of MCC .7105 through .7140 when found by the Hearing Authority to satisfy the approval criteria of MCC .6790 and the approval criteria of the underlying district.
  3. *Conflicting uses* required by the *Goal 5 process* to be conditionally approved may be permitted under the procedural provisions of MCC .7105 through .7140 when found by the Hearing Authority to satisfy the approval criteria of MCC .6790 and the approval criteria of the underlying district.
- B. The following uses may be permitted subject to a finding by the Hearing Authority that all standards adopted as part of the *Goal 5 process* and the provisions of MCC .7305 through .7335 are met. Review by the Hearing Authority shall be under the procedural provisions of MCC .7105, .7107, .7110(A), .7110(B), .7110(D), .7130 and .7135.
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.

### **11.15.6785 Impact Area (PAM-IA) - Allowed Uses**

Notwithstanding the use provisions of the underlying district, the following use provisions shall apply in the PAM-IA Subdistrict. Primary Uses, Uses Permitted Outright, Uses Permitted Under Prescribed Conditions, and Conditional Uses allowed in the underlying district may be permitted subject to the underlying district provisions and criteria of approval, except as follows:

- A. Uses identified through the *Goal 5 process* to be prohibited within the *Impact Area* shall not be permitted;
- B. *Noise or dust sensitive* uses not prohibited in (A) may be permitted under the conditional use procedural provisions of MCC .7105 through .7140 when found by the Hearing Authority to satisfy the approval criteria of MCC .6790 and the approval criteria of the underlying district; and
- C. *Conflicting uses* required by the *Goal 5 process* to be conditionally approved may be permitted under the procedural provisions of MCC .7105 through .7140 when found by the Hearing Authority to satisfy the approval criteria of MCC .6790 and the approval criteria of the underlying district.

### **11.15.6790 Use Approval Criteria**

- A. In acting to approve a Conditional Use subject to these provisions, the Hearing Authority shall find that:

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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.

### **11.15.6795 Termination of the Protected Aggregate and Mineral Resources Subdistrict**

When the aggregate or mineral site has been reclaimed, the county may rezone land to remove the Protected Aggregate and Mineral Resources Overlay Subdistrict (PAM) without revising the ESEE Analysis for the site. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.